

# DEVELOPMENT COMMITTEE

---

**Wednesday, 23 November 2016 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 Andrew Cregan  
Councillor Sabina Akhtar, Councillor John Pierce, Councillor Suluk Ahmed, Councillor  
Gulam Kibria Choudhury and Councillor Chris Chapman

**Substitutes:**

Councillor Denise Jones, Councillor Candida Ronald, Councillor Helal Uddin, Councillor  
Harun Miah, Councillor Mahbub Alam, Councillor Andrew Wood and Councillor Julia  
Dockerill

[The quorum for this body is 3 Members]

**Public Information.**

The deadline for registering to speak is **4pm Monday, 21 November 2016**  
Please contact the Officer below to register. The speaking procedures are attached  
The deadline for submitting material for the update report is **Noon Tuesday, 22  
November 2016**

**Contact for further enquiries:**

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

Scan this code for  
an electronic  
agenda:



## Public Information

### **Attendance at meetings.**

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

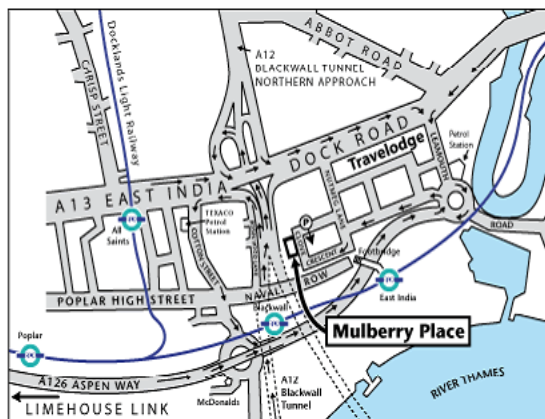
### **Audio/Visual recording of meetings.**

Should you wish to film the meeting, please contact the Committee Officer shown on the agenda front page

### **Mobile telephones**

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

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



Bus: Routes: D3, D6, D7, D8, 15, 108, and 115 all stop near the Town Hall.

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

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

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

Car Parking: There is limited visitor pay and display parking at the Town Hall (free from 6pm)

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

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

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



### **Fire alarm**

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

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

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

To access this, click [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) and search for the relevant committee and meeting date.

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



QR code for smart phone users

## **APOLOGIES FOR ABSENCE**

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

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

### **2. MINUTES OF THE PREVIOUS MEETING(S) (Pages 5 - 14)**

To confirm as a correct record the minutes of the meeting of the Development Committee held on 26<sup>th</sup> October 2016

### **3. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE (Pages 15 - 16)**

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

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>4. DEFERRED ITEMS</b>	<b>17 - 20</b>	
<b>4 .1 Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street (PA/15/03561)</b>	<b>21 - 102</b>	<b>St Katharine's &amp; Wapping</b>
<p>Proposal:</p> <p>Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.</p> <p>Recommendation:</p> <p>That the Committee resolve to GRANT full planning permission subject to any direction by the London Mayor, the prior completion of a legal agreement, conditions and informatives as set out in the Committee report.</p>		
<b>4 .2 Harley House and Campion House, Frances Wharf, London (PA/15/03433)</b>	<b>103 - 134</b>	<b>Mile End</b>
<p>Proposal:</p> <p>Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units along with the reconfiguration of 1 existing unit</p> <p>Recommendation:</p> <p>That the Committee resolve to GRANT planning permission subject to conditions and informatives as set out in the Committee report.</p>		



<b>4 .3</b>	<b>Holland Estate, Commercial Street, London (PA/16/01628)</b>	<b>135 - 162</b>	<b>Spitalfields &amp; Banglatown</b>
-------------	--	------------------	--

Proposal:

Application for variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1<sup>st</sup> April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.

Recommendation:

That the Committee resolve to REFUSE planning permission for the reasons set out in the Committee report.

<b>5.</b>	<b>PLANNING APPLICATIONS FOR DECISION</b>	<b>163 - 164</b>	
-----------	---	------------------	--

<b>5 .1</b>	<b>Site at corner of Buxton Street and Spital Street, London (PA/16/01832)</b>	<b>165 - 200</b>	<b>Spitalfields &amp; Banglatown</b>
-------------	--	------------------	--

Proposal:

Demolition of the existing store building, substation and workshop and boundary wall to Buxton Street and Spital Street up to the Cooperage Building and erection of a 3 storey high Data Centre with basement accommodation (Use Class B8) including provision of Use Class B1 enterprise / D1 training floorspace, provision of rooftop satellite dishes, roof mounted mechanical plant, security fencing and bollards, cycle parking and provision of two electric charging car parking spaces.

Recommendation:

That the Committee resolve to GRANT planning permission subject to the prior completion of a legal agreement, conditions and informatives as set out in the Committee report.

**5.2 Site at South East Junction of Whitechapel Road and New Road, Whitechapel Road (Royal London Hospital) (PA/15/02774)**

**201 - 214**

**Whitechapel**

Proposal:

Application for variation of condition no. 1 (temporary time period) of planning permission dated 16/11/2012, ref: PA/12/01817 for the retention of a temporary car park until 31st December 2017.

Recommendation:

That the Committee resolves to APPROVE the grant of planning permission for the variation of condition no. 1 (temporary time period) subject to the conditions set out in the Committee report

**6. OTHER PLANNING MATTERS**

None.

**Next Meeting of the Development Committee**

Thursday, 15 December 2016 at 7.00 p.m. to be held in the Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

# 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:-

Melanie Clay Corporate Director of Law Probitiy and Governance and 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>

This page is intentionally left blank

## LONDON BOROUGH OF TOWER HAMLETS

### MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 7.00 P.M. ON WEDNESDAY, 26 OCTOBER 2016

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

#### Members Present:

Councillor Marc Francis (Chair)  
Councillor Andrew Cregan  
Councillor Sabina Akhtar  
Councillor Suluk Ahmed  
Councillor Gulam Kibria Choudhury  
Councillor Chris Chapman  
Councillor Candida Ronald (Substitute for Councillor John Pierce)

#### Other Councillors Present:

None

#### Apologies:

Councillor John Pierce

#### Officers Present:

Jerry Bell	(East Area Manager, Planning Services, Development and Renewal)
Christopher Stacey – Kinchin	(Planning Officer, Development and Renewal)
Abiodun Kolawole	(Legal Services, Directorate Law, Probity and Governance)
Tim Ross	(Team Leader, Planning Services Development and Renewal)
Jermaine Thomas	(Team Leader, Planning Services, Development and Renewal)
Jennifer Chivers	(Planning Officer, Development and Renewal)
Pat Watson	(Head of Building Development, Childrens and Adults Resources)
Zoe Folley	(Committee Officer, Directorate Law, Probity and Governance)

During the meeting, the Committee agreed to vary the order of business. To aid clarity, the Minutes are presented in the order that the items originally appeared on the agenda. The order the business was taken in at the meeting was as follows:

- Item 1 – Declarations of Disclosable Pecuniary Interests.
- Item 2 – Minutes.

- Items 3 – Recommendations and procedure for hearing objections and meeting guidance.
- Item 4.1 - Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street (PA/15/03561)
- Item 5.1– Bromley Hall School, Bromley Hall Road (PA/16/00884 & PA/16/00885)
- Item 5.3 – Flat 17, Treyvelyan House, Morpeth Street, E2 0PY (PA/16/01199)
- Item 5.2 – Holland Estate, Commercial Street, London (PA/16/01628)
- Item 6.1 - Appeals report

## 1. **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

Councillor Andrew Cregan declared a prejudicial interest in Agenda Item 5.2, Holland Estate, Commercial Street, London (PA/16/01628). This was on the basis that the Councillor was a Council appointed Board Member of East End Homes. The Councillor left the meeting for the consideration of the application.

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

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 28 September 2016 be agreed as a correct record and signed by the Chair.

## 3. **RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE**

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



#### 4. DEFERRED ITEMS

##### 4.1 Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street (PA/15/03561)

Update Report tabled

Jerry Bell, (East Area Manager, Planning Services), introduced the application for the partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated works.

It was noted that the application was deferred at the previous Committee meeting on 28 September 2016 for a site visit.

Tim Ross, (Planning Services), presented the report. It was reported that since the previous presentation, Officers have received additional objections including a petition in objection from residents of Ross House and Officers considered that the issues raised had been addressed in the Committee report. Concerns had also been raised about the coal tar activities and Officers considered that any impacts from this could be managed through a pre commencement planning condition. Concerns had also been raised about segregation of tenures and child play space and it was noted that this was a product of the site constraints. It was also noted that at the previous September meeting, there had been some confusion about the number of signatures on an objectors petition. The update report clarified the position in respect of this.

Officers remained of the view that the application should be granted planning permission

The Committee asked about the impact from the development on neighbouring properties. In particular, they sought clarity about the impact on Ross House from site A. In response, Officers showed images of the relationship between the proposal and site A. It was explained that while a number of windows would experience a reduction in light, the losses broadly speaking were relatively minor in nature. Furthermore, the properties in Ross House were dual aspect so overall would continue to receive good levels of light.

In response to questions about the impact on Tasman House from site B, and the mitigation to minimise the impact, it was explained that the plans as amended included set backs in the design of the development therefore would afford a decent separation distance between the two buildings. All of the windows within the house would be BRE compliant in terms of daylight amenity.

In response to questions about the impact on the highway network particularly from servicing activity, it was explained that given the relatively modest level of servicing activity predicted for the development, that the proposal should

not have a harmful impact on the highway. It was also proposed that the existing refuse collection arrangements be maintained.

Officers also answered questions of clarity about the height of the proposal in relation to the surrounding area.

On a vote of 0 in favour of the Officer recommendation to grant planning permission, 6 against and 0 abstentions, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed and Councillor Andrew Cregan seconded a motion that the planning permission be not accepted (for the reasons set out below) and on vote of 6 in favour, 0 against and 0 abstentions, the Committee **RESOLVED:**

That the Officer recommendation to grant planning permission be **NOT ACCEPTED** at Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street for the partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses. (PA/15/03561)

The Committee were minded to refuse the application due to concerns over:

- Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.
- Impact of the development on the north east corner of the site.
- Impact on heritage assets and the setting of the Conservation Area.
- Impact on the highway network.

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 Gulam Kibria Choudhury did not vote on the application having not been present at the 28<sup>th</sup> September 2016 Committee meeting when the application was previously considered.

## **5. PLANNING APPLICATIONS FOR DECISION**

### **5.1 Bromley Hall School, Bromley Hall Road (PA/16/00884 & PA/16/00885)**

Jerry Bell (East Area Manager, Planning Services) presented the report for the expansion of the existing school to provide 2 Form Entry Primary school and associated nursery, including partial demolition of existing building.

Chris Stacey Kinchen (Planning Services) presented the report explaining the key issues. He explained that the proposals involved the demolition of the later day extensions to the existing building, the creation of a new building and the restoration of the remaining portions of the building to bring it up to modern standards. No objections had been received and the 20<sup>th</sup> Century Society were satisfied with the changes and no longer objected to the application. The plans included a requirement to submit a travel plan to reduce vehicle trips and the evidence indicated that most of the pupils would walk to the school. Regarding the air quality issues, the submitted assessment indicated that the air quality levels would be acceptable by the time of the school opening. However, to ensure this, a condition would be imposed to ensure that the applicant would monitor the site for a one year period and would carry out steps to ensure that the air quality standards were met prior to the school opening. Furthermore it was also proposed that the play areas be sited furthest away from the nearby A12. The Council's Air Quality officer was satisfied with the proposal.

Officers were recommending that the application be granted permission.

In response to the presentation, the Committee sought assurances about the air quality measures in the event of the worst case scenario. They also asked about the suitability of the site for a school in view of these issues. In response, the Committee noted images showing pollution levels around the school area and discussed best and worst case scenarios in terms of the outcome of the air quality testing. It was emphasised that the application included a requirement for an air quality strategy to be submitted and that this would be reviewed by the Council's air quality officer to ensure that the development met the relevant standards. It was also required that the mitigation measures be in place prior to the opening of the school. Officers also confirmed the position of the play areas within the development.

In response to further questions, Officers explained that the listed building conditions would be reviewed by the Council's Conservation Officer to ensure they were satisfied with them. The Committee also discussed the need for additional school places in the area.

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

1. That planning permission and listed building consent be **GRANTED** at Bromley Hall School, Bromley Hall Road for the expansion of existing school to provide 2 Form Entry Primary school and associated nursery, including partial demolition of existing building (PA/16/00884 & PA/16/00885) subject to:
2. That the Corporate Director of Development & Renewal is delegated authority to recommend the conditions and informatives in relation to the matters set out in the Committee report and the 28<sup>th</sup> September 2016 update report.

## 5.2 Holland Estate, Commercial Street, London (PA/16/01628)

Jerry Bell (East Area Manager, Planning Services) introduced the application to vary Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1<sup>st</sup> April 2010, for a proposed minor material amendment to the approved development.

The application sought the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.

The Chair invited registered speakers to address the Committee

Akmal Hussain of Herbert House spoke in support of the application contrary to the officers recommendation to refuse the application. He expressed concern at the anti-social behaviour levels within the area and considered that the proposed gates would address and prevent such problems. He cited examples of the type of problems encountered and felt that that no other measures would address the issues. Furthermore, he did not consider that the application would block public access given the proximity of the site to many other alternative access routes. In response to questions from Members he explained in further detail the severity of the existing problems, that had been partly cause by the displacement of problems from other sites. He also further discussed the strength of the support for the proposal amongst residents, the impact of the plans on public access and expressed concern about the frequency of Police patrols of the area.

Jenifer Chivers (Planning Services) presented the report brought to the Committee as it has received a petition in support with 73 signatures that was contrary to the officer recommendation to refuse the application. The application had also received one letter in support and one in objection.

She drew attention to the location of the subject housing development and the site designations in policy. She also explained the planning history, highlighting the appeal case for a similar application. She also described the key features of this application including the appearance of the proposed gates and the importance of the access route that would be affected. She also referred to the issues raised in the representations in support, stressing the need for the gates to prevent ASB in the area.

Officers had reviewed all of the issues and considered that the proposal to install the gates would restrict access and create a segregated community. Therefore, Officers were of the view that the application should be refused planning permission.

The Committee enquired about the problems with ASB in the area and the reasons for this. In particular they asked about the crime statistics and the anecdotal evidence of ASB related issues in the area. The Committee also asked about the weight that should be given to the policy in respect of gated

communities and whether exceptional circumstances existed to justify a deviation from policy given the concerns about ASB.

In response, the Committee were advised of the crime statistics in the area obtained from the police over a three years period. Overall, Officers did not consider that the level of reported crime in the area were that exceptional and justified a deviation from the local and national policy. Officers could only assess the application on the basis of the reported crime statistics not anecdotal evidence. It was also pointed out that the Council had a responsibility to the whole Borough and needed to be mindful of the fact that the installation of gates may displace crime elsewhere. Moreover there was no evidence to suggest that gates prevented crime. In response to further questions it was noted that the level of support for the proposal did add some weight to the case for the application.

The Committee also asked questions about the loss of the public access route. It was reported that the route would provide access to the surrounding area and also the city area to the west. Furthermore the footfall from the route would improve natural surveillance that in itself should help to reduce crime in the area .

The Committee also discussed the issue of setting a precedence, the adequacy of other solutions to the issues, the strength of the evidence, and the existing security arrangements within the development.

On a vote of 2 in favour of the Officer recommendation to refuse planning permission, 4 against and 0 abstentions, the Committee did not agree the Officer recommendation to refuse the planning permission.

Accordingly, Councillor Chris Chapman proposed and Councillor Sabina Akhtar seconded a motion that the recommendation to refuse planning permission be not accepted (for the reasons set out below) and on vote of 4 in favour, 0 against and 2 abstentions, the Committee **RESOLVED:**

That the Officer recommendation to refuse planning permission be **NOT ACCEPTED** at Holland Estate, Commercial Street, London for the variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1<sup>st</sup> April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House (PA/16/01628)

The Committee were minded to approve the application as they considered that the public safety concerns outweighed the policy considerations set out in the Committee report in respect of gated developments.

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 approval and proposed conditions.

### **5.3 Flat 17, Treyvelyan House, Morpeth Street, E2 0PY (PA/16/01199)**

Jerry Bell (East Area Manager, Planning Services) presented the application brought to the Committee as it involved works to a Council owned listed building. The application was for internal alterations on 3rd and 4th floor to reconfigure kitchen, bathroom and storage.

Jenifer Chivers (Planning Services) presented the application describing the site location, that was part of the Greenways Estate. She drew attention to the key features of the property in question and that of the application. No objection to the application had been received and Historic England were of the view that the Council should determine the application as they saw fit. Officers were recommending that the listed building consent was granted permission. In response to questions from Members, Officers clarified the changes to the internal layout and confirmed that the unique 'L' shaped design would be maintained as required in the listing description.

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

That the listed building consent be **GRANTED** at Flat 17, Treyvelyan House, Morpeth Street, E2 0PY for internal alterations on 3rd and 4th floor to reconfigure kitchen, bathroom and storage (PA/16/01199) subject to the conditions set out in the Committee report.

## **6. OTHER PLANNING MATTERS**

### **6.1 Planning Appeals Report**

Jerry Bell (East Area Manager, Planning Services) presented the report setting out appeals decisions in Tower Hamlets made by the Planning Inspectorate between 1<sup>st</sup> April 2015 and 30<sup>th</sup> September 2016. The Committee were advised of the number of appeals received and dismissed. They were also advised of the outcome for particular cases to highlight the issues looked at and the key conclusions. Overall, it was considered that the Council performed well in terms of quality of decision making compared with other London Boroughs.

In responding to the presentation, the Committee briefly discussed with Officers the financial implications of appeals. The Committee also drew attention to the Council's success rate in upholding their decisions and thanked Officers for all their hard work in connection with this.

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

The contents of the report be noted.

The meeting ended at 8.30 p.m.

Chair, Councillor Marc Francis  
Development Committee

This page is intentionally left blank



## 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"> <li>• Three minutes for one objector speaking.</li> <li>• Six minutes for two objectors speaking.</li> <li>• Additional three minutes for any Committee and non Committee Councillor speaking in objection.</li> </ul>
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](http://www.towerhamlets.gov.uk/committee) under Council Constitution, Part.4.8, Development Committee Procedural Rules.

### What can be circulated?

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

**How will the applications be considered?**

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



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

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

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

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

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

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

# Agenda Item 4

<b>Committee:</b> Development	<b>Date:</b> 23 <sup>rd</sup> November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 4
<b>Report of:</b> Corporate Director Development and Renewal		<b>Title:</b> Deferred Items	
<b>Originating Officer:</b>		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following information and advice applies to them.

## 2. DEFERRED ITEMS

- 2.1 The following items are in this category:

Date deferred	Location	Development	Reason for deferral
26 <sup>th</sup> October 2016	Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street (PA/15/03561)	Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.	Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.  Impact of the development on the north east corner of the site.  Impact on heritage assets and the setting of the Conservation Area.  Impact on the highway network.
28 <sup>th</sup> September 2016	Harley House and Campion House, Frances Wharf, London (PA/15/03433)	Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units along with the reconfiguration of 1 existing unit	The density of the proposal given the failure to meet the special circumstances criteria in the London Plan density matrix, enabling applications to exceed the recommended density range.

### 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:  
See Individual reports

Tick if copy supplied for register:  
✓

Name and telephone no. of holder:  
See Individual reports

			<p>Impact on the amenity of the existing residents in terms of loss of sunlight and daylight, noise, access to the building and disturbance during the construction phase.</p> <p>Incremental development in view of the planning history of the site.</p> <p>That the design of the proposal would undermine that of the main development.</p>
26 <sup>th</sup> October 2016	Holland Estate, Commercial Street, London (PA/16/01628)	Application for variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1st April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.	The Committee were minded to approve the application as they considered that the public safety concerns outweighed the policy considerations set out in the Committee report in respect of gated developments.

### 3. CONSIDERATION OF DEFERRED ITEMS

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

- 4.1 Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street(PA/15/03561)
- 4.2 Harley House and Champion House, Frances Wharf, London(PA/15/03433)
- 4.3 Holland Estate, Commercial Street, London (PA/16/01628)

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.

This page is intentionally left blank

# Agenda Item 4.1

<b>Committee:</b> Development Committee	<b>Date:</b> 23 November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development & Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Kamlesh Harris		<b>Ref No:</b> PA/15/03561	
		<b>Ward:</b> St Katharine's and Wapping	

## 1.0 APPLICATION DETAILS

**Location:** Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London E1W

**Existing Use:** Partly vacant, one car repair workshop and one residential unit

**Proposal:** Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

### Drawing Numbers:

(01)-E-001 PL00, (02)-E-001 PL05, (03)-E-001 PL00, (03)-E-002 PL01, (03)-E-A-001 PL01, (03)-E-A-002 PL00, (03)-E-A-003 PL00, (03)-E-B-001 PL00, (03)-E-C-001 PL02;

(01)-P-0G0 PL00, (01)-P-001 PL00, (01)-P-002 PL00, (02)-P-001 PL04, (02)-P-002 PL00, (03)-P-0G0 PL05, (03)-P-001 PL05, (03)-P-002 PL03, (03)-P-003 PL00, (03)-P-004 PL00, (03)-P-005 PL00, (03)-P-A-B-000 PL00, (03)-P-A-000 PL00, (03)-P-A-001 PL00, (03)-P-A-002 PL00, (03)-P-A-003 PL00, (03)-P-A-004 PL00, (03)-P-A-005 PL00, (03)-P-B-000 PL01, (03)-P-B-001 PL00, (03)-P-C-000 PL05, (03)-P-C-001 PL00, (03)-P-D-01 PL00, (03)-P-D-02 PL00, (03)-P-D-03 PL00, (03)-P-D-04 PL00, (03)-P-D-05 PL00, (03)-P-D-06 PL00 and (03)-P-D-07 PL00;

(01)-S-000 PL00, (01)-S-001 PL00, (01)-S-A-005 PL00, (01)-S-A-006 PL00, (02)-S-A-005 PL00, (02)-S-A-006 PL00, (03)-S-A-001 PL00 and (03)-S-B-001 PL00.

### Supporting Documents:

- Design and Access Statement
- Planning Statement
- Affordable Housing Statement
- Financial Viability Assessment
- Heritage and Townscape Assessment
- Archaeological Desk Based Assessment
- Air Quality Assessment
- Daylight and Sunlight Assessment
- Noise and Vibration Assessment
- Land Contamination Assessment

- Energy Statement
- Sustainability Statement
- Transport Statement
- Flood Risk Assessment
- Construction Environmental and Waste Management Plan
- Construction Management Plan
- Statement of Community Involvement
- Utilities Infrastructure
- SUDs Briefing Note
- Ecological Appraisal

**Applicant:** Rail for London and Wapping High Street Limited

**Owner:** The applicant

**Historic listing:** Not applicable

## 2. BACKGROUND

- 2.1 This application is for the partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C would contain the 4 town houses.
- 2.2 The application was reported to the Development Committee on 28th September 2016 where Members resolved to defer the application to carry out a site visit. This application was then considered at the Development Committee on 26<sup>th</sup> October 2016.
- 2.3 The Committee, on a vote of 6 in favour, 0 against and 0 abstentions, resolved not to accept the officer recommendation to grant planning permission, resolved that permission should be refused and indicated the following reasons for refusal:
- Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.
  - Impact of the development on the north east corner of the site.
  - Impact on heritage assets and the setting of the Conservation Area.
  - Impact on the highway network.
- 2.4 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

## 3. COMMITTEE REASONS FOR REFUSAL

**Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.**

- 3.1 Committee member's raised concerns regarding the impact on the amenity of residents living in the neighbouring Ross House. The property is five storeys tall and is abutted by a blank wall currently forming part of Site B and is opposite Site A. Forty-one out of fifty-five windows assessed would meet BRE guidance for the



Vertical Sky Component (VSC) test. Six windows on ground floor level would suffer a loss of light greater than the BRE guidance i.e. they are below 27% VSC and would experience a loss of daylight of between 20-30%. Furthermore, three windows on the first, two on the second and one on the third floors are similarly affected. For most of these windows, the loss of light is only marginally outside the guidelines and three of these windows already have low VSC due to the balcony above them. These rooms' loss in daylight amenity would be considered to be minor.

- 3.2 In reaching final conclusions in relation to daylight and sunlight impacts, officers have given weight to the nature of buildings and street patterns, the current levels of daylight and sunlight enjoyed by existing residential occupiers that may fall below the absolute targets set out in the BRE Guidelines and the planning policy requirement to optimise the development of brownfield sites, whilst acknowledging local context.
- 3.3 Officers remain satisfied that the daylight and sunlight impacts associated with the proposed development would be acceptable, but recognise that the Committee came to a different view.

#### **Impact of the development on the north east corner of the site.**

- 3.4 This reason is understood to relate to the impact caused by the block fronting Clave Street within site A. The main impact of this block is on the properties located opposite in Clave Street, namely 10 & 12 Clave Street which are terrace properties opposite Site A and in the case of 12 Clave Street, opposite Site C as well. These properties are both dual aspect and, on balance, Officers do not consider that the amenity of existing occupiers would be harmed sufficiently to justify refusing planning permission.
- 3.5 In the case of 10 Clave Street, this dwelling is approximately 11m away from Site A. Eleven windows serve seven rooms facing Site A. All windows would be within the BRE guidelines compliant in terms of VSC but there would be a noticeable effect on the daylight distribution (NSL) on three rooms; however, these rooms are served by 3 windows in total and the overall impact would be described as minor adverse.
- 3.6 12 Clave Street sits on the corner with Clave and Cinnamon Street. All windows within six rooms of this property have been tested and two of the rooms have two windows. Three of the six rooms would be fully BRE compliant in terms of VSC and NSL. The two ground floor rooms would experience VSC levels of over 21% against a BRE recommended value of 27%. As such, this is also considered as being minor adverse.
- 3.7 It is also noted that the ground floor windows are already shadowed by a fence surrounding the corner of the site. Loss of sunlight for the whole terrace would be within the BRE guidelines for all main windows. A first floor room would experience an alteration in NSL that would be a noticeable loss of daylight for the occupants; however, its VSC would remain at 26% compared with the BRE recommendation of 27%. Therefore, this room's loss in daylight amenity would be considered to be minor.

#### **Impact on local highway network**

- 3.8 The officer's view as set out in the original report is that this is a relatively small scale proposal and the addition of no more than 2 additional vehicle movements associated with the development per day is unlikely to have a significant impact on the local highway network. Any stopping of vehicles such as grocery delivery vans, or refuse vehicles would be unlikely to have a delay time of more than 5-10 minutes. Removal trucks are anticipated to be infrequent but would result in longer delay times. Moreover, if the current permitted land uses were fully occupied rather than vacant this could be

expected to result in more than two additional vehicle movements per day compared to the existing situation. As such, subject to a condition to secure a Delivery and Servicing Management Plan, it is considered by Officer's that the proposed servicing arrangements would not result in any significant adverse impacts on the safety and free flow of traffic or the capacity of the road network. It is however acknowledged that the local roads are very narrow in nature and the opportunity to pass waiting vehicles is limited without the provision of a lay-by particularly as parking stress levels are high meaning parking bays are likely to be occupied.

**Impact on heritage assets and the setting of the Conservation Area.**

- 3.9 The building is located in a prominent position within the Wapping Wall Street Conservation Area, as such the local planning authority is required to give special consideration to the impact of the development on the character and appearance of the Conservation Area, the development should preserve or enhance the character and appearance of this conservation area.
- 3.10 Officer's considered that the proposed buildings have been sensitively designed within the context of the historic built form and public realm and would preserve and enhance the character and appearance of the Wapping Wall Conservation Area. In arriving at a decision regarding this application, Members are reminded of the obligations established by the National Planning Policy Framework 2012 (NPPF) to consider the irreplaceable nature of the historic environment, and to require clear and convincing justification for any harm caused to its significance (NPPF paragraph 132).
- 3.11 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). The conclusion reached by a 2014 Court of Appeal case, Barnwell Manor, noted that 'considerable weight and importance' should be given to any harm to listed buildings and their settings, and correspondingly to any harm to the character and appearance of conservation areas through Sections 66(1) and 72(1) of the 1990 Act. Accordingly, careful consideration should first be given to assessing whether the proposal causes harm to the listed buildings and conservation areas and their settings and the desirability of avoiding that harm before undertaking the balancing exercise that is required by paragraph 132 to 135 of the NPPF. Considerable weight and importance should be given to the desirability of preserving (causing no harm to) the listed buildings and conservation areas and their settings when carrying out that balancing exercise.
- 3.12 It is understood that the Committee considers that the demolition of the existing buildings on site and their proposed replacement blocks would cause harm to a designated heritage asset, namely the Wapping Wall Conservation Area by virtue of the loss of the existing buildings and the design of the proposed replacement buildings.
- 3.13 The NPPF describes harm to heritage assets as being either substantial or less than substantial. Substantial harm should only result in situations where the significance of the whole heritage asset is diminished. Officer's therefore recommend that any harm that could result from the proposed development would be classified as 'less than substantial' given the state of disrepair of the existing buildings Officer's and the architectural value of the existing buildings. Pursuant of the 'public benefits' test as set out above, Officers consider the main public benefits of the scheme to be the delivery of 41 new homes pursuant of the Council's housing delivery targets including additional affordable homes, and the redevelopment of a brownfield site, with a form and design that would enhance the character and appearance of the conservation area and would be sensitive to local context.

- 3.14 The Committee's justification for the harm caused to the significance (NPPF paragraph 132) of the Wapping Wall Conservation Area is understood to relate to:
- a. The loss of the existing building on site B;
  - b. the excessive height of the proposed block, specifically the top storey set back of the proposed block fronting Clave Street within site A;
  - c. the excessive height and massing of proposed block C, and its blank façade when viewed in Cinnamon Street; and
  - d. a loss of openness, and sense of enclosure created by the proposed buildings fronting Clegg Street and Cinnamon Street.

#### **4. IMPLICATIONS OF REFUSING PLANNING PERMISSION**

- 4.1 The officer recommendation has been to grant planning permission but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so.
- 4.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.
- If planning permission is refused, there are a number of routes that the applicant could pursue:
  - Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
  - To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning application.
- 4.3 In this case the applicant has not indicated what course of action they might pursue if any.

#### **Financial implications - award of costs**

- 4.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- 4.5 Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural – relating to the process; or
  - Substantive – relating to the issues arising from the merits of the appeal.
- 4.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

## 5. RECOMMENDATION

- 5.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission remains unchanged.
- 5.2 However, if members are minded to **REFUSE** planning permission, the following reasons are recommended:

### Impact of highway network

1. The existing narrow streets and lack of dedicated drop-off provision will result in a detrimental impact upon the safety and free-flow of traffic in the surrounding street network due to the servicing requirements and vehicle movements generated by the proposal, contrary to policies SP09 of the Core Strategy 2010 and DM20 of the Managing Development Document 2013 which seeks to ensure that new development does not have an adverse impact upon the safety and capacity of the road network.

### Impact of neighbour's amenity

2. The proposed development will have unacceptable adverse impact on the amenity of occupiers of nearby properties due to a detrimental reduction in daylighting and sunlighting conditions of neighbouring residential properties located within Ross House and 10-12 Clave Street. The proposals are therefore contrary to Policy SP10(4) of the Council's adopted Core Strategy (2010) and Policy DM25 of the Council's adopted Managing Development Document (2013) require development to protect, and where possible improve, the amenity of existing and future residents and buildings occupants, together with the amenity of the surrounding public realm.

### Impact of heritage assets

3. The proposed development, by way of the design, scale, height, and profile, compared to the buildings to be demolished, would appear as a visually incongruous to the local area and fails to respect the scale, proportions and architecture of the former buildings. As a result, the development would cause less than substantial harm to the character and appearance of the Wapping Wall Conservation Area and would fail to preserve the character of this heritage asset. The harm identified to the designated heritage asset is not outweighed by the public benefits of the scheme.

As a result the proposal is not considered to be sustainable development, contrary to paragraph 14 of the National Planning Policy Framework (2012), and fails to meet the requirements of Policy SP10 of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Council's adopted Managing Development Document (2013) and government guidance set out in Section 12 of the National Planning Policy Framework (2012) as well as the Wapping Wall Conservation Area Appraisal and Management Guidelines (2009).

<b>Committee:</b> Development Committee	<b>Date:</b> 26 October 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development & Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer: Kamlesh Harris</b>		<b>Ref No:</b> PA/15/03561	
		<b>Ward:</b> St Katharine's and Wapping	

## 1.0 APPLICATION DETAILS

**Location:** Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London E1W

**Existing Use:** Partly vacant, one car repair workshop and one residential unit

**Proposal:** Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

## 2. BACKGROUND

- 2.1 This application for planning permission was considered by the Development Committee on 28<sup>th</sup> September 2016. A copy of the original report is appended.
- 2.2 Members resolved to **DEFER** the application to the next committee to enable Members to carry out a detailed site visit.

## 3. CONSULTATION UPDATE

- 3.1 Mayor John Biggs has received a number of objections directly from local residents which he has considered and has been noted by Officers. It is acknowledged that the Mayor is not part of the decision making process for planning applications.
- 3.2 Since the publication of the previous committee agenda, three addendums to objections have been received. These are from the Turk's Head Charity and neighbouring residents but do raise any material considerations which have not already been considered in the original Officer report.
- 3.3 The Council's Noise Pollution Team Manager confirmed that he is not aware of any complaints of cold tar sucking activities in Wapping.

## 4. RECOMMENDATION

- 4.1 Officers' original recommendation to **GRANT** planning permission remains unchanged.

**APPENDIX 1 - Original Officer Report**

<b>Committee:</b> Development Committee	<b>Date:</b> 28 September 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development & Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Kamlesh Harris		<b>Ref No:</b> PA/15/03561	
		<b>Ward:</b> St Katharine's and Wapping	

**1.0 APPLICATION DETAILS**

**Location:** Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London E1W

**Existing Use:** Partly vacant, one car repair workshop and one residential unit

**Proposal:** Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

**Drawing Numbers:**

(01)-E-001 PL00, (02)-E-001 PL05, (03)-E-001 PL00, (03)-E-002 PL01, (03)-E-A-001 PL01, (03)-E-A-002 PL00, (03)-E-A-003 PL00, (03)-E-B-001 PL00, (03)-E-C-001 PL02;

(01)-P-0G0 PL00, (01)-P-001 PL00, (01)-P-002 PL00, (02)-P-001 PL04, (02)-P-002 PL00, (03)-P-0G0 PL05, (03)-P-001 PL05, (03)-P-002 PL03, (03)-P-003 PL00, (03)-P-004 PL00, (03)-P-005 PL00, (03)-P-A-B-000 PL00, (03)-P-A-000 PL00, (03)-P-A-001 PL00, (03)-P-A-002 PL00, (03)-P-A-003 PL00, (03)-P-A-004 PL00, (03)-P-A-005 PL00, (03)-P-B-000 PL01, (03)-P-B-001 PL00, (03)-P-C-000 PL05, (03)-P-C-001 PL00, (03)-P-D-01 PL00, (03)-P-D-02 PL00, (03)-P-D-03 PL00, (03)-P-D-04 PL00, (03)-P-D-05 PL00, (03)-P-D-06 PL00 and (03)-P-D-07 PL00;

(01)-S-000 PL00, (01)-S-001 PL00, (01)-S-A-005 PL00, (01)-S-A-006 PL00, (02)-S-A-005 PL00, (02)-S-A-006 PL00, (03)-S-A-001 PL00 and (03)-S-B-001 PL00.

**Supporting Documents:**

- Design and Access Statement
- Planning Statement
- Affordable Housing Statement
- Financial Viability Assessment
- Heritage and Townscape Assessment
- Archaeological Desk Based Assessment
- Air Quality Assessment

- Daylight and Sunlight Assessment
- Noise and Vibration Assessment
- Land Contamination Assessment
- Energy Statement
- Sustainability Statement
- Transport Statement
- Flood Risk Assessment
- Construction Environmental and Waste Management Plan
- Construction Management Plan
- Statement of Community Involvement
- Utilities Infrastructure
- SUDs Briefing Note
- Ecological Appraisal

**Applicant:** Rail for London and Wapping High Street Limited

**Owner:** The applicant

**Historic listing:** Not applicable

**Conservation:** Wapping Wall Conservation Areas (in part)

## **2.0 EXECUTIVE SUMMARY**

- 2.1 Owner/occupiers of 258 neighbouring properties were consulted on the scheme. Twelve individual objection letters were received and a petition of 56 signatures was also received, objecting to the scheme and raising concerns surrounding loss of daylight and sunlight, loss of privacy, overlooking, overshadowing and the cumulative impacts of the scale of development in the area on infrastructure.
- 2.2 Officers have considered the particular circumstances of this application against the adopted policies in the London Plan (MALP 2016), Tower Hamlets Core Strategy 2010, the Council's Managing Development Document 2013, the National Planning Policy Framework (NPPF), and National Planning Practice Guidance (NPPG), and have found that:
- 2.3 Sufficient evidence has been provided to justify the loss of employment floor space in this instance, in accordance with the requirements of Policy DM15 (1) of the Managing Development DPD (2013) These policies seek to resist the loss of employment floor space in the Borough unless it can be demonstrated that the floor space in question is unsuitable for continued employment use or is surplus to requirements.
- 2.4 The proposed delivery of 41 new residential dwellings accords with the objectives of Policy SP02(1) of the Council's adopted Core Strategy (2010), policy DM3 of the MDD and Policy 3.3 of the London Plan (MALP 2016), which support the delivery of new housing in the Borough in line with the housing targets set out in the London Plan.
- 2.5 The proposed development would provide 37% affordable housing by habitable room, in accordance with Policy SP02 (3) of the Council's adopted Core Strategy (2010) and policy DM3 of the MDD. These policies seek to maximise the delivery

of affordable housing in line with the Council's target of 50% affordable housing provision, with a minimum provision of 35%.

- 2.6 The proposed development provides a mix of unit sizes, including a high proportion of 1 and 2 bed market units, as well as a high proportion of family sized (3 bed+) affordable units, which responds well to the identified housing need in the Borough. The proposal therefore accords with Policy SP02 (5) of the Council's adopted Core Strategy (2010), and Policy DM3 (7) of the MDD 2013 and Policy 3.8 if the London Plan (MALP 2016)
- 2.7 The proposed room sizes and layouts have been assessed against the standards set out in the London Plan (MALP 2016) Housing Design Guide and are considered to be acceptable. As such, the proposal accords with the requirements of Policy 3.5 of the London Plan (MALP 2016) and Policy DM4 (1) of the MDD 2013. The policies require residential developments to include adequate internal space in order to function effectively.
- 2.8 The proposal would incorporate good design principles and would take into account and respect the local character and setting of the development site and its surroundings in terms of scale, height, bulk, design details, materials and external finishes. The proposal therefore accords with the requirements of Policy SP10 (4) of the Council's adopted Core Strategy (2010), Policy DM24 of the MDD (2013) and Policy 7.4 of the London Plan (MALP 2016).
- 2.9 The proposed building has been sensitively designed within the context of the historic built form and public realm and would preserve and enhance the character and appearance of the Wapping Wall Conservation Area. The proposal therefore would accord with Policy SP10 (2) of the Council's adopted Core Strategy (2010), Policy DM27 of the MDD (2013) and Policy 7.8 of the London Plan (MALP 2016) together with government guidance as set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development proposals are sympathetic to their historic surroundings and either preserve or enhance the character and appearance of the Borough's Conservation Areas.
- 2.10 Given the poor condition and dilapidated appearance of the existing buildings and the high quality architectural design of the proposed replacement buildings, it is considered that the demolition of the existing buildings would accord with the requirements of Policy DM27 (3) of the MDD (2013). It is also considered that the replacement buildings would sit comfortably within the context of the surrounding built form and public realm and would protect the setting of nearby heritage assets. This policy seeks to ensure that the heritage assets and character of the Borough's Conservation Areas are not harmed by inappropriate demolition of building.
- 2.11 The scheme does present some significant challenges in respect of daylight and sunlight. However, these need to be considered in the context of the site and the historic Wapping area and in particular the degree of impact any developments on these three separate land parcels would cause to the surrounding area. Subject to conditions, it is considered that the development would not have an unacceptable impact on the amenity of adjoining residents in terms of daylight/sunlight impacts, sense of enclosure, privacy, overlooking, noise, and construction impacts. The proposal would be in accordance with Policy SP10 (4) of the adopted Core Strategy (2010) and Policy DM25 of the MDD (2013). These policies require development to protect the amenity of surrounding existing and



future residents and building occupants, as well as protect the amenity of the surrounding public realm.

- 2.12 The proposal would include an adequate provision of private, child and communal amenity spaces in accordance with Policy SP02 (6d) of the Council's adopted Core Strategy (2010) and Policy DM4 of the MDD (2013). These policies seek to ensure that amenity spaces are well located, well designed and functional and provide opportunities for residents to lead healthy and active lifestyles.
- 2.13 Subject to appropriately worded conditions, transport matters, including car and cycle parking, access and servicing arrangements are considered to be acceptable. It is also considered that the on-street servicing arrangements for the commercial unit are adequate and would not significantly impact on the capacity or safety of the road network, which accords with the requirements of Policy SP09 (3) of the Council's adopted Core Strategy (2010) and Policy DM20(2) of the MDD (2013).
- 2.14 A suitable strategy for minimising carbon dioxide emissions from the development has been proposed. Landscaping and biodiversity features are also proposed which seek to ensure the development is environmentally sustainable.

### **3.0 RECOMMENDATION**

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

- Any direction by the London Mayor.
- The prior completion of a legal agreement to secure the following planning obligations:

3.2 Financial contributions:

- a) £19,464 construction phase employment training
- b) £832 end-user phase employment training
- c) £12,600 carbon off-setting
- d) £10,000 towards the cost of three disabled on street car parking spaces
- d) Monitoring fee of £3,500 (equivalent to £500 per each substantial Head of Terms)

Total financial contribution: £46,396 including monitoring contribution.

3.3 Non-financial contributions:

- a) On-site affordable rented housing consisting of 2 x one bedroom, 4 x two bedroom and 5 x three bedroom units at Borough Framework Levels inclusive of service charges (including 2 two bed wheelchair units)
- b) 1 x one bedroom and 2 x three bedroom intermediate units
- c) Annual income for social and intermediate housing to be capped

- d) Access to employment
    - 20% local procurement
    - 20% local labour in construction
  - e) 6 apprenticeships delivered during the construction phase
  - f) Car Parking Permit Free
  - g) Compliance with the Code of Construction Practice
- 3.4 Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal
- 3.5 That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above acting within delegated authority. If within three months of the resolution the legal agreement has not been completed, the Corporate Director Development & Renewal is delegated power to refuse planning permission.
- 3.6 That the Corporate Director Development & Renewal is delegated power to impose conditions and informative on the planning permission to secure the following matters:

3.7 **Conditions**

Compliance

- 1) Compliance with plans
- 2) 3 year time limit for implementation
- 3) External play space area on Site B to be maintained and actively managed for life of the development
- 4) Six weeks' notice to Rail for London/TfL before any works commence
- 5) No interference or conflict with radio communications for Rail for London/railway safety
- 6) Clear access to ventilation shaft and emergency exits for Rail for London
- 7) Enlarged public footpath to be maintained in perpetuity

Pre commencement

- 8) Demolition strategy/plan
- 9) Design and construction methodology for foundations
- 10) Radio impact survey for Rail for London
- 11) Excavation Management Plan (Rail for London)
- 12) Details of and a method statement for all machinery (Rail for London)
- 13) Details of CFD analysis or Fire Safety Report (Rail for London)
- 14) Land contamination
- 15) Archaeology - written scheme of investigation
- 16) Health and Safety Plan and measures for Rail for London
- 17) Full details of demolition works including design and methodology (Rail for London)

Pre-commencement (other than demolition of the existing buildings)

- 18) Construction, Logistics and Environmental Management Plan (in consultation with Rail for London) including crane/lifting Management plan, scaffolding, consideration for river transport of materials/waste, statement of compliance with the new GLA NRMM Low Emission Zone and Air Quality
- 19) Detailed drainage system and its maintenance
- 20) Details showing measures to reduce surface water run off
- 21) Details of cycle stand and storage areas
- 22) Impact on water supply infrastructure
- 23) Piling method statement
- 24) Energy/centralised heating system
- 25) Flood mitigation measures and AOD levels
- 26) Detailed drawings and samples of all external materials
- 27) Details of all windows and doors for all 3 sites including acoustic details for Site A
- 28) Details of balconies and any privacy screens on all three sites
- 29) Full details of extended noise surveys to account for any additional noise sources, and details of mitigation for buildings on Site A

#### Pre- 3<sup>rd</sup> floor slab level

- 30) Landscaping and public realm including details of:
  - a. Soft landscaping
  - b. Biodiversity improvement measures
  - c. Details of roof top based solar panels and capacity for scheme to allow future connection to a district heating network
  - d. Hard landscaping
  - e. Visitor cycle parking
- 31) Wheelchair accessible units
- 32) Highways S278 Agreement

#### Prior to Occupation

- 33) Secured by Design accreditation
- 34) Transport Management Plan/Travel Plan including river bus use
- 35) Delivery & Servicing Plan (including a Waste Management Strategy)
- 36) Enlarged pavement on Site C must be laid out and completed
- 37) Child play space and communal roof terrace to be provided prior to occupation and retained for use by all residents on Sites B and C.

### 3.8 Informative

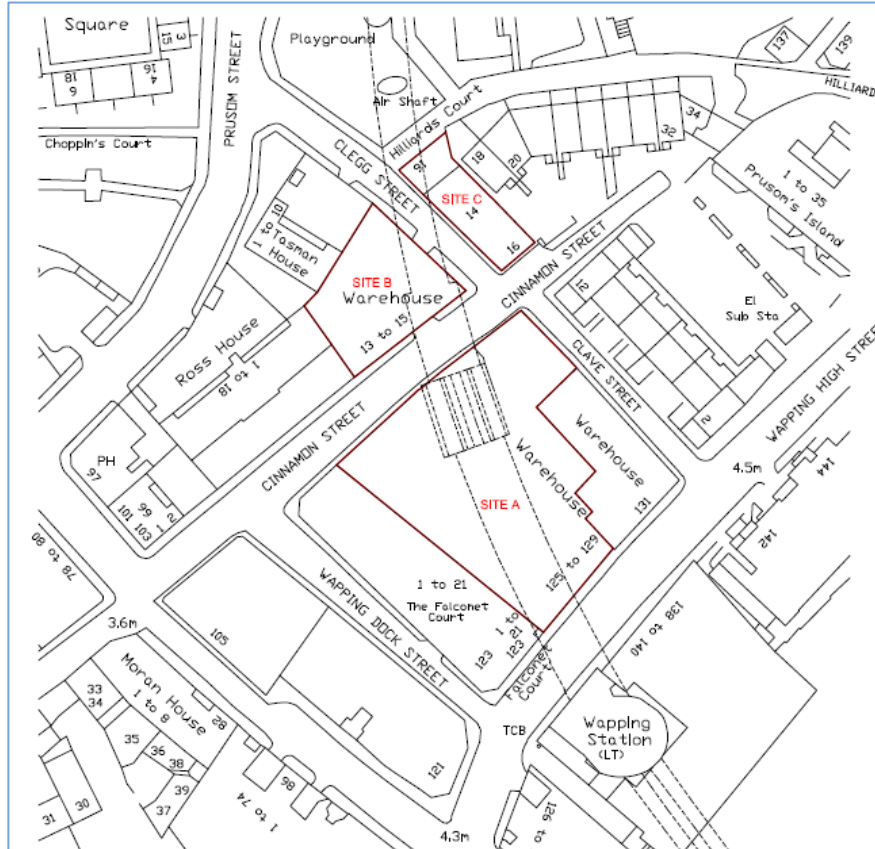
- a) Thames Water
- b) Development to be read in conjunction with S106
- c) The developer should enter into a S278 agreements for works to the highway
- d) The developer should contact the Council's Building Control Section

3.9 Any other condition(s) and/or informative as considered necessary by the Corporate Director for Development & Renewal.

## 4.0 **LOCATION DETAILS and PROPOSAL**

### **Site and Surroundings**

- 4.1 The application site lies in the Wapping area, within the Ward of St Katharine's and Wapping and consists of three land parcels currently known as 125-129 Wapping High Street, 13-15 Cinnamon Street and 14-16 Clegg Street, as shown in the map below.



**Figure 1: Site Location – boundaries of Sites A, B and C**

- 4.2 The three sites would cover a total area of approximately 2200sq.m and would be referred to as the application site and developed under one proposal (to deliver housing and a small retail unit). However, as there are three different site boundaries, these would be addressed, where relevant, as stand-alone sites. From this point on, the sites would be described as Sites A, B and C.



**Figure 2: The three land parcels**

Site A – 125-129 Wapping High Street

- 4.3 Site A, the largest of the three sites, is located between Wapping High Street to the south and Cinnamon Street to the north, with a small section on Clave Street. To the south-west, the site lies directly adjacent to Falconet Court and similarly to the south-east, it is bounded partly by Baltic Court which lies along Clave Street. Wapping Station lies further south of this site. This site falls within the Wapping Wall Conservation Area.
- 4.4 The buildings on Site A are mostly derelict and unoccupied. Much of the site, formerly a 19<sup>th</sup> century warehouse, has been lost following the construction of the emergency exits for Wapping Station. The Overground line runs in a tunnel under the three sites, connecting Wapping Station to Shadwell. Furthermore, a large ventilation shaft and two fire escapes from Wapping Station are located on this site and these would be retained within this proposal. These structures face onto Cinnamon Street.
- 4.5 The frontage of the building (facing Wapping High Street) would also be retained.



**Figure 3: Site A – retained frontage on Wapping High Street**

- 4.6 This elevation is formed of two gable end buildings, with a five bay wider section comprising 4 arched windows and 1 arched door; the smaller section is a two bay unit with square windows. Other remaining structures are to the south (rear) of the site and are in a poor state of repair.

Site B – 13-15 Cinnamon Street

- 4.7 This is a corner warehouse site on Cinnamon Street with a side return onto Clegg Street on the west, described as 13-15 Cinnamon Street. This site sits opposite Site C which is on the east side of Clegg Street. Site B has equal frontages on both these streets and historically has an entrance on both Cinnamon and Clegg Streets.

- 4.8 Site B is the only site not within the conservation area but is still within its immediate setting. The building on site is a part one and part two storey building which is currently being used as a garage. Site B also adjoins Ross House to the west and Tasman House to the north.

Site C – 14-16 Clegg Street

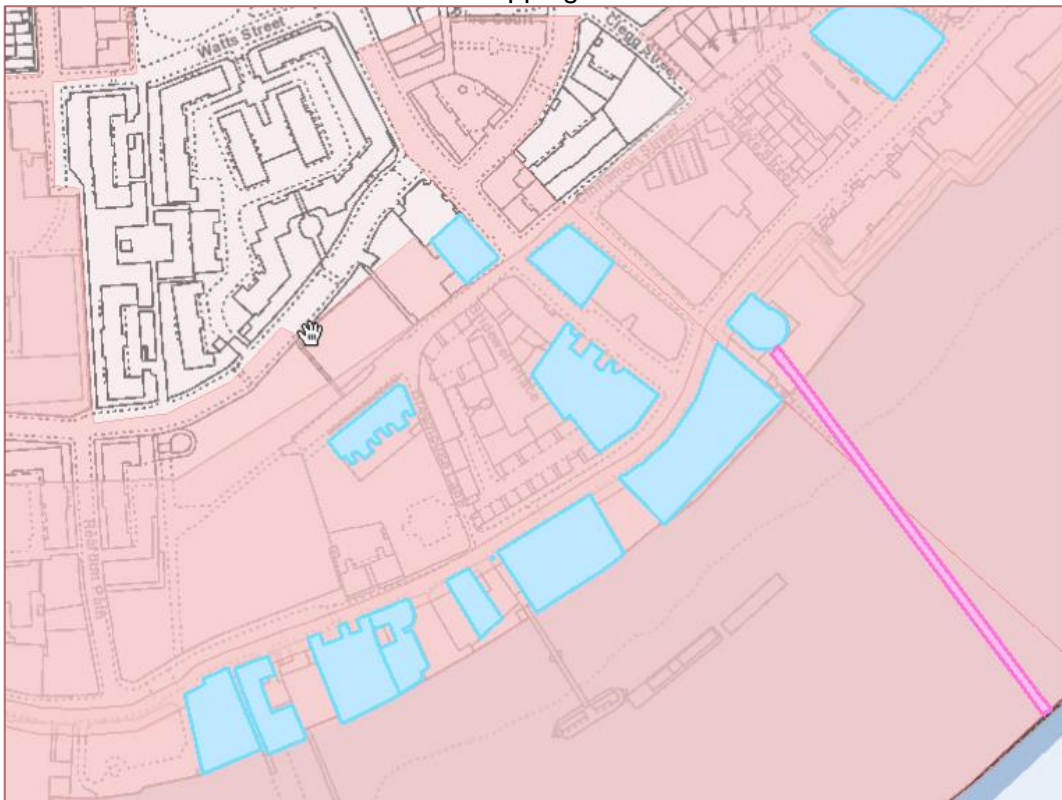
- 4.9 Site C is the smallest site of the group and sits within the Wapping Wall Conservation Area. The site is rectangular in shape and shares a corner location on Cinnamon Street with Clegg Street. Its main and longest frontage is along Clegg Street and is hence described as 14-16 Clegg Street. To the east of Site C is the row of three storey terrace houses, 18 – 34 Cinnamon Street.

- 4.10 There is only one building on site which is which is a single storey warehouse which is abutted by a two storey block to the northern end. The northern end building has been used as a residential unit but the main part of the single storey



element has been a motor repairs garage. To the north the site overlooks a children's playground.

- 4.11 Between Site C and the houses on Cinnamon Street is a retained party wall which is in a very dilapidated state. This wall is at low level (approximately single storey level) from Cinnamon Street and rises up to a high two storey towards the end of the site. The wall also forms part of the rear boundary wall of 18 Cinnamon Street.
- 4.12 In general terms and in the historic environment, the three sites, the subject of this application are located close to each other and are within or surrounded by conservation areas. However, there are no statutory listed buildings within or in close proximity of the sites. The closest Grade II listed buildings to the west and south west are along Wapping Lane and to the east is Prusom Island. It is worth noting though that The Thames Tunnel which runs under Sites A and B is Grade II\* listed and the tunnel entrance at Wapping Station is Grade II listed.



**Figure 4: The historic environment**

- 4.13 The site does not have any specific policy designations and is located within a predominantly residential area. Surrounding building heights vary from three storeys to seven storeys. The immediate buildings to Site A is Falconet Court at 4 storey high; Site B is flanked by Ross House at 5 storeys and Tasman House also at 5 storeys. Site C sits alongside a three storey terrace block and the building opposite, 2-12 Clave Street is also 3 storeys high.
- 4.14 The site has a fairly good accessibility to public transport even though the PTAL is only 3 (in the ranges 1 to 6 where 1 is low and 6 is excellent). However, Wapping Station is approximately 15m from Site A and 65m from Sites B and C. The area is also served by several bus routes connecting to the rest of the borough and further west towards the City.

- 4.15 In terms of constraints, the application site falls within a Flood Risk Zone and an Archaeological Priority Area. The application site may also be within a potential contamination risk area.

### **Proposal**

- 4.16 The proposal is for a residential led development consisting of 41 new units set over the three sites, in three individual buildings, ranging from three to five storeys. A small retail unit (47sqm) is also proposed within Site A, along Wapping High Street. The application proposal would involve the partial demolition of the buildings on Site A and the total demolition of all buildings and structures on Sites B and C.

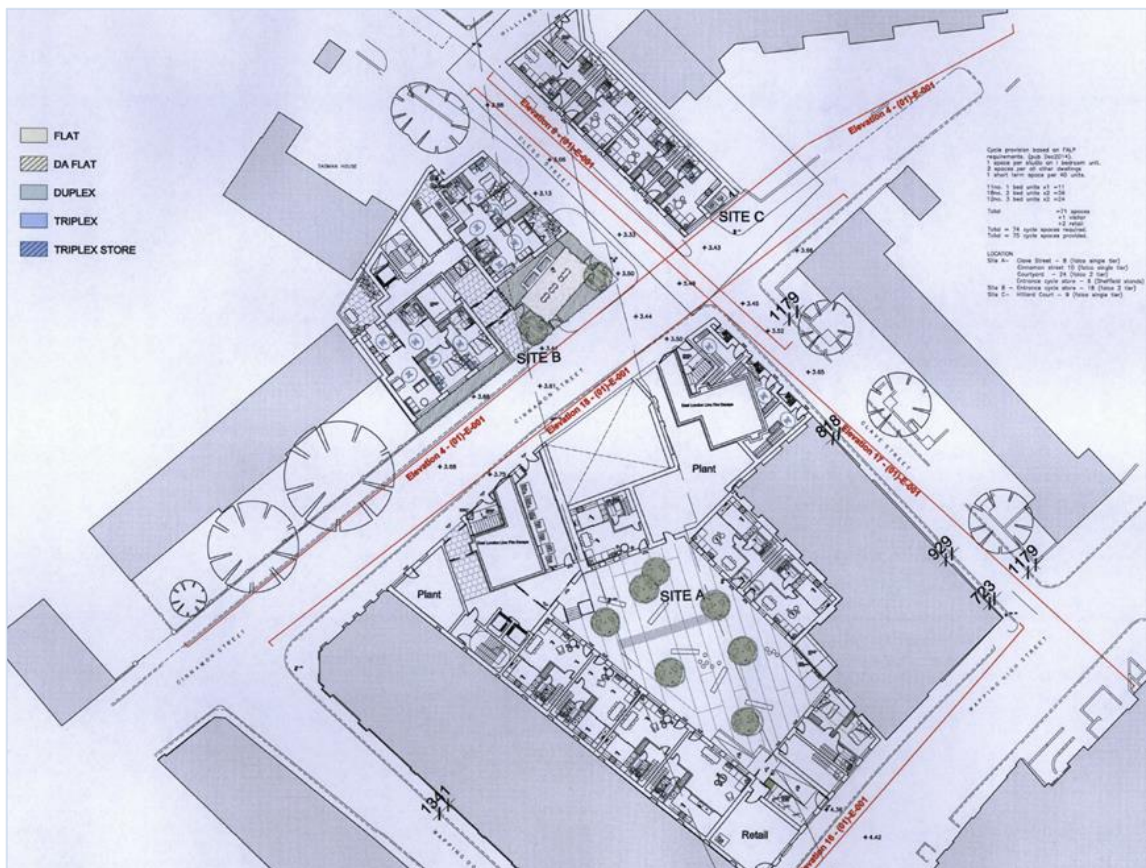


***Figure 5: CGI of proposal (view along Cinnamon Street looking west - showing new buildings on the 3 sites)***

- 4.17 The proposal would consist of the retention of the façade to the Wapping High Street building and the addition of a five storey perimeter building with a central courtyard. This building (Block A) would provide 27 new flats all within the market sale tenure. Site A would consist of 8 one bed, 14 two bed and 5 three bed units. 12 units within this block would be duplexes and triplexes and the remaining 15 would be flats. The central courtyard would be given to private communal amenity space (382sqm).
- 4.18 Site B would deliver 7 units within the affordable rented tenure and 3 units in the intermediate tenure and would consist of 3 x one bed, 4 x two bed and 3 x three bed within a five storey building, with a setback from second to fourth floors on the north eastern elevation. A further setback has been designed on the north-west corner of the building adjacent to Ross House. Site B would also provide a communal play area on the corner of Cinnamon and Clegg Street at ground level and a large private terrace overlooking Clegg Street at second floor level. A further play area would be provided on the fourth floor above the communal terrace overlooking Clegg Street.



- 4.19 The smallest parcel of land at Site C would be a three storey building (Block C) consisting of 4 terraced three bedroom town houses. These houses would be in the affordable rented tenure.
- 4.20 Each block would be self-contained with their own entrances, residential lobby spaces, cycle storage areas and a waste and recycling room together with a plant room, serving the residential units. With regards to Block A, a separate entrance is being created for the retail unit together with its associated refuse requirements. Also for Block A, 9 of the residential units would be independently accessed from a central courtyard. Three more units (three bed units) would be accessed directly from street level from Clave Street. The upper levels of Blocks A and B would be served by two lifts.



**Figure 6: Proposed ground floor plan of all three blocks**

- 4.21 The scheme would provide four wheelchair adaptable or accessible units (10%). 2 two bed flats on the first floor of Block A and 2 two bed on the ground floor of Block B. The scheme would provide no on-site car parking spaces.

## 5.0 RELEVANT PLANNING HISTORY

- 5.1 On 13 June 2008, applications for Full Planning Permission and Conservation Area Consent were withdrawn for the 'Demolition of buildings to enable redevelopment of site by erection of buildings from three to five storeys (22.85metres) to provide five houses and 58 flats with 170sqm retail floor space, under planning application references PA/07/03149 and PA/07/03150.

- 5.2 On 11<sup>th</sup> April 2008, Full Planning Permission and Conservation Area Consent were granted for the *'Demolition of building and development to provide secondary means of escape from Wapping Station, including erection of a wall along the street frontages: all required as part of the East London Line Project'* under planning application references PA/08/00197 and PA/08/00200.
- 5.3 On 03 June 2015, an application for Full Planning Permission was withdrawn for the "Site A (125- 129 Wapping High Street): Partial demolition of the existing structures, retention of the front facade fronting Wapping High Street. Redevelopment of the site to provide buildings ranging 2-4 storeys in height comprising a retail unit (Use class A1) fronting Wapping High Street and 27 residential units (Use class C3). Site B (13-15 Cinnamon Street): Demolition of existing building on site. Redevelopment of site to create a new building ranging from 2-5 storeys in height comprising 11 residential units. Site C (14-16 Clegg Street): Demolition of existing building on site. Redevelopment to provide 4 town houses that would be 3-storeys in height. Sites A, B and C would create a total of 42 residential units including 1, 2 and 3 bedroom sized units", under planning reference PA/14/03062.
- 5.4 On 11 November 2015, an application for Full Planning Permission was withdrawn for "Site A (125- 129 Wapping High Street): Partial demolition of the existing structures, retention of the front facade fronting Wapping High Street. Redevelopment of the site to provide buildings ranging 2-5 storeys in height comprising a retail unit (Use class A1) fronting Wapping High Street and 27 residential units (Use class C3). Site B (13-15 Cinnamon Street): Demolition of existing building on site. Redevelopment of site to create a new building ranging from 2-5 storeys in height comprising 10 residential units. Site C (14-16 Clegg Street): Demolition of existing building on site. Redevelopment to provide 4 town houses that would be 3-storeys\* in height. Sites A, B and C would create a total of 41 residential units including 1, 2 and 3 bedroom sized units" under planning reference PA/15/02440.

#### 125-129 Wapping High Street

- 5.5 On 28 April 2006, full planning permission was granted for the change of use of warehouse to provide secondary means of escape from Wapping Station plus the removal of part roof and the creation of a raised pavement with bollards fronting Cinnamon Street. Planning reference PA/06/00333.

#### 13-15 Cinnamon Street

- 5.6 On 06 April 1988 full planning permission was granted for the redevelopment by the erection of (I) a four storey building with two storey section comprising 9 residential units and ground level parking, and (II) a two storey building comprising 2 residential units; together with a courtyard and additional parking. Planning reference ID/88/00172.

## **6.0 POLICY FRAMEWORK**

- 6.1 The Council in determining this 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);
- To have regard to local finance considerations so far as material to the application, and to any other material considerations (Section 70 (2) Town & Country Planning Act 1990);
- In considering whether to grant planning permission for development which affects the setting of a listed building, to have special regard to the desirability of preserving the setting (Section 66 (1) Planning (Listed Building and Conservation Areas) Act 1990);
- Pay special attention to the desirability of preserving or enhancing the character or appearance of the adjoining Whitechapel High Street Conservation Area (Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990).

6.2 The list below is not an exhaustive list of policies; however, it contains some of the most relevant policies to the application proposal:

6.3 Core Strategy Development Plan Document (CS)

- Policies:
- SP02 Urban living for everyone
  - SP03 Creating healthy and liveable neighbourhoods
  - SP04 Creating a green and blue grid
  - SP05 Dealing with waste
  - SP06 Delivering successful employment hubs
  - SP07 Improving education and skills
  - 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

6.4 Managing Development Document (MDD)

- Policies:
- DM0 Delivering Sustainable Development
  - DM3 Delivering Homes
  - DM4 Housing Standards and amenity space
  - DM8 Community Infrastructure
  - DM9 Improving Air Quality
  - DM10 Delivering Open space
  - DM11 Living Buildings and Biodiversity
  - DM12 Water spaces
  - DM13 Sustainable Drainage
  - DM14 Managing Waste
  - DM15 Local Job Creation and Investment
  - DM20 Supporting a Sustainable Transport Network
  - DM21 Sustainable Transport of Freight
  - DM22 Parking
  - DM23 Streets and Public Realm
  - DM24 Place Sensitive Design
  - DM25 Amenity
  - DM27 Heritage and Historic Environment
  - DM29 Zero-Carbon & Climate Change
  - DM30 Contaminated Land

## 6.5 Supplementary Planning Guidance/Documents

- Revised Planning Obligations Supplementary Planning Document (April 2016).

## 6.6 Consolidated London Plan (March 2016)

Policies:	3.1	Ensuring Equal Life Chances for All
	3.2	Improving Health and Addressing Health Inequalities
	3.3	Increasing Housing Supply
	3.4	Optimising Housing Potential
	3.5	Quality and Design of Housing Developments
	3.6	Children and Young People's Play and Informal Recreation Facilities
	3.7	Large Residential Developments
	3.8	Housing Choice
	3.9	Mixed and Balanced Communities
	3.10	Definition of Affordable Housing
	3.11	Affordable Housing Targets
	3.12	Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes
	3.13	Affordable Housing Thresholds
	5.1	Climate Change Mitigation
	5.2	Minimising Carbon Dioxide Emissions
	5.3	Sustainable Design and Construction
	5.5	Decentralised Energy Networks
	5.6	Decentralised Energy in Development Proposals
	5.7	Renewable Energy
	5.8	Innovative energy technologies
	5.9	Overheating and Cooling
	5.10	Urban Greening
	5.11	Green Roofs and Development Site Environs
	5.12	Flood Risk Management
	5.13	Sustainable Drainage
	5.14	Water Quality and Wastewater Infrastructure
	5.15	Water Use and Supplies
	5.21	Contaminated Land
	6.1	Strategic Approach to Integrating Transport and Development
	6.3	Assessing the Effects of Development on Transport Capacity
	6.5	Funding Crossrail
	6.9	Cycling
	6.10	Walking
	6.11	Congestion and traffic flow
	6.12	Road Network Capacity
	6.13	Parking
	7.1	Building London's Neighbourhoods and Communities
	7.2	An Inclusive Environment
	7.3	Designing out Crime
	7.4	Local Character
	7.5	Public Realm
	7.6	Architecture
	7.8	Heritage Assets and archaeology
	7.9	Access to Nature and Biodiversity
	7.13	Safety, security and resilience to emergency

- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 7.18 Open space
- 7.19 Biodiversity and Access to Nature
- 8.2 Planning obligations
- 8.3 Community Infrastructure Levy

## 6.7 London Plan Supplementary Planning Guidance/Documents

- Housing Supplementary Planning Guidance Nov 2012
- Shaping Neighbourhoods: Play and Informal Recreation SPG September 2012
- London View Management Framework SPG (2012)
- Sustainable Design & Construction SPG (April 2014)
- Accessible London: Achieving an Inclusive Environment SPG (October 2014)
- Control of Dust and Emissions During Construction and Demolition (2014) Best Practice Guide
- Shaping Neighbourhoods: Character and Context SPG (2014)
- Sustainable Design and Construction SPG (2014)
- Mayor's Climate Change Adaptation Strategy
- Mayor's Climate Change Mitigation and Energy Strategy

## 6.8 Government Planning Policy Guidance/Statements

- The National Planning Policy Framework 2012 (NPPF)
- Technical Guide to NPPF
- The National Planning Policy Guide (NPPG)
- London Housing Standards (March 2016)

## 6.9 Other documents

- Tower Hamlets Local Biodiversity Action Plan (2009)

## 7.0 **CONSULTATION RESPONSES**

7.1 The views of the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted and made comments regarding the application, summarised below:

### Internal Consultees

#### **Affordable Housing**

7.2 The scheme will deliver 37% affordable housing by habitable rooms. The proposed unit mix provides 11 units for affordable rent 2x1beds, 4x2beds, 5x3beds and three units for intermediate, 1x1bed and 2x3beds. Within the affordable rent the scheme provides 18% of one bed units against LBTH policy target of 30%, 36% of two bed units against LBTH policy target 25%, 45% of three bed units against LBTH policy target of 45% family units. Within the intermediate units, the schemes provide 33% of one bed units against LBTH policy target of 25%, 67% of three bed units against LBTH policy target of 25%. There are no two bed units within this tenure type; LBTH planning policy requires a core strategy target of 50%. On balance, the proposed mix is considered acceptable.

## **Waste Management Team**

- 7.3 No objection

## **Environmental Health**

- 7.4 Contaminated Land Team: No objection, subject to the imposition of a planning condition, should planning permission be granted, to address potential land contamination.

- 7.5 Noise and Vibration Team: No comments received.

- 7.6 Air Quality Team: No objection. The Air Quality Assessment is accepted. It shows that the site is suitable for the proposed use of the development and that the impacts of the development are negligible and therefore not significant. The CEMP is also accepted in regards to dust. The air quality section of the Construction Environmental Management Plan should include a statement of compliance with the new GLA Non Road Mobile Machinery Low Emission Zone emissions requirements.

## **Transportation & Highways**

- 7.7 The site falls within a PTAL area of level 3. Following negotiations and substantive revisions, the highways team has no objections subject to:

- 7.8 Public footpath: Due to the site constraints and the nature of this development, Transport and Highways welcome the proposal to set back the property to increase the width (up to 1.5m) of the footpath along Clegg Street. A condition should be attached to any planning permission to submit a Maintenance Plan for the extended footpath and any structure above. The applicant must be committed to maintain the footpath and any structure above that meets the minimum safety requirements for residents and pedestrians' usage along Clegg Street.

- 7.9 A condition should also be attached to any permission to state that no development should start until Highways has approved in writing the scheme of highway improvements necessary to serve this development (i.e. reinstate redundant drop kerbs and etc.).

- 7.10 Car parking: Highways require a section 106 'car and permit' free agreement for this development. Cinnamon St has night time parking occupancy of 100% and Clegg Street has parking occupancy of 100% and 143% during weekdays and night time respectively. This exceeds the 80% level, which is considered to be 'stressed'. The layout of the site is not possible to provide accessible parking on site for registered blue badge holders. The transport statement states that blue badge users will be able to utilise the existing resident parking bays on street. Whilst this may be the case it will also add to the existing parking stress in the area, affecting existing residents' ability to park in those bays. It is recommended that the applicant enters into a S106 agreement to fund up to three disabled bays on street if required by residents.

- 7.11 Cycle parking: the original comments from highways colleagues were that the proposed number of cycle spaces exceeds the minimum requirement. However, the applicant is proposing to provide mixture of Falco single tier and Falco 2 tier cycle stands throughout the development. Falco cycle storage does not comply with our policy requirement. However, following receipt of further information on

the type of Falco stands proposed, the Highways team is now satisfied with the Falco provision. Nonetheless, a condition would be attached to ensure the cycle stands to be provided meet with the Council's policy requirements and that the cycle storage areas are adequate for the development.

- 7.12 Servicing: Clegg Street and Cinnamon Street are very narrow two way public highways. It is not possible to service any apartment from any of these roads without blocking the public highways. A site visit with the applicant and highways officers addressed the issues raised and subject to a S278 and works to the kerb lines along Clegg Street and Cinnamon Street plus the relocation of a lamp post on Clegg Street, the servicing and waste collection are considered satisfactory subject to necessary conditions to secure detailed arrangements.
- 7.13 Construction Management Plan: A draft construction management plan has been submitted, which is welcomed. A final CMP will be required via a condition once the main contractor has been appointed and will need to be submitted and approved prior to any works taking place. The developer is asked to bear in mind the construction routes as they will be similar to those for the London Dock development and they will need to show the cumulative effect of this development on both the TLRN and the local road network, together with any mitigation measures to reduce the impact. TfL will require consultation on this and the fact that the development takes place close to London Underground infrastructure. In terms of Travel Plan, a framework travel plan has been supplied and a final version will be required as a condition to any planning permission granted.
- 7.14 Highways improvement works: The applicant will be required to enter into a S278 agreement with the local authority to cover works considered necessary on the public highway as a result of the development, including the reinstatement of redundant crossovers. Some of the works would include changes to kerb lines, relocation of a lamp post, removal of dropped kerbs and introducing/extending single or double yellow lines. This would be secured by condition.

#### **Biodiversity Officer**

- 7.15 The application site contains no significant habitats, but Site A has potential to support bats and Black Redstarts, which are protected species. Two features with low potential to support low-value non-maternity roosts for single or small numbers of bats were found on site A. Details of biodiversity enhancements would be secured by condition including further details of the provision of a biodiverse roof.

#### **Energy Officer**

- 7.16 The CO2 emission reductions proposed are supported and would result in a circa 35% reduction against the Building Regulations 2013. The current proposals are below the policy target of 45% reduction in CO2 and a carbon offsetting payment is due of £12,600. Out of the two options proposed by the applicant, officers' recommendation is for option A – centralised heating system;
- 7.17 The applicant should commit to the delivery of a communal system; it is recommended that the proposals are secured through appropriate Conditions for:
- Delivery of Energy Strategy Option A – Centralised heating system
  - Submission of PV specification and delivery of a 41.4kWp PV array
  - Carbon offsetting contribution secured through S106 contribution.

## **Employment & Enterprise Team**

7.18 Following receipt of further information with regards to the loss of employment floor space, the Employment and Enterprise Team stated that *“There is a loss of employment space but this is not active and the buildings are derelict and in state of disrepair. Therefore, I agree with the principle of the development proposal because the site would not generate the required income to justify the regeneration to put back in to habitable employment space. In addition, I accepted the proposal based on the provision of a small retail unit that could accommodate at least 2 employees”*. The development should secure by way of legal agreement the following commitments:

- Financial contributions - Construction phase: £19,464
- End-user phase: £832
- Non-financial contributions - 20% local labour, - 20% use of local suppliers;
- No end-user apprenticeships or minimum jobs are to be secured as there is no significant employment generated, however, where possible advertise - vacancies locally through Skillsmatch (the Council's employment and skills agency).
- A minimum of 6 apprenticeships delivered during the construction phase (NVQ L2); depending on the length of the build/variations in build costs this figure can be negotiated

## **Surface Water Run Off**

- 7.19 The proposal is accepted in principle.
- Discharge Rates - The drainage strategy produced by AECOM sets out that the proposals will reduce the existing surface water run-off by at least 50%. The exact details of these measures would be conditioned.
  - SuDs - The applicant's appraisal of SuDs techniques for the site is limited. It is advised that the applicant investigates the use of SuDs features that provide source control and other benefits, such as green roofs to improve the biodiversity of the site and also meet policy DM11. Although the landscaping will also reduce discharge rates and is welcomed.
  - Maintenance - There is no indication as to how the entire drainage system is to be maintained. Details of agreed adoption, monitoring and maintenance of the drainage and suds features would be conditioned.
  - Residual risks - Safe and appropriate flow routes from blockage and exceedance of the drainage system must be evaluated. This must demonstrate no property flooding or increase in flood risk, either offsite or to third parties.

## External Consultees

### **Historic England**

7.20 This application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.



### **Greater London Archaeology Advisory Service (GLAAS)**

- 7.21 GLAAS considers that the archaeological interest of the site can be adequately conserved by attaching a suitably worded planning condition.

### **Metropolitan Police Crime Prevention Design Officer**

- 7.22 No objections to the development proceeding as agreed by incorporating measures to minimise the risk of crime and with any scheme completed to a manner that it can gain Secured by Design accreditation.

### **London Underground Infrastructure Protection**

- 7.23 No comments to make on this proposal

### **Port of London Authority**

- 7.24 No objection in principle. However, the PLA would like to see consideration given to the use of the River Bus as an alternative form of sustainable transport. And also consideration should be given to the use of waterborne transport for bulk removal of materials and transport of construction materials and waste. The Port of London Authority has also requested whether the Council would consider securing S106 contributions for the improvements of Wapping Pier.

### **Canal and River Trust**

- 7.25 No comments as application sites fall outside their notified area

### **Network Rail**

- 7.26 No objection.

### **Rail for London and Transport for London Fire**

- 7.27 Rail for London/TfL emphasized that their comments are in respect of infrastructure protection only. The site is RfL-owned and contains both a ventilation shaft and two emergency exits from the tunnel below. Both of these structures are critical to the operational safety of the railway, specifically in the event of an emergency or other unforeseen event. No objection subject to a list of conditions prescribed which would be attached in the final decision notice.

### **London Underground (Infrastructure)**

- 7.28 No objection

### **Thames Water (TW)**

- 7.29 No objection subject to a condition with regards to piling; an informative in respect of provision of Groundwater Risk Management Permit from TW for discharging groundwater into a public sewer. TW would expect to see the measures undertaken to minimise groundwater discharges into the public sewer. With regards to Surface Water Drainage TW also requests that a condition be imposed to allow a review of the development's drainage plan. There is no objection to sewerage infrastructure capacity and no objection to water infrastructure capacity provided an informative is attached stating that TW would aim to provide

customers with a minimum pressure of 10m head and a flow rate of 9 litres/minute.

### **Environment Agency**

- 7.30 No objection. The proposed development will result in a 'more vulnerable' use within Flood Zone 3. This use can be appropriate within Flood Zone 3 providing the site passes the Flood Risk Sequential Test. For the site to pass the Sequential Test you (the LPA) must be satisfied that there are no alternative sites available for the development at a lower risk of flooding. Providing the site passes the Sequential Test a Flood Risk Assessment should be undertaken which demonstrates that the development will not be at an unacceptable risk of flooding and will not increase flood risk elsewhere.

## **8.0 LOCAL REPRESENTATION**

- 8.1 258 neighbouring properties were notified about the application and invited to make comments. The application was also publicised in the local press and site notices were posted around the three sites.

- 8.2 12 written representations were received objecting to the application proposal. A petition of 56 signatures, against the proposal was also received. On the whole residents feel that very little or only cosmetic changes have been made on this proposal as compared to the two previous applications that were submitted and subsequently withdrawn, PA/14/03062 and PA/15/02440. Residents believe that the application is still flawed and that the application could be modified further. Furthermore, it is noted by a resident that correct processes of publication have not been properly followed, in that there were no site notices displayed on site when the application was submitted. The issues raised are summarised below and will be addressed in full in relevant sections of this report:

- a. *Loss of daylight and sunlight;*
- b. *Overlooking privacy issues;*
- c. *Proposal does not comply with councils and London Plans policies;*
- d. *Scale and massing are wrong;*
- e. *Oppressive sense of enclosure;*
- f. *Poor design;*
- g. *Proposal would not enhance conservation area or local environment;*
- h. *Maximum distance between Sites B and C less than 18m;*
- i. *Play space on Site A should not be private to the residents of that block;*
- j. *Accuracy of Daylight and Sunlight study is questionable;*
- k. *Parking problems and lack of parking spaces;*
- l. *Narrow footpath along Clegg Street;*
- m. *New building on Site B is much taller than existing surrounding buildings, for example Tasman House;*
- n. *Loss of view to Gun Wharf;*
- o. *Mass of Site C has been underestimated;*
- p. *Loss of light industrial usage on Sites B and C;*
- q. *Provision of retail unit would undermine viability and vitality of other businesses*
- r. *TfL hire a specialists company to remove coal tar from Wapping Overground (on a regular basis) and concerns about the contamination risk and noise nuisance.*

8.3 Objection letters were received from the following owner/occupiers: 10 and 12 Clave Street, 18, 20, 22 and 28 Cinnamon Street, 8 Tasman House, 6 Baltic Court, 25 Hilliard House and a resident of Prusom Island. The objections received would be discussed in more details further in the report. Out of the 12 letters received, 3 were from non-residents. These comments are summarised below:

#### **1. Councillor Julia Dockerill**

8.4 Councillor Dockerill wrote to the Council to confirm that she has been assisting residents in Cinnamon/Clegg/Clave Streets in voicing their concerns about the proposal. The principle of developing the sites is not disputed. However, there is a unanimous view that the proposal represents an overdevelopment of a very constrained location at the heart of a conservation area. The plans and various iterations have still not substantially addressed the prime concerns of residents. Councillor Dockerill believes that this proposal requires substantial modifications still, despite the previous amendments. These are, 1) appropriate density in a conservation area and in a site such as the application site with narrow roads; 2) loss or deprivation of light to most residents surrounding the site; 3) car free development and the creation of 4 town houses for family who would likely require a car; 4) reducing the heights of some of the buildings have made them less attractive without making substantial difference to light. No height alteration has been made to Site C and Ross and Tasman Houses will still be affected by light reductions; 5) pavement width along Clave and Clegg Streets remain a problem; and 6) Site B backs onto Tasman House yet is one storey higher. This has implications in terms of restricting light and privacy. Councillor Dockerill concluded by saying that in her view S106/CIL monies must be retained specifically for the local area, and given over to the improvement of green spaces and heritage assets in the immediate area to offset the impact of development.

#### **2. Gebler Tooth, Sasha Gebler**

8.5 This company owns the freehold of Baltic Court at 5 Clave Street and 131 Wapping High Street. No objection to the principle of redevelopment of the application site. However, despite changes to the design, significant parts of the proposal are still “top heavy”, too high or out of scale with some of the surrounding buildings. The proposed building along Clave Street and corner with Cinnamon Street (the 3 town houses) is very top heavy and appears overbearing. The objector feels that some further alteration would satisfy the concerns raised.

8.6 Following significant revisions (such as the enlargement of Clegg Street’s footpath and marketing evidence outlining loss of employment/viability of the application site), a second neighbour consultation was carried out on 29 July 16. Site notices were also placed at the site on. 11 further responses were received as a result of this exercise. One was in support and 10 were objection letters. Out of these, was an objection from Councillor Denise Jones and Gebler Tooth. The grounds of residents’ objections were similar to those detailed above and many were from the same residents who objected the first time. Of note the objections mention the following:

- *revisions show practically no improvements to previous objections raised*
- *no commitment for discussion with the local community*
- *no plans which are in keeping with the structure of the neighbourhood*
- *no thought to the increased needs for schools or amenities*

- station has to be pumped out on a regular basis and this process is very noisy

### 3. Councillor Denise Jones

- 8.7 Councillor Jones wrote to officers to confirm that she is requesting to speak at the Development Committee on 28 September. The Councillor also made it known that the objections of residents would be endorsed as well. In terms of the grounds of objections these were on design, layout and external appearance, townscape, views and heritage of the new buildings and on surrounding areas; amenity impacts of the proposal on existing residents in terms of noise and loss of light; noise from maintenance works that take place every 3 months around the shafts; there is also a mention of flooding near the shaft areas which was retrieved from an archaeological report on the "East London Line Extension Project"; transport including parking was also raised as an issue as well as recycling. The Applicant's (Wapping High Street Ltd) Preliminary Risk Assessment document (dated 29 October, 2014) conducted by URS Infrastructure & Environment UK Limited, clearly states that "[the] likelihood of contamination related to the former off-site gas work is considered Medium." The document states it was solely a desk top assessment. Questioned whether, as part of the planning process the Council should initiate an independent Risk Assessment.
- 8.8 It is noted that Gebler Tooth had no new comments to add following the reconsultation as it was felt that "*very little appears to have changed*".
- 8.9 All the issues raised in objection to the scheme will be fully addressed in the Design, Amenity and Highways sections of this report.

### 9.0 ASSESSMENT OF APPLICATION

- 9.1. The main planning issues raised by this application that the Committee must consider are:
- (a) Land Use
  - (b) Design & Heritage
  - (c) Housing & Density
  - (d) Neighbouring Amenity
  - (e) Other issues

#### Land Use

- 9.2 At a national level, the National Planning Policy Framework (NPPF - 2012) promotes a presumption in favour of sustainable development, through the effective use of land driven by a plan-led system, to ensure the delivery of sustainable economic, social and environmental benefits. The NPPF promotes the efficient use of land with high density, mixed-use development and encourages the use of previously developed, vacant and underutilised sites to maximise development potential, in particular for new housing. Local authorities are also expected to boost the supply of housing significantly and create larger family units where there is an express need for these types of accommodations, as is the case in Tower Hamlets.

#### Loss of employment floor space

- 9.3 Policy DM15 of the Managing Development Document (2013) seeks to prevent the loss of active and viable employment uses across the borough. Through the demolition of the existing buildings on the application site, the proposal would result in the loss of 655sqm commercial floor space (across the existing 3 sites). The scheme would seek to re-provide 47smq of this floor space in the form of an A1 retail shop (7% replacement of lost space) use class.
- 9.4 Although some very low-density employment is provided on the site as 'vehicle repair/storage', the employment status of the application site can be detailed as follows:
- 9.5 Site A: A mostly demolished and derelict, vacant/abandoned former warehouse building with only the frontage facing Wapping High Street standing strong. Currently accommodates a large ventilation shaft and two fire escapes for Wapping Station which would remain in situ. The majority of the site was demolished in 2008 under planning permission reference (PA/08/00197) and has been wholly vacant since the departure of the East London Line Upgrade team in 2010 following their temporary use of the site. In its current condition (witnessed by officers during a site visit), it is clear that the site and what is left of the partly demolished building would not be let.
- 9.6 Site B: This is a mid-20<sup>th</sup> century single storey/two storey annex warehouse building; the site measures approximately 92sqm and is partly derelict and boarded up. It became fully vacant in February 2015. It was last used as storage of vehicles which is classed as B8 storage.
- 9.7 Site C: This site contains an early 20<sup>th</sup> century single storey warehouse building, measuring approximately 82sqm. The building was last occupied by a car mechanic until February 2015 when it was vacated. It is understood this business had 1 employee on a short term basis who has since moved to another premises (location of the premises is not known). This building is also in need of repair.
- 9.8 As already mentioned above, the redevelopment of this site for residential development would result in the loss of employment generating floor space, which the Council would normally seek to resist in accordance with Policy DM15 in the Managing Development Document (MDD). This policy states that development of an employment site should not result in the loss of an active and viable employment use unless it can be demonstrated that the site is no longer suitable or viable for continued employment purposes due to its location, accessibility, size and condition, or that the site has been marketed unsuccessfully at prevailing values for a prolonged period, or that there is a surplus of local employment floor space in the surrounding area.
- 9.9 The applicant has produced a commercial market assessment of the site addressing issues such as its current use and condition, location and demand and rental values. The market assessment has looked at each plot of land separately and concluded that the conditions of the properties are such that they are past repairing and a complete overhaul through demolition and rebuild would be required. Furthermore, returning the land/buildings to a light industrial use would provide no return on investment, given the lack of demand and low rental levels that would be associated with industrial spaces in the area. The market assessment goes on to state that demand for industrial and warehousing spaces in Wapping is non-existent and demand for this type of space has moved to better equipped locations with larger spaces, modern units and better transport links.

- 9.10 Officers recognised that most of the buildings on site are in a poor state of repair. The sites' history is evidence of the various attempts over the last 10 years and more, to bring this brownfield site forward for residential usage. In their current state of repair and basic warehouse form refurbishment would not be viable and would be costly and is unlikely to attract high enough rent levels due to the location and typology of the site. Furthermore, the surrounding area is wholly residential and light industrial use class options would be very limited.
- 9.11 The surrounding area has been undergoing changes with obsolete industrial premises being replaced by housing. The proposal does seek the re-provision of some of the commercial floor space in the form of an A1 shop. This would be located along Wapping High Street where a commercial presence already exists and would be opposite Wapping Overground Station; this is considered to be well suited in terms of size and location for an active retail type use. The A1 would provide some active frontage at ground floor level. In terms of proposed number of employees, this is anticipated at 2 full time staff. Currently, the site employs just one member of staff. Therefore, the new space could accommodate as many (and more) employees as has been employed in recent years. The loss of the existing floor space is therefore considered to be acceptable on balance.
- 9.12 As such, it is considered that the loss of employment floor space could be sustained in this instance and the proposed change of use (residential and retail) is acceptable in land use terms as it would contribute towards much needed housing provision in the borough. This proposal is in accordance with the National Planning Policy Framework, policies SP06 of the Adopted Core Strategy (2010) and DM15 of the Managing Development Document (2013) which seek to ensure that development proposals do not result in the loss of active and viable employment uses.

#### Proposed Retail Use

- 9.13 The proposal would include the creation of a new retail unit at ground floor level of Site A within Use Class A1. The proposed A1 unit would be located on Wapping High Street, opposite Wapping Overground Station; this is considered to be well suited in terms of size and location for a retail use. In addition, the provision of a small shop unit would be suitable in terms of its size (less than 100sqm).
- 9.14 Policy DM2 part 2 of the MDD sets out that development of local shops outside of town centres, will only be supported if there is a demonstrable local need that cannot be met within an existing town centre, they are of an appropriate scale to their locality; they do not affect the amenity or detract from the character of the area and they do not encourage or form part of a concentration of uses that would undermine nearby town centres. Paragraph 2.3, Part (2) of policy DM2 "*seeks to manage the risk of larger retail shops coming forward outside of designated centres. This could not only threaten the vitality and viability of the borough's town centres but could also have a negative impact on existing local shops which are serving the needs of the local community. The introduction of larger shops may also be unsuitable to the local area in terms of size and the activity they may generate, for example with regards to congestion, parking and noise*".
- 9.15 It is noted that the nearest designated Neighbourhood Centre in Wapping is along Wapping Lane, some 80m and 170m away from Site A. The retail unit is only 47sqm which is considerably less than the 100sqm allowed by policy. It is considered that this shop unit would be in compliance with policy DM2 which

seeks to ensure that proposals outside of town centres are of an adequate size so as not to impact on nearby neighbourhood centres. Residents objected to the provision of this retail unit and felt that this would threaten the viability of other local shops in the area. As explained above, the shop unit would be of an appropriate size, within an appropriate location and the presence of this shop would not detract from the character of the Wapping High Street area. It is considered that the proposed retail unit would be acceptable in principle in land use terms.

### Proposed Residential Use

- 9.16 The regeneration of sites such as this within East London is a strategic target of the London Plan (MALP 2016) as outlined within Policy 1.1 which states “the development of East London will be a particular priority to address existing need for development, regeneration and promotion of social and economic convergence with other parts of London and as the location of the largest opportunities for new homes and jobs”. Policy 3.3 of the London Plan (MALP 2016) seeks to ensure that the identified housing need in London is met through the provision of new homes, requiring Boroughs to exceed their housing targets. And Policy SP02 (1) of the Council’s adopted Core Strategy (2010) seeks the delivery of 43,275 new homes over the plan period. This figure has increased in the London Plan (MALP 2016) and for the plan period of 2015 – 2025, the Mayor is looking at delivering 39314 homes in the borough, making the annual target 3931.
- 9.17 The proposed development would deliver a total of 41 new residential dwellings on the site consisting of 27 market rented units and 11 affordable rented homes and 3 intermediate units. Given the strong policy support for the delivery of new homes in the Borough and given that the surrounding area is predominantly residential in character, it is considered that the site would provide a suitable environment for future residents and that the proposed residential use is acceptable in principle in land use terms. To conclude, given the predominantly residential character of the site’s environs, the need for more housing in the Borough in general, the principle of housing use on this brownfield site would be strongly supported in policy terms.

### **Design & Heritage**

- 9.18 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.’ 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. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness. Chapter 12 of the National Planning Policy Framework 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 132 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.

9.19 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 include designated heritage assets such as listed buildings and conservation areas but also locally listed buildings. 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 sections 61 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) where it arises. 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). 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).

9.20 The National Planning Practice Guidance (NPPG) sets out a list of criteria of "What a well design place is? The guidance states:-

*"Well designed places are successful and valued. They exhibit qualities that benefit users and the wider area. Well-designed new or changing places should:*

- *be functional;*
- *support mixed uses and tenures;*
- *include successful public spaces;*
- *be adaptable and resilient;*
- *have a distinctive character;*
- *be attractive; and*
- *encourage ease of movement"*

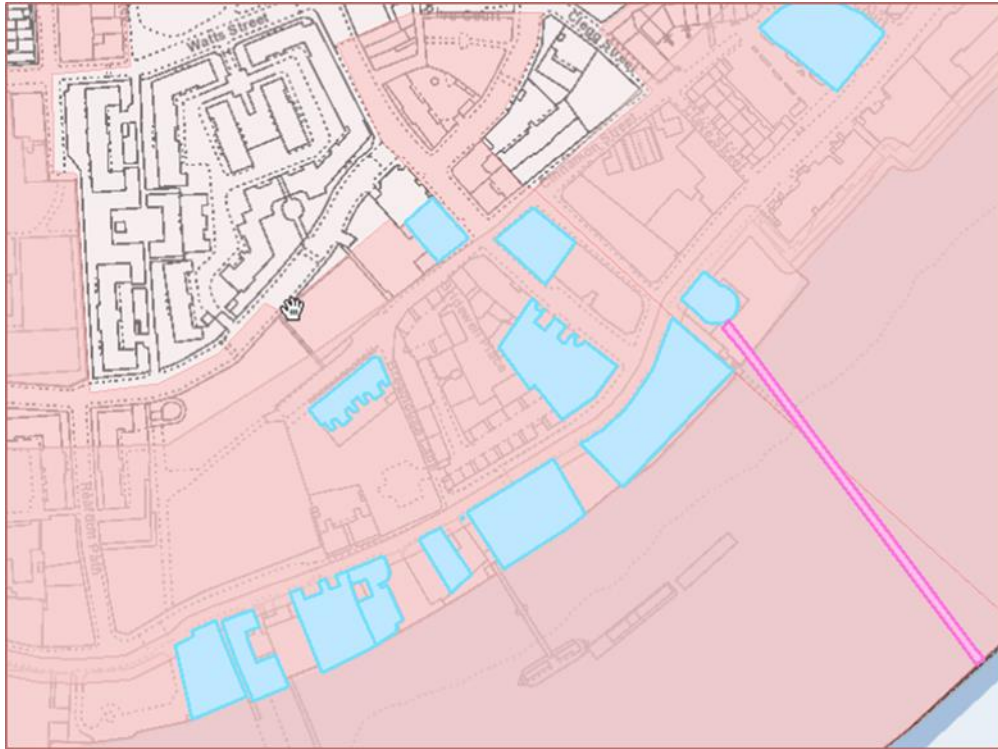
9.21 Chapter 7 of the London Plan places an emphasis on robust design in new development. Policy 7.4 specifically seeks high quality urban design having regard to the local character, pattern and grain of the existing spaces and streets. Policy 7.6 seeks highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and optimising the potential of the site. 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.

9.22 Core Strategy Policy SP10, Policies DM23 and DM24 of the MDD seek to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds. Policy DM27 of the MDD seeks to protect and enhance the borough's heritage assets, their setting and their significance. The policy provides criteria for the assessment of applications which affect heritage assets. Firstly, applications should seek to ensure that they do not result in an adverse impact on the character, fabric or identity of the heritage asset or its setting. More importantly, it states that development should enhance or better reveal the significance of the asset or its setting.

Impact on the Wapping Wall and Wapping Pierhead Conservation Areas and Adjacent Listed Buildings



- 9.23 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) requires decision makers determining planning applications that would affect 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”.
- 9.24 Section 72(1) of the Planning (LBCA) Act 1990 requires decision makers determining planning applications that would affect buildings or other land in a conservation area to pay "special attention [...] to the desirability of preserving or enhancing the character or appearance of that area". Policy 7.8 of the London Plan (MALP 2016) states that development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail. Policy 7.9 of the London Plan (MALP 2016) states that the significance of heritage assets should be assessed when development is proposed and schemes designed so that the heritage significance is recognised both in their own right and as catalysts for regeneration.
- 9.25 Policy SP10(2) of the Council’s adopted Core Strategy (2010) seeks to protect and enhance the Borough’s Conservation Areas and Listed Buildings and their settings and encourages and supports development that preserves and enhances the heritage value of the immediate and surrounding environment and wider setting. Policy DM27(1) of the Council’s adopted Managing Development Document (2013) requires development to protect and enhance the Borough’s heritage assets, their setting and their significance as key elements of developing the sense of place of the Borough’s distinctive ‘Places’.
- 9.26 As discussed in the report above, the existing buildings are mostly of no significant architectural merit and are in a poor state of repair. Most of Site A has been demolished already to make way for two secondary escape routes from Wapping Station. The rest of the buildings on Sites B and C are of very limited townscape and heritage value. Furthermore, they are not statutorily listed or locally listed; two of the sites fall within the Wapping Wall Conservation Area and one within its settings. Wapping Pierhead Conservation Area lies to the west and north west of the site. The part of the building of some significance is on Site A, along Wapping High Street and the frontage of 125-129 Wapping High Street is being retained and would be refurbished. The other important feature on this site is again on Site A and this is the Grade II\* Thames Tunnel which runs underneath the site. As such, there are no in principle objections to their demolition and it is considered that the proposals represent an important opportunity to enhance the setting of the surrounding heritage assets. On balance, the loss of all the other existing buildings can be considered acceptable, subject to the replacement development achieving a high standard of design and the scheme as a whole delivering adequate public benefits.



**Figure 7: Surrounding conservation area and listed buildings**

9.27 In terms of statutory listed buildings within the vicinity of the site, as shown on the above map, these are located mostly to the west and south west of the land parcels and are not considered to be directly affected by this proposal. The most significant is Wapping Overground Station to the south of Site A. The listed tunnel entrance and stairway between the platforms and street are within the station. Accordingly, London Overground (LO) and Transport for London (TfL) have been consulted on this proposal. Furthermore, the applicant and Rail for London have engaged in discussions with LO and all the necessary measures have been taken to ensure that their conditions and recommendations are adhered to. For this proposal, LO has emphasized that their comments are in respect of infrastructure protection only, given that the site is RfL owned and it contains both a ventilation shaft and the two emergency exits. To that end, RfL/LO has issued a list of conditions that should be attached to the application decision. In terms of the impact of the development on the fabric of the station, including the Grade II listed tunnel entrance and stairway from the platforms to the street, the impact is considered to be negligible and little alterations are being made to the retained façade opposite on Site A and the material for the whole development would be in bricks. Furthermore, LO have requested full details of the demolition, design and construction methodology, particularly clear access to its ventilation shaft and emergency exits.

9.28 In terms of scale and height, it is considered that all the proposed buildings are commensurate with that of the surrounding built form. A recurring issue with the objectors have been the height of the new buildings and the fact that they should be kept at their original heights. The new buildings have mimicked heights that are within the surrounding areas. Site C adjoins buildings of three and four storeys; Site B sits alongside two buildings both of five storeys. The only taller element at 5 storeys is within Site A and this adjoins the rear wall of Falconet Court; furthermore, by setting back the roof storeys, the mass and bulk of the building have been reduced so that the building would not appear overbearing within the context of its surroundings. Similarly, the building on Site B has also been scaled back on its west elevation so as to appear subordinate on the street scene. Material is primarily bricks, which is considered to be in

keeping with the industrial historic character of the area. In order to ensure that the facing materials are of satisfactory quality and finished appearance it is recommended that samples and details of finishes are secured by condition.

- 9.29 It is considered that the proposed buildings have been sensitively designed within the context of the historic built form and public realm and would preserve and enhance the character and appearance of the Wapping Wall Conservation Area. The proposal therefore would accord with Policy SP10 (2) of the Council's adopted Core Strategy (2010), Policy DM27 of the MDD (2013), Policy 7.8 of the London Plan (MALP 2016) and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development proposals are sympathetic to their historic surroundings and either preserve or enhance the character and appearance of the Borough's Conservation Areas and river frontages within the Thames Policy Area.
- 9.30 Given that the application site is located adjacent to a Grade II listed building, the Local Planning Authority is required to pay special regard to the desirability of preserving the building or its setting on any special architectural or historic interest which it possesses. It is considered that the proposed building, by virtue of its height, stepped roof profile, design and materials, would not adversely affect the setting of the adjacent Grade II listed Wapping Overground Station, in accordance with Policy SP10 (2) of the Council's adopted Core Strategy (2010), Policy DM27 of the MDD, Policy 7.8 of the London Plan (MALP 2016) and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development located in the vicinity of Statutory Listed Buildings does not have an adverse impact on the setting of those buildings.

#### Principle of demolition in a Conservation Area

- 9.31 The proposal would seek the complete demolition of all buildings on Sites B and C and most of the building on Site A with the exception of the Wapping High Street facade.
- 9.32 With regard to the criteria found within policy DM27 of the MDD, proposals for the demolition of buildings within conservation area would be considered under the following circumstances:
- *The significance of the asset, architecturally, historically and contextually;*
  - *The condition of the asset and estimated costs of its repair and maintenance in relation to its significance and demolition, and value derived from its continued use;*
  - *The adequacy of efforts made to retain the asset in use; and*
  - *The merits of any alternative proposal for the site.*
- 9.33 Furthermore, Section 12 of the NPPF provides specific guidance on 'Conserving and Enhancing the Historic Environment'. Paragraph 131 specifically requires that in determining planning applications, local planning authorities should take account of:
- *"desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation,*
  - *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and*

- *the desirability of new development making a positive contribution to local character and distinctiveness.”*

Existing Condition of the Site

9.34 Site A (125-129 Wapping High Street) lies within the Wapping Wall Conservation Area. The buildings are in a very poor state of repair and mostly demolished. Running underneath the site is The Thames Tunnel and to the north, within the site boundary are the stairs and street level fire escape for Wapping Station. The front elevation facing Wapping High Street comprises a gable end with a five bay range and round headed window. This is still in a reasonably good condition and would be retained. Most of the demolition took place in 2008 to allow for the secondary means of escape from Wapping Station. Also included in the 2008 application was the erection of a wall along Cinnamon Street. Both of these were expressly required for the East London Line Project. What remains of Site A is not fit for any purposes. Currently the site and remaining structures (not including the gable frontage) despite being an early 20th century, do not contribute positively to the setting of the Conservation Area.



**Figure 8: Site A and the rear of the partly demolished buildings**

9.35 Site B (13-15 Cinnamon Street) is located outside Wapping Wall Conservation Area but is within its immediate settings. This is a mid-20<sup>th</sup> century former warehouse building also in a state of disrepair and is currently vacant.

9.36 The building is considered to be modest in contrast to larger warehouse buildings in the area especially those along the river. The front elevation is relatively nondescript and lacks distinctive quality or character in terms of architectural value. Also its state of repair cannot be ignored. Some structural integrity of the exterior does remain in particular the brick built facades but the lack of symmetry along Cinnamon Street detracts from the building as a whole. It is noted therefore that the contribution of Site B is minimal to the street scene. The building as a standalone structure lacks group value. Therefore, its architectural and historical significance are also considered to be low.





**Figure 9: Site B and its frontage on Cinnamon Street**

- 9.37 It is considered that this building with its light industrial form and high windows would not lend itself to a residential usage. Furthermore, in its present condition the building is not considered to be of sufficient merit to retain. Its loss would not result in harm to the conservation area given the lack of significance of the building, the lack of architectural quality and warehouse nature of the building. The building has become redundant since the previous business vacated it. The Design and Conservation Officer has not objected to the loss of this building and the proposed demolition would accord with policy given that officers are supporting the redevelopment proposals.
- 9.38 Site C is located within the Wapping Wall Conservation Area and is occupied by an early 20<sup>th</sup> Century single storey warehouse building. There is a retained party wall to the east of the site which would not be part of this demolition. The building on this site is also in a poor state of repair. Similar to Site B, it is considered that this building does not respond positively to its surroundings and is not of sufficient merit for retention. There are no interesting facades to this building and no original features worth saving. Its original form may well have been compromised by modern additions or replacement over the years such as the metal roller shutter.
- 9.39 As with Site B, this building is also functional and lacks visual articulation and symmetry and is modest in contrast to larger warehouse buildings in the area and those along the river. The building on a narrow site and as a standalone structure lacks group value. There is very little architectural integrity in this small block to warrant its retention. Furthermore, the redevelopment proposal for housing would be supported by officers and this building in its present form would not be consistent to this usage. It is considered that a residential conversion in a new build structure would fully optimise the use of this brownfield site.



**Figure 10: Site C – building used as a garage**

- 9.40 It is noted that none of the buildings affected by this proposal are listed either statutorily or locally. Their contribution to the area and the conservation area are at best functional but with no significance. In urban design terms they have very little townscape value. They are considered to be intrusive and they display a rather negative impact on the surrounding residential locality. Whilst it is recognised that the buildings are brick built and are of some interest, they do not make a significant contribution to the character or appearance of the conservation area. Their style and design no longer add to the character of the area. The buildings are therefore not of sufficient importance that they should necessarily be retained. Provided the proposed new buildings preserve or enhance the conservation area, the demolition of the application site is justified. The frontage of Site A is considered to be of high quality with an architectural elegance that merits preserving; it also holds an important position and significance within the conservation area and Wapping High Street. Hence the retention of the whole frontage is welcome and supported.
- 9.41 Planning Officers in conjunction with the Conservation Design Officer have reviewed the proposed scheme which had been the subject of comprehensive pre-application discussions and extensive negotiations once submitted, and have now been considered acceptable in principle. The proposal would significantly alter the appearance and function of these sites within the Conservation Area by virtue of the change of use. The acceptability of the alterations has been assessed in the context of the buildings' derelict state and the opportunity to restore the application site and return it to an active use. Additionally, in accordance with the NPPF (2012), regard has been given to the role the conversion and alterations would have, in enabling the wider regeneration of the application site and the delivery of affordable homes. Subject to the replacement buildings being of an appropriate scale, height, form and architectural quality, which is discussed further in the following section of this report, officers have no in principle objections to the loss of the existing buildings.

- 9.42 As such, subject to appropriate conditions to ensure a Demolition Management is in place (prior to demolition) this part of the proposal would not result in adverse effects to the surrounding area. It is considered that the character and setting of the Wapping Wall Conservation Area would be preserved, in accordance with policy SP10 of the Council's adopted Core Strategy (2010), policies DM24 and DM27 of the Managing Development Document (April 2013) and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development proposal protects and enhances the borough's heritage assets, their setting and their significance.

Urban Design, Scale, Height, Massing and Form

- 9.43 Policy 7.4 of the London Plan (MALP 2016) seeks to ensure that buildings, streets and open spaces provide a high quality design response that has regard to the pattern and grain of the existing spaces and streets, contributes to a positive relationship between the urban structure and natural landscape features, is human in scale, allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area, and is informed by the surrounding historic environment.
- 9.44 Policy SP10(4) of the Council's adopted Core Strategy (2010) seeks to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds.
- 9.45 Policy DM24 of the Council's adopted Managing Development Document (2013) requires development to be designed to the highest quality standards, incorporating principles of good design and ensuring that the design is sensitive to and enhances the local character and setting of the development in terms of scale, height, mass, building plot sizes, building lines and setback, roof lines, streetscape rhythm, design details and through the use of high quality building materials and finishes.
- 9.46 The factors that are most important in this respect are the buildings' scale, form, massing, proportion and silhouette, facing materials and relationship to other structures. The proposals are for the demolition of all buildings and structures on the three sites that together form the application site. Only one part of the site is being retained, which is Site A's frontage along Wapping High Street. The demolition would give way to a residential led scheme with a small corner retail unit. The buildings would range between three and five storeys in height with various set-back roof storeys. The benefit of this proposal would consist of 41 new housing units of which 14 would be affordable (11 units for social rent and 3 units for intermediate purposes) and a 47sqm retail unit along Wapping High Street.
- 9.47 On the whole, the mass of the buildings has been designed so as to reduce their impacts on the surrounding area. The roofscapes of buildings on Site A and B would be set away from sensitive areas for example along Clave Street and Clegg Street. The mass and height of the buildings would respond to the variation in height and massing of surrounding buildings. Where appropriate, established building lines have been maintained to give definition and reinforce the streetscape. The architectural quality of the scheme is considered to be very high. A condition would require materials, balconies, doors and windows to be approved by the Council to ensure this high quality design is achieved at

construction stage. Samples of bricks, being the main material, would be required and secured by condition.

Site A – Wapping High Street, Clave Street and Cinnamon Street

- 9.48 The buildings on this site would occupy the larger plot and would deliver 27 residential units with a retail unit. They would be of different heights and considered as separate parts/sections which would be built as a perimeter block with a central landscaped courtyard with entrances from Cinnamon Street, Wapping High Street and Clave Street. Any development on this site would be restricted by the existing large ventilation shaft and two fire escapes located to the north west of the site fronting Cinnamon Street. Other physical restrictions are the existing blocks along Wapping Dock Street to the south west, Falconet Court and Baltic Court to the east. These two existing buildings flank Site A.



**Figure 11: Ventilation shaft and fire escapes shown in red**

- 9.49 The two storey façade facing Wapping High Street would be retained and restored; this section of the building would remain two storey high; moving west, the section abutting Falconet Court would be five storey with a setback fifth/roof level (by approximately 7m); along Cinnamon Street to the north west, the residential block fronting the courtyard, would be built from first floor level to third floor, due to the existing restrictions of the large ventilation shaft and two fire escapes. The existing vent shaft and fire escapes blocks would be overhauled to appear as part of the development.
- 9.50 Within the courtyard there are a two and a three storey buildings abutting Baltic Court. The two storey building would be entirely within the courtyard and would house 2 two bedroom duplexes. Moving north on Site A along Cinnamon Street in



a corner location with Clave Street, the next section is the three storey building fronting Clave Street. This would be two storeys high with a setback third storey along Clave Street. This section would consist of 3 three bedroom triplexes. The three units would be directly accessed from ground floor on Clave Street with two floors of living space above. The third level would be set back to allow for balconies. This elevation would follow the building line and regular square form set by Baltic Court.

- 9.51 As stated above, the retained façade along Wapping High Street would be restored. This façade would be clearly demarcated as two entities, one housing the retail unit and the other residential. The retail section would be refurbished and would retain one of the windows (the right window) and the other window (left) would become the shop's access and entrance door. On first floor level, the design would introduce two new windows to provide light into the new bedrooms. These would consist of an arched top to reflect the adjacent gable (the larger residential retained frontage). The larger frontage would undergo minimal changes and would consist of the retained fenestration openings. The main entrance into the courtyard would be from Wapping High Street. The windows detailing would match those of Baltic Court.
- 9.52 At ground floor level and in terms of all accesses and entrances, these are varied and are spread along all three elevations. On Wapping High Street, as already mentioned the retail unit would be separately accessed through its own entrance. On the residential side, one entrance would lead directly into the courtyard. Within the courtyard, 9 of the duplexes would benefit from their own private entrances. Other entrances are for a plant room, bin store, cycle store and an enclosed porch and lobby for the three storey and five storey blocks of flats. Furthermore, the retail unit would also have a second access at the entrance of the courtyard. On Clave Street, the only accesses are the front door entrances to the three triplexes.
- 9.53 Cinnamon Street would consist of a few more openings than is currently the case. Starting from the north, one door would lead to a cycle store and immediately after, would be the entry to the first fire escape; next entry door would be for a bin store followed by the entry for the second fire escape and a cycle store. The blocks of flats would have a second entrance (besides the one in the courtyard) from street level located north west along Cinnamon Street. The last door on this elevation would be leading into a plant room.
- 9.54 The design of the facades has been informed by the existing warehouses which are characteristic of this part of the borough. The principal elevations of the buildings would be faced in brick which would be finished in a stretcher bond style. The buildings would have a strong vertical emphasis supported by the vertical bay windows in a crissall type window frames. These would be clad with a timber infill at the top of the windows. The elevations would also incorporate recessed and projected balconies for each unit. The upper level balconies would be inset, for example along Clave Street. Within the courtyard elevations, the building would incorporate a regular pattern of windows and balconies which would project over the communal space. These design features provide a degree of texture and architectural detailing to the façade and are considered aesthetically in keeping with the surrounding built form. The Cinnamon Street elevation would be equally faced with brick and finished in a brick stretcher bond. The plain brick wall above the ventilation shaft would be articulated with brick detailing and pattern to add some relief and create some interest on this flank wall.

#### Site B - 13-15 Cinnamon Street

- 9.55 The proposed building on this site would be five storeys in height with a set-back roof storey. This building would contain 10 units including 2 two bedroom wheelchair accessible units for affordable housing. The building would be primarily faced in brick with a set-back roof storey and a communal amenity space at 4<sup>th</sup> floor. To the north, the building would read as a two storey plinth. From second to fourth floors the massing would be set back from the street and articulated with Tasman and Ross Houses. At ground level, the Cinnamon Street frontage would include a landscaped area to the west of the building; this would act as defensible space for the ground floor disabled flat. The entrance to the building is via Cinnamon Street with a rear access from Clegg Street to the refuse store.
- 9.56 The building is recessed at the corner of the two streets to provide a child play space/external communal area for children and residents with play equipment and seating. Access into the building would be at street level; however the units would be raised and a series of steps and 2 platform lifts would be provided for residents. One lift would be provided for the upper floors, which is considered acceptable. The upper floors include projecting and inset balconies with glazed balustrades and a regular pattern of vertical fenestration. A further communal amenity space is provided at fourth floor for residents of the block. One of the flats (a two bedroom) on the second floor of this block would benefit from a very large terrace, measuring 67sqm.

#### Site C, 14-16 Clegg Street

- 9.57 This site would be occupied by a three storey building to accommodate 4 three bedroom town houses. The building has now been set back to achieve an acceptable and compliant pavement of 1.5m along the east side of Clegg Street. The massing of this building has been designed to reflect the other properties in Cinnamon Street. The four houses on this site would be in the affordable rented tenure and designed for families. The upper floor would be set back further and a glazed balustrade balcony would be introduced at this level.
- 9.58 The owner/occupier of 18 Cinnamon Street has expressed concerns about the impact of this proposal on his property. His rear patio garden abuts the application site; there is an existing high wall that forms the boundary of the property which this proposal would not affect. The building has been set back at rear so as to address this issue with the neighbouring property. As shown below, the block on Site C is recessed at rear. A cycle store would be proposed at the ground floor of this block which would be accessed via Hilliards Court.



**Figure 12: North elevation of Site C**

- 9.59 In terms of scale, height and massing, it is considered that the proposed replacement buildings sit comfortably within the context of the surrounding built form. At five storeys, incorporating set-back roof storey, the building on Site B is of comparable height to other nearby buildings, including the residential blocks Tasman and Ross Houses. The proposals have been designed to complement local building heights. Further revisions at the request of officers have reduced the heights across the site. With regards to Site B, the proposal (21.185m) is lower than both neighbouring Ross House (21.230m (excluding chimney)) and Tasman House (21.240m (excluding chimney)). The new building has been re-orientated and has a pitched roof matching that of the older houses. The building would respond well to its neighbours' and would appear subordinate in its massing when viewed from the street by the stepping down in height towards adjacent buildings and through the use of a set-back roof storey. As a result, the building would not appear overbearing in local views along Clegg Street and would sit comfortably at this corner location, in the view of officers.
- 9.60 In terms of Site C, the building has been part of the architectural landscape and surrounding residents have been used to the low level industrial building. At 3 storeys, the replacement building would not appear incongruous within this historic landscape. There are other buildings in the vicinity of this height and higher. It is noted that the height of a building should be proportionate to its locality and sensitive to the context of its surroundings. Just because the existing building is of a certain height, does not mean that the replacement building should be capped at that height. To achieve a high architectural quality in a building, this should be demonstrated that through its form, massing, footprint, proportion and silhouette, facing materials a common detailed design and facing materials. It is therefore considered that the architectural approach is a robust residential brick building design. These elements include the provision of residential doors onto the street with defensible spaces at ground level where possible, balconies above and the use of brick as the primary facing material.
- 9.61 In terms of site layout, the replacement buildings would broadly sit on the footprints of the existing buildings and the main access routes into the site would be similar but not in the case of Site C whereby the four houses have their own private entrances directly into the properties.

- 9.62 It is recommended that a condition be included to secure details and sample of all facing materials, together with detailed drawings of the residential entrances, commercial entrance and elevation details including balconies and balustrades.
- 9.63 Subject to condition, it is considered that the proposed development would incorporate the principles of good urban design and would take into account and respect the surrounding built form and public realm in terms of scale, height and massing, detailed design, layout, facing materials and finished appearance. The proposals would therefore accord with Policy SP10 (4) of the Council's adopted Core Strategy (2010) and Policy DM24 of the Council's adopted Managing Development Document (2013).

#### Detailed Design Revisions

- 9.64 This application forms the third iteration for this proposal. Two previous development proposals have been withdrawn. The proposal has been revised significantly to make it more in line with policies and has taken on board as many of the issues/points raised by objectors and officers. Below is a summary of the main revisions to this development since its submission in December 2015.
- *On Site A, windows on the retained façade along Wapping High Street;*
  - *Setback roof extension (fronting Cinnamon Street) removed;*
  - *Remaining lift over-run and side elevation of the block are set further back and are not visible from street level;*
  - *The elevation on Site A fronting Cinnamon Street (ventilation shaft) would be detailed in brick pattern to add interest to this blank/hostile wall;*
  - *On both Sites A and C, pitched roofs have been removed and replaced with flat roofs to better address building heights;*
  - *On Site B, a portion of the 2 storey element fronting Cinnamon Street has been reduced and balconies are inset;*
  - *Walls have been closed in to the north between the neighbouring buildings;*
  - *On Site C, the large flank rear wall has been designed so that there are more details and articulations;*
  - *The east pavement along Clegg Street has been expanded and would now measure 1.5m. This has been achieved by pulling back the façade of the houses at ground floor; to ensure the first floor aligned with the ground floor, the front wall was pulled back. Bedroom layouts changed slightly and storage space was added for each apartment on the wall between stairs and bathroom*

#### Landscape and Materials

- 9.65 The main landscaped areas are the private courtyard on Site A and the two amenity spaces on Site B, the ground floor child space and the fourth floor communal amenity. A condition would be attached to ensure that full details are provided for all these three spaces. Furthermore, details of all balconies and any privacy screenings would also be conditioned.
- 9.66 The design of the hard landscaping has been informed by the historic development of the area. The line of the tunnel underneath the site is expressed by a sustainable urban drainage system running through the centre of the paved area. This would be achieved by a contemporary bio-swale style feature serving a number of functions. This bio-swale would also enhance ecology of the site. The lines of the bio-swale would be lined with bricks mimicking materials traditionally

used for the tunnel construction. The depth of the water will be kept shallow with outfalls strategically positioned to ensure levels cannot rise above a certain point. A key component in constructing the Thames Tunnel was the revolutionary Tunnel Shield invented by Sir Marc Isambard Brunel's. Sculptural features would be designed within the courtyard to reflect the profile of this patented Tunnel Shield that was used to construct the original pedestrian tunnel. Other hard landscape materials would be sympathetic to the surrounding buildings including natural stone paving, brick and timber.

9.67 Pedestrian access into Site A is via Wapping High Street and Cinnamon Street. In both cases, the courtyard sits higher than adjacent ground and a combination of steps, ramps and platform lifts would be provided for residents and visitors to the site. Soft landscaping would be in the form of trees especially picked to sympathise with the confines of the courtyard. A play space would be designed within the private courtyard by incorporating traditional structures and features such as spring board pads through planting, climbing frames and swings integrated into the base of the shield sculptures. A range of seating would also be provided. Subtle lighting would illuminate the courtyard and the feature shields would be lit up at night. Low level paths lights would also be positioned discretely throughout the courtyard alongside ramps and steps. Taken overall the proposed landscape treatment by the chosen use of materials and the general architectural approach taken to the design of the sculptures would be considered acceptable. Should planning permission be granted, the precise nature of the materials and detailing would be controlled by condition.

9.68 For Site B, the ground floor space would be equipped with appropriate play features intended for young children. References to the tunnel would be seen in the play equipment and bespoke dark metal railing would surround the space. 2 small trees would give the site a vertical emphasis and other green planting would also be introduced within this space. Officers would condition the materials and layout of this space as it is very close to one of the disabled two bedroom flat. Green privacy screening or other methods of screening including defensive planting would be required in this part of the play space.

9.69 Site C has no landscaped area but each house would be designed with a glazed balustrade balcony. In general roofs would be finished in slate; timber cladding and infill together with timber doors are also proposed for the whole development. In order to ensure that the facing materials and all other materials, doors, windows, balconies, privacy screens, communal and child play spaces are of satisfactory quality and finished appearance, it is recommended that samples and details of finishes are secured by condition.

## **Housing**

### Density

9.70 The Housing SPG (March 2016) states that developments should aim to optimise rather than simply maximise housing potential. Of particular importance is the need to ensure good design and taking into account public transport capacity and local context and character. Other relevant factors include access to social infrastructure, open space and play provision. Optimisation could be defined as "developing land to the fullest amount consistent with all relevant planning objectives" as identified by various policies of the London Plan (MALP 2106), for example policy 3.5 and chapter 7 on design of the London Plan (MALP 2016). Local policies endorse this approach as well and policy SP02 of the adopted Core

Strategy (2010) seek to ensure new housing developments optimise the use of land. However, it should be remembered that density only serves as an indication of the likely impact of development. The table below looks at the density matrix for different settings of an area, for example urban setting or central setting.

**HOUSING SPG**

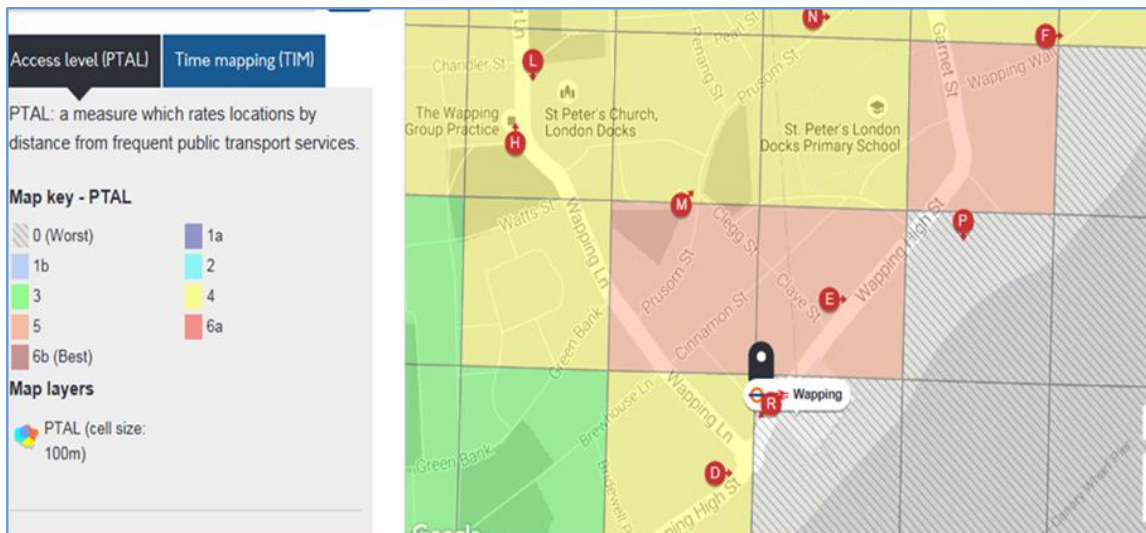
**TABLE 3.2 - DENSITY MATRIX (HABITABLE ROOMS AND DWELLINGS PER HECTARE)**

	SETTING	PUBLIC TRANSPORT ACCESS LEVEL (PTAL)		
		0 TO 1	2 TO 3	4 TO 6
INDICATIVE AVERAGE DWELLINGS SIZE	<b>SUBURBAN</b>	150 - 200 HR/HA	150 - 250 HR/HA	200 - 350 HR/HA
	3.8 - 4.6 hr/unit	35 - 55 u/ha	35 - 65 u/ha	45 - 90 u/ha
	3.1 - 3.7 hr/unit	40 - 65 u/ha	40 - 80 u/ha	55 - 115 u/ha
	2.7 - 3.0 hr/unit	50 - 75 u/ha	50 - 95 u/ha	70 - 130 u/ha
	<b>URBAN</b>	150 - 250 HR/HA	200 - 450 HR/HA	200 - 700 HR/HA
	3.8 - 4.6 hr/unit	35 - 65 u/ha	45 - 120 u/ha	45 - 185 u/ha
	3.1 - 3.7 hr/unit	40 - 80 u/ha	55 - 145 u/ha	55 - 225 u/ha
	2.7 - 3.0 hr/unit	50 - 95 u/ha	70 - 170 u/ha	70 - 260 u/ha
	<b>CENTRAL</b>	150 - 300 HR/HA	300 - 650 HR/HA	650 - 1100 HR/HA
	3.8 - 4.6 hr/unit	35 - 80 u/ha	65 - 170 u/ha	140 - 290 u/ha
	3.1 - 3.77 hr/unit	40 - 100 u/ha	80 - 210 u/ha	175 - 355 u/ha
	2.7 - 3.0 hr/unit	50 - 110 u/ha	100 - 240 u/ha	215 - 405 u/ha

Source: Greater London Authority

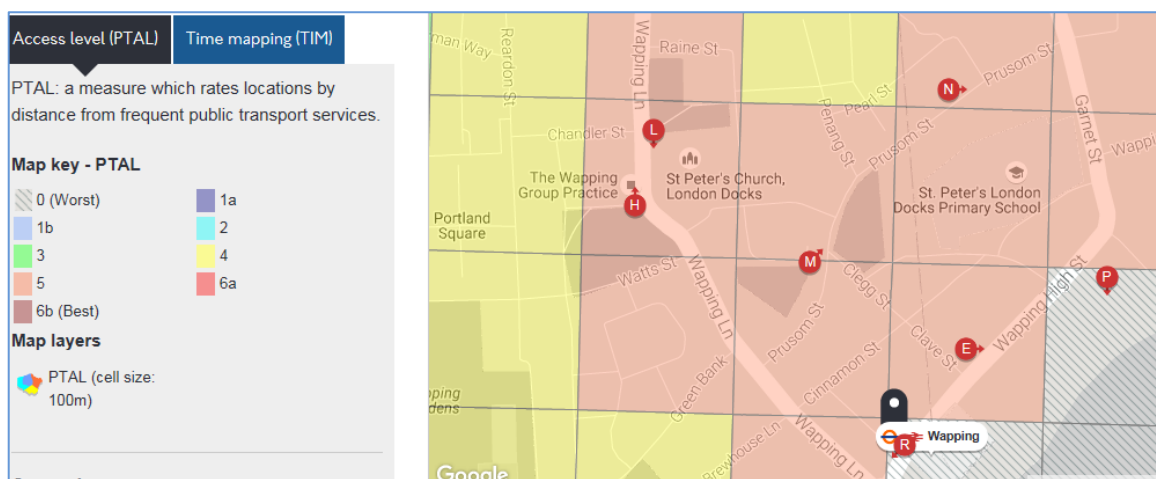
**Figure 13: Mayor of London Density matrix**

9.71 The application site measures approximately 0.22 hectares and the proposed development would have a residential density of 564 habitable rooms per hectare (hr/ha). It is considered that the application site benefits from good access to public transport, being situated immediately adjacent to Wapping Overground Station (Site A) and in close proximity to local bus routes and stops. The LBTH Transportation & Highways note that the Public Transport Accessibility Level (PTAL) for the site is 3 (and adjoining level 4). However, the more updated map below from the GLA shows the PTAL rating for the site within level 5 (light pink); it is also noted that the site is also close to the wider area's PTAL level of 4 (yellow).



**Figure 14: Public Transport Accessibility Level Map**

9.72 This second map (below) shows a forecast to the year 2021, and identifies the PTAL level for the site and a much wider area as being level 5 where it used to be within level 4. Officers would use the GLA rating for the purpose of this application while applying the density matrix.



**Figure 15: Projected Public Transport Accessibility Level Map**

9.73 Given the density of the surrounding area, with nearby buildings on the south side of Wapping High Street being predominantly 6 storey in height with large foot prints and along Cinnamon Street, buildings of 5 to 6 storeys, it is considered that the setting of the application site for the purposes of calculating residential density lies within an 'Urban' setting, as defined on the table 3.2 above. The above table sets out a target residential density range of 200-700 hr/ha for developments within 'Urban' areas. The proposal would seek to deliver 41 residential units with a residential density of 564 habitable rooms per hectare (hr/ha). Therefore, it is considered that this proposed density (in numerical terms) would be consistent with the London Plan (MALP 2016) density matrix.

9.74 However, density ranges should not be applied mechanically and a density within the London Plan matrix may be unacceptable, if the scale of development associated with the residential density exhibits symptoms of overdevelopment in

terms of adverse impacts on the amenity of future residential occupiers, imposes adverse amenity impacts to neighbouring occupiers, gives rise to poor quality of urban design, fails to contribute positively to local character and place-making or results in adverse impacts upon the local townscape and heritage assets. It is noted that among the many concerns raised by objectors, density and overdevelopment were featured on a few occasions.

- 9.75 The proposed density sits comfortably within the London Plan target residential density. Furthermore, the intent of the London Plan and Core Strategy policy SP02 is to optimise or develop land to the fullest amount consistent with all relevant planning objectives. As discussed in the design section on previous pages and in the coming amenity chapter, officers consider that these specific factors of overdevelopment have been found acceptable. It is considered that the proposal would provide good quality affordable and private homes with an appropriate mix, which would include a policy compliant quantum of on-site affordable housing; the proposal would also include a good proportion of family sized units, designed in a high architectural quality scheme that would positively respond to local context in terms of the surrounding built form, heritage environment and public realm. Therefore, taking into account the above, officers consider that the scheme would optimise the residential density of the site and would help to create a sustainable development, in accordance with the objectives of Policy 3.4 of the London Plan (MALP 2016) and Policies SP02 and SP10 of the Council's adopted Core Strategy (2010).

#### Affordable Housing

- 9.76 The NPPF identifies as a core planning principle the need to encourage the effective use of land through the reuse of suitably located previously developed land and buildings. Section 6 of the NPPF states that "*housing applications should be considered in the context of the presumption in favour of sustainable development*" and "*Local planning authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.*" This section of the report would now consider the acceptability of the housing provision with regard to the level of affordable housing, mix of tenures, mix of dwelling sizes and provision of wheelchair units. The application would seek to deliver a total of 41 residential units with one small retail unit on Wapping High Street. The quantum of housing proposed would assist in increasing London's supply of housing and meeting the Council's housing target, as outlined in policy 3.3 of the London Plan and therefore would make a positive contribution to meeting local, regional targets and national planning objectives.
- 9.77 The London Plan Policy 3.9 seeks to encourage mixed and balanced communities with mixed tenures promoted across London. Policy 3.11 identifies that there is a strategic priority for affordable family housing and that boroughs should set their own overall targets for affordable housing provision over the plan period which can be expressed in absolute terms or as a percentage. London Plan Policy 3.12 is considered to be of particular relevance as it provides guidance on negotiating affordable housing provision on individual sites. The policy requires that the maximum reasonable amount should be secured on application sites while having regard to:
- Current and future requirements for affordable housing at local and regional levels;
  - Affordable housing targets;



- The need to encourage rather than restrain development;
  - The need to promote mixed and balanced communities;
  - The size and type of affordable housing needed in particular locations; and,
  - The specific circumstances of the site.
- 9.78 The supporting text to the policy encourages developers to engage with an affordable housing provider to progress a scheme. Boroughs should take a reasonable and flexible approach to affordable housing delivery as overall, residential development should be encouraged rather than restrained.
- 9.79 The Local Plan seeks a percentage of 35%-50% of affordable housing by habitable room per development subject to viability as set out in part 3a of the Core Strategy. The London Plan and NPPF also emphasise that developments should not be constrained by planning obligations.
- 9.80 Paragraph 173 of the NPPF states that: *“the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”* Policy 3.12 of the London Plan is clear that viability is a consideration when negotiating affordable housing - “negotiations on sites should take account of their individual circumstances including development viability” - and the need to encourage rather than restrain development.
- 9.81 The scheme would propose to deliver an affordable provision of 14 units, comprising of 11 units for affordable rent (borough framework) (on Site B and C) and 3 units for intermediate purposes (on Site B). 27 units are for the private market (Site A). The applicant would seek to provide an affordable housing offer of 37% by habitable room. A viability appraisal was submitted with the scheme and this was independently assessed by the Council’s financial viability consultants. The review of the appraisal concluded that the proposed offer would maximise the affordable housing that can viably be achieved within this scheme.
- 9.82 The affordable housing is being offered at a 78:22 split (by habitable rooms) between affordable-rented units and intermediate units. The London Plan seeks a ratio of 60:40, whilst Local Plan policy seeks a 70:30 split. The variance from policy, in the context of this scheme, is considered relatively minor and the tenure split is supported with the provision of five larger rented affordable family sized units. The applicant has confirmed that the rented units would come forward at Affordable Rents in line with the Council’s preferred Borough Framework rent levels for the E1 postcode area. The rental levels for the affordable units would be as follows: (updated 2016-17 per week for E1 area postcode) 1bed £236, 2bed £256 and 3bed £278; these are inclusive of service charges.
- 9.83 Whilst the scheme falls outside of the Council’s preferred tenure split, on balance the split is considered acceptable in this instance, given that the scheme provides a high proportion of family sized homes within the affordable tenure and that the overall residential quality would be high.

Housing Mix

9.84 Pursuant to Policy 3.8 of the London Plan (MALP 2016), new residential development should offer genuine housing choice, in particular a range of housing size and type. Policy SP02 of the Core Strategy also seeks to secure a mixture of small and large housing, requiring an overall target of 30% of all new housing to be of a size suitable for families (three-bed plus) including 45% of new affordable rented homes to be for families. Policy DM3 (part 7) of the MDD requires a balance of housing types including family homes.

9.85 The table below compares the proposed housing mix against policy requirements.

<b>Market Sale Units</b>			
<b>Unit Size</b>	<b>No. Units</b>	<b>Proposed %</b>	<b>LBTH Target %</b>
Studio	0	0	0
1 bed	8	29.5%	50%
2 bed	14	52%	30%
3 bed	5	18.5%	20%
4 bed	-	-	
<b>TOTAL</b>	<b>27</b>	<b>100%</b>	<b>100%</b>
<b>Intermediate Units</b>			
Studio	0	0	0
1 bed	1	33%	25%
2 bed	0	0	50%
3 bed	2	67%	25%
4 bed	0	0	0%
<b>TOTAL</b>	<b>3</b>	<b>100%</b>	<b>100%</b>
<b>Affordable Rented Units</b>			
Studio	0	0	0
1 bed	2	18%	30%
2 bed	4	36%	25%
3 bed	5	46%	30%
4 bed	0	0	15%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>100%</b>

**Figure 16: Proposed housing mix considered against policy requirements**

9.86 In line with policies, overall, the scheme would provide an excess of new affordable rented homes for families (three-bed) at 46% (policy requirement being 45%); the overall target of all new housing is 30% and this scheme nearly matches this provision at 29.2%.

9.87 The rest of the provision would be as follows: there is an under provision of one bedroom units at market tenure against policy targets, with an overprovision of 2 bed units and a good quantum of 3 bedroom; this is not considered a major deviation from policy, given the above target provision of the other two tenures. Furthermore, it is worth noting the advice within London Mayor’s Housing SPG in respect of the market housing. The SPG argues that it is inappropriate to crudely apply “housing mix requirements especially in relation to market housing, where, unlike for social housing and most intermediate provision, access to housing in terms of size of accommodation is in relation to ability to pay, rather than housing requirements”. The proposed mix in the market housing sector is, in the view of officers, appropriate to the context and constraints of this site.

9.88 As it is a relatively small development, the proposed intermediate mix would over provide, in percentage terms, in both the 1 bed and 3 bed units; however, there is

no provision of 2 bed units against a policy requirement of 50% for this tenure type. Furthermore, in view of the scheme's provision of a high number of family sized units within the affordable rent tenure and the high residential quality of the development, officers consider that the departure from the Council's tenure is justified in this instance. On balance, it is not considered that departure from the Council's preferred tenure mix is serious enough to warrant a refusal of the application especially in view of the schemes overall benefits.

- 9.89 The affordable rented mix would include an under provision of 1 bed at 18%, but an above target provision of 2 bed at 36% and an above target provision of 3 bed at 46%. However, officers consider that the 'Affordable Rented' mix is acceptable in this instance as it helps to maximise the delivery of larger family sized rented units, for which there is an identified need in the Borough. Additionally, the scheme's communal amenity space and child play space provision takes account of the scheme's comparatively higher level family accommodation. Also, it is noted that the large family rented homes are provided with separate kitchens.
- 9.90 Overall, it is considered that the proposed development would provide a suitable mix of unit sizes, including a good overall range of units, as well as a good proportion of family sized (3 bed) affordable rented units. Whilst it is noted there is a high proportion of 3 bed units within the 'Intermediate' tenure, it is considered that the overall mix, including a high proportion of family sized units, is acceptable. Furthermore, in the context of the overall financial viability, the share of affordable rented and intermediate housing, the mix of rented tenures and the emphasis on a large proportion of the affordable rented units to be larger family sized units, all delivered at borough framework rents, the mix of unit sizes is considered acceptable mix and consistent with Policy 3.8 of the London Plan (MALP 2016), Policy SP02 and Policy DM3 (part 7) of the Local Plan which seeks to ensure developments provide an appropriate housing mix to meet the needs of the Borough.
- 9.91 Therefore, the overall mix of unit sizes and tenures would make a positive contribution to a mixed and balanced community in this location as well as recognising the needs of the Borough as identified in the Council's Strategic Housing Market Assessment. It reflects the overarching principles of national, regional and local policies and guidance.

#### Residential Design & Space Standards

- 9.92 Policy 3.5 of the London Plan (MALP 2016) seeks to ensure that new residential developments accord with the minimum space standards set out in Table 3.3 (in the London Plan) and take into account factors relating to 'arrival' at the building and the 'home as a place of retreat', have adequately sized rooms and convenient and efficient room layouts, meet the changing needs of Londoners over their lifetimes, address climate change adaptation and mitigation and social inclusion objectives.
- 9.93 Policy DM4(1) of the Council's adopted Managing Development Document (2013) seeks to ensure that all housing developments have adequate provision of internal space in order to provide an appropriate living environment, to accord with the minimum space standards in the London Plan (MALP 2016).
- 9.94 The proposed residential units have been assessed against the above policies, together with the design standards set out within the Housing Supplementary Planning Guidance (2012) and London Plan (MALP 2016); it is noted that all the units either meet or exceed the relevant space and design standards. Due to the sites' constraints and the typology

of the surrounding area it is accepted that the majority of the residential units on all three sites would be single aspect. This is currently the case for the residential units at Falconet Court and Baltic Court. However, the units are not all north facing. On Site C the four houses would be single aspect, west facing. On Site B, 6 of the units would be single aspects and facing south, east and west. On Site A, the site is extremely constrained and out of the 27 units, 4 duplex units would be north/west facing; 8 further flats on the upper levels would also be facing in the same direction north west of the site. However, all these units have been arranged with the living areas located close to the windows, to maximise the levels of daylight to the primary living spaces, whilst the kitchens and bathrooms are located to the rear of the rooms. It is considered that this approach provides a degree of mitigation.

- 9.95 Taking into account the above, it is considered that on balance, the proposed residential units are well designed and include adequate internal space so as to provide an appropriate living environment for future residential occupants. The proposal therefore accords with Policy DM4 (1) of the Council's adopted Managing Development Document (2013) and Policy 3.5 of the London Plan (2015).

#### Private Amenity Space

- 9.96 Policy SP02 (6e) of the Council's adopted Core Strategy (2010) and Policy DM4 (2) of the Council's adopted Managing Development Document (2013) require residential developments to include adequate provision of private amenity space. Specifically, a minimum of 5sqm must be provided for each 1-2 person dwelling with an additional 1sqm to be provided for each additional occupant, with balconies/terraces to have a minimum width of 1,500mm.
- 9.97 Each of the residential units includes a balcony, terrace or small patio gardens, which either meet or exceed the Council's minimum amenity space standards. As such, it is considered that the proposals include adequate provision of private amenity space.

#### Communal Amenity Space

- 9.98. Policy DM4 (2) of the Council's adopted Managing Development Document (2013) requires all developments with 10 or more residential dwellings to include adequate provision of communal amenity space. Specifically, 50sqm of communal amenity space must be provided for the first 10 units, with a further 1sqm to be provided for every additional unit thereafter. The proposed development would deliver 41 new residential units, for which adopted policy therefore requires a minimum provision of 81sqm of communal amenity space which is roughly equivalent to 2sqm per each new home. On a site by site basis, the requirement for each site would be as follows: Site A would require 54sqm; Site B requires 20sqm any and Site C would need a total of 8sqm of communal amenity space.
- 9.99. The proposal would include the provision of 382sqm of communal amenity space at ground level within Site A; the 67sqm policy requirement of communal space is easily delivered within Site A. The courtyard would be for the sole use of the residents of the 27 units on Site A. It would be landscaped with hard and soft landscaping including timber decking. It is noted that this courtyard would also serve as the entrance to many of the units together with spaces for cycle storage plus plant room. The line of the tunnel running underneath the site would be expressed by the sustainable urban drainage system running through the centre of the paved area. The applicant would also propose a sculptural feature, designed to reflect the profile of Sir Marc Isambard Brunel's patented Tunnel Shield that was used to construct the original pedestrian tunnel. The site would also encompass child play space and this would be further explored in the

next section on child play space.

- 9.100. On Site B, a further 58sqm is proposed on the fourth floor which will provide communal amenity space for residents of both Site B and C. Both Sites B and C would be within the affordable tenure and it is considered acceptable that both this communal space is shared by the residents of the two blocks.
- 9.101. Given the site's constraints, it is considered that on the whole, the provision of communal amenity space exceeds policy requirements. It is recommended that a condition be included to secure full details of all hard and soft landscaping within the two sites, including the child play space, communal amenity spaces and the sculpture. Subject to condition, it is considered that the proposals include adequate provision of communal amenity space, in accordance with Policy DM4 (2) of the Council's adopted Managing Development Document (2013).

### Child Play Space

- 9.102. Policy 3.5 of the London Plan (MALP 2016) states that all new housing developments should make provision for public, communal and open spaces, taking particular account of the needs of children and older people.
- 9.103. Policy SP02(6e) of the Core Strategy (2010) and Policy DM4(2) of the Council's adopted Managing Development Document (2013) require developments providing family homes to include adequate child play space, with at least 10sqm of play space to be provided for each child.
- 9.104. The Mayor of London's Play and Informal Recreation Supplementary Planning Guidance (2012) seeks to ensure that all children and young people have access to places for play within reasonable and safe walking distance of new residential developments. For children under 5 years old play spaces should be provided within 100m of their homes, whilst for 5-11 year olds play spaces should be within 400m of their homes and for 12+ year old should be within 800m.
- 9.105. The proposal would deliver a total of 41 residential units. Using the Borough's child yield evidence base, the scheme is predicted to yield 16 children as shown below:

	Under 5s	5-11 year olds	11+ year olds	Total
<b>Child Yield</b>	7.67	5.53	3.24	<b>16.437</b>
<b>Required Play space (sq. m)</b>	76.7	55.3	32.4	<b>164.4</b>

**Figure 17: Child play space required (based on borough child yields)**

- 9.106. As the sites and tenures are split, officers have simplified the level of child play space required for each, in the table below.

	Under 5s	5-11 year olds	11+ year olds	Total
<b>Private</b>	19.6sqm	8.0sqm	2.0sqm	<b>29.6sqm</b>
<b>Intermediate</b>	7.5sqm	6.6sqm	5.0sqm	<b>19.1sqm</b>
<b>Affordable rent</b>	49.6sqm	40.7sqm	25.4sqm	<b>115.73sqm</b>
<b>Required Play space (sq.m)</b>	76.7sqm	55.3sqm	32.4sqm	<b>164.4sqm</b>

<b>TOTAL</b>				
--------------	--	--	--	--

**Figure 18: Child play space requirement by age and tenure**

9.107. The child occupancy and play space requirement have also been calculated by the GLA calculator. Whilst the GLA child yield estimate is based upon London data, it is considered the more reliable estimate figure, given it is currently derived from a more recent data set, compared to the one used to produce the Borough based estimate. The table below shows the calculations for child play space for the entire development.

Assessing child occupancy and play space requirements							
<b>Size of your development:</b>							
Number of FLATS							
	Studio	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Social rented/affordabl		2	4	1			7
Intermediate		1		2			3
Market		8	14	5			27
<b>Total</b>							<b>37</b>
Number of HOUSES							
		1 bed	2 bed	3 bed	4 bed	5 bed	Total
Social rented/affordabl					4		4
Intermediate							0
Market							0
<b>Total</b>							<b>4</b>
Proportion of children							
	Number of children	%					
Under 5	8	45%					
5 to 11	6	34%					
12+	4	20%					
<b>Total</b>	<b>18</b>	<b>100%</b>					
Play space requirements							
GLA benchmark (sqm)*	Alternative local benchmark (sqm)**	Total (sqm play space) required					
10		182.1					
	10	182.1					
* GLA benchmark standard=minimum of 10sqm of dedicated play space per child							
** Borough's local benchmark							

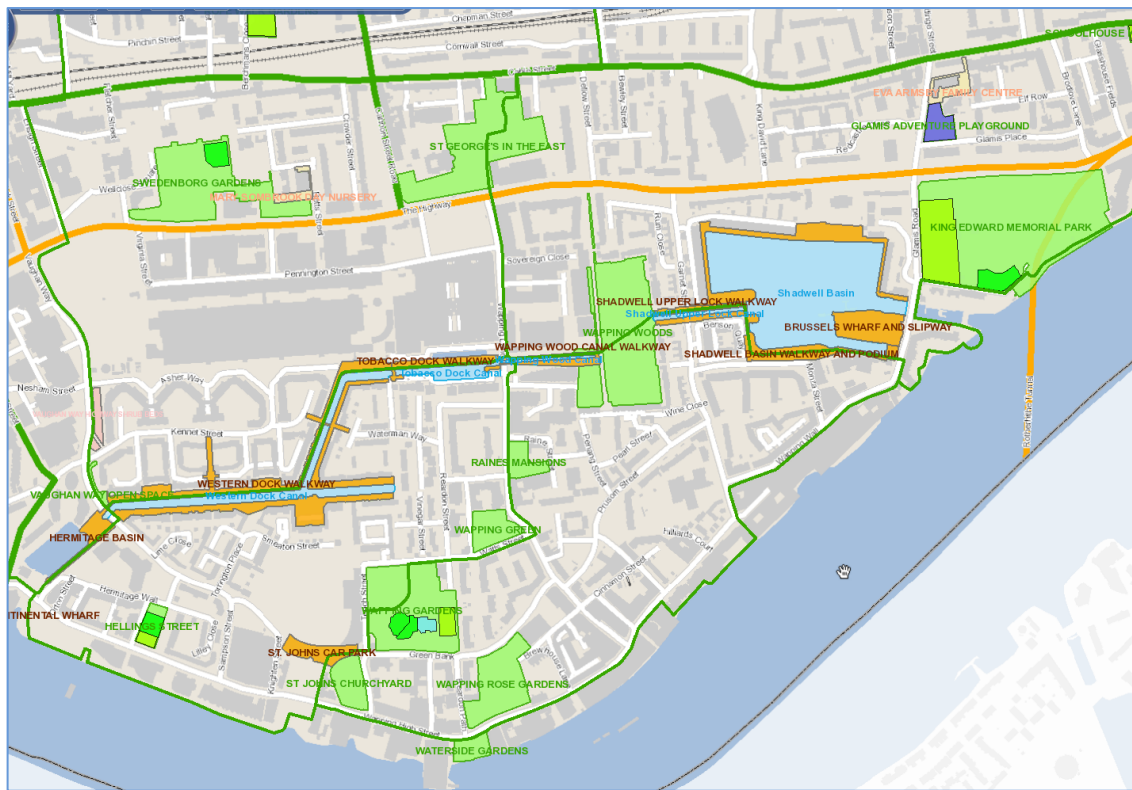
**Figure 19: Child play space requirement (based on GLA child yields)**

9.108. The above table shows that a total number of 18 children would be expected as a result of this proposal. 8 children under the age of 5, 6 children between the ages of 5-11 and 4 children over the age of 12.

9.109. Child space on Site A for the private tenure is incorporated within the central courtyard (382sqm). It is noted that a total of 30sqm would be required for children of all age groups within this tenure and this can be adequately accommodated on site. Within Site B, the proposal would provide approximately 77sqm of dedicated play space. This provision would satisfy and exceed the policy requirement for the under 5's age group for both affordable rented and intermediate tenures where a target of 57sqm has been identified. However, it is noted that there would be no on-site provision of child play space for 5-11 and 11+ year olds.

9.110. Whilst 'door step' play space provision is a necessary requirement for children space provision for under 5's the Local Plan and the Mayor of London's 'Children and Young People's Play and Information Recreation SPG recognises for older children recourse to existing off site play space within the surrounding area can legitimately help contribute

towards meeting a new development's minimum child play space requirements. For children between ages 5 and 11 off site provision needs to be within 400m walking distance and 800 metre for children 12 and over with consideration given to whether the route to this off site play space is convenient and safe. This reinforces the importance of providing the play space for under 5's on-site wherever possible, whilst acknowledging that play space for older children can be provided further afield. The map below shows the locations of other parks and play areas within the vicinity of the site.



**Figure 18: Map showing proximity to local parks**

- 9.111. It is noted that there are public parks and gardens located a short distance from the site which could be used for play by 5-11 and 12+ year olds living at the site, including the play area north of the site in Prusom Street, which is located 65m away and Wapping Rose Gardens, which is located 180m to the west of the site. Wapping Gardens lie 237m west of the site and has a ball court for older children. The swimming baths on The Highway and St George's in the East Public Park and gardens are 600m north of the site. Wapping Woods is 290m away to the north. King Edward Memorial Park some 600m to the east also offers play areas for older kids. Notwithstanding, the existing parks and play spaces around the site, it is also of note that this scheme would yield 18 children (GLA calculations) only and 8 of those would be under 5's and their play space would be provided. A total of 10 children would need access to other play spaces and parks in the area or within at least 400m and 800m. It is considered that the spaces mentioned above and as seen on the map, lie well within the recommended maximum walking distances set out in the Mayor of London's Play and Informal Recreation SPG (2012) and could cater for 10 additional children.
- 9.112. As the proposal is meeting its on-site play space requirements for under 5's, and given that there are public gardens and parks located a short distance from the site that could be used for play by future 5-11 and 11+ year olds living at the site, it is considered that the proposed play space provision is on balance acceptable in this instance. Whilst

officers acknowledge pressure on existing parks and play spaces through cumulative developments, it is considered, in this instant that given such a low number of children and all the parks available, on balance the proposed child play space strategy would adequately meet the requirements of the child population generated by the scheme. It is recommended that a condition be included to secure full details of the on-site child play space.

- 9.113. Subject to condition, it is considered that the proposed provision of child play space is acceptable on balance, in accordance with the objectives of Policy SP02 (6e) of the Core Strategy (2010), Policy DM4 (2) of the Council's adopted Managing Development Document (2013) and Policy 3.5 of the London Plan (MALP 2016).

#### Inclusive Design and Wheelchair Adaptable/Accessible Homes

- 9.114. Of the 41 proposed units, the application would propose the delivery of 4 wheelchair units/13% by habitable room. 2 two bedroom units would be wheelchair adaptable within Site A on the first floor, in the market tenure. A further 2 two bedroom units would be provided as wheelchair accessible in the affordable rented tenure and these would be located within Site B at ground floor level. Each flat would have its own private and direct access into the flats. The wheelchair units on the first floor would be served by cores that include 2 lifts, which the Council would support as this would provide wheelchair access resilience in the event that one lift is out of service.
- 9.115. Officers welcome the affordable rented wheelchair units to be provided as wheelchair accessible, whilst the market tenure wheelchair units would be as wheelchair adaptable. Conditions should be included to require the delivery of 13% wheelchair adaptable/accessible homes, together 1:50 plans of the wheelchair units, and to require the units to be designed to accord with Part M4 (3B) of the new Building Regulations (optional requirements for wheelchair dwellings), which came into force on 1<sup>st</sup> October 2015.
- 9.116. Subject to condition, it is considered that the proposed development would provide an appropriate environment for wheelchair users and accords with current accessibility standards, in accordance with Policy SP02 (6) of the Council's adopted Core Strategy (2010).

#### **Neighbouring Amenity**

- 9.113 Core Strategy Policy SP10 '*Creating Distinct and Durable Places*' and MDD Policy DM25 '*Amenity*' require development to protect the amenity of adjoining and surrounding existing and future residents as well as the surrounding public realm. Indeed Policy DM25 of MDD seeks development, to not just protect but where possible improve the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm. The policy states that this should be achieved by; not resulting in an unacceptable loss of privacy, nor enable an unreasonable level of overlooking or unacceptable increase in the sense of enclosure; avoiding a loss of unacceptable outlook, not resulting in an unacceptable material deterioration of sun lighting and day lighting conditions or overshadowing to surrounding open space and not creating unacceptable levels of noise, vibration, light pollution or reductions in air quality during construction or operational phase of the development.
- 9.114 As noted above under Section 8 - Local Representation – of this report, 258 letters were sent to neighbouring properties notifying them of this proposal. 12 individual letters of objection were received together with a petition against,



consisting of 56 signatures. The following section would seek to address some of the concerns raised in terms of daylight/sunlight, overlooking and loss of privacy.

Daylight and Sunlight – Impacts on Neighbouring Properties

- 9.128 The day lighting conditions at neighbouring properties are normally calculated by two main methods, namely the Vertical Sky Component (VSC) and No Sky Line (NSL). Building Research Establishment (BRE) guidance in relation to VSC requires an assessment of the amount of daylight striking the face of a window. The VSC should be at least 27%, or should be reduced to no less than 0.8 times their former value, in order to ensure that sufficient light is still reaching windows. These figures should be read in conjunction with other factors, including NSL, which takes into account the distribution of daylight within the room and figures should not exhibit a reduction beyond 20% of their former value.
- 9.129 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. The significance of loss of daylight can be summarised as follows:
- 0-20% reduction – Negligible
  - 21-30% reduction – Minor significance
  - 31-40% reduction – Moderate significance
  - Above 40% reduction – Substantial significance
- 9.130 Sunlight is assessed through the calculation known as the Annual Probable Sunlight Hours (APSH), which considers the amount of sunlight available during the summer and winter for each window facing within 90 degrees of due south (i.e. windows that receive direct sunlight). The amount of sunlight that a window receives should not be less than 5% of the APSH during the winter months of 21 September to 21 March, so as to ensure that such windows are reasonably sunlit. In addition, any reduction in APSH beyond 20% of its former value would be noticeable to occupants and would constitute a material reduction in sunlight.
- 9.131 The application has been accompanied by Daylight, Sunlight and Overshadowing Report, prepared by Point 2 Surveyors, which has been independently assessed by the Council's appointed consultant, BRE. The results of the assessment are provided below.
- 9.132 The properties that are likely to be affected by this proposal have been analysed by Point 2 and the Council's independent adviser BRE, has evaluated these same properties. They are 138-140 and 142-146 Wapping High Street, Baltic Court, 2-12 Clave Street, 18-32 Cinnamon Street, Tasman House, Ross House and Columbus House. The evaluation concludes that loss of daylight to all windows within 142-146 Wapping High Street, 2-8 Clave Street 20-32 Cinnamon Street, Columbus House and Tasman House would be within the BRE guidelines and the impact to these buildings could be considered negligible.
- 9.133 There would be a loss of daylight outside the BRE guidelines to a small number of windows in 138-140 Wapping High Street, Baltic Court, 10-12 Clave Street and 18 Cinnamon Street. The impact to those buildings is classed as minor adverse because the loss of light is just outside the BRE guidelines.

- 9.134 Several windows are affected in Ross House, however, the majority of windows meet the guidelines. This is considered in more detail below. Loss of sunlight to all main living rooms would be within the BRE guidelines. Two rooms in Tasman House would suffer a loss outside the guideline values but these are bedroom windows for which loss of sunlight is less important.
- 9.135 The two proposed amenity spaces were also analysed and it is confirmed that these would achieve the recommended level in the BRE guidance.
- 9.136 It should be noted that some local residents have objected to the proposal on the grounds that it would result in a loss or partial loss of views from their properties. Matters pertaining to impacts on views and/or property values are not normally considered to be material planning considerations and it is not considered that there would be any special circumstances which would justify treating them as such in this case.
- 9.137 The following section would look at the impacts of the proposal on the properties that have been tested.

Detailed assessment of the proposal's impacts

138-140 Wapping High Street

- 9.138 This property is located to the south east of the site and is a newly built seven storey mixed use development. There are 44 windows facing the site which serve 32 rooms. 31 out of the 31 rooms will be fully BRE compliant in terms of VSC and/or NSL. The impact of the proposal on this property is therefore considered negligible and the occupants would unlikely notice any alteration to their levels of daylight. A first floor kitchen would experience an NSL alteration which is beyond the BRE guidelines; however, in terms of VSC this room is fully BRE compliant. In terms of sunlight, all rooms would be fully compliant with the BRE guidelines and the effect on these rooms is considered negligible.

142-146 Wapping High Street

- 9.139 142-146 Wapping High Street lies to the east of the application site and is considered to be further away so that any impact would be completely compliant in terms of the BRE guidelines. Out of the 62 windows tested, all were compliant and these residents are unlikely to notice any alteration to their levels of daylight. Similarly, sunlight levels are also compliant and the effect is considered to be negligible.

Baltic Court

- 9.140 This property is on the eastern edge of the property along Clave Street and its rear elevation abuts the application site. It is a three storey property and only the second floor would be affected by the proposal. Only two windows (bedroom and lounge) would be affected but these rooms are served by other windows which meet the guidelines. Therefore, the impact is assessed as being minor adverse. One resident wrote with regards to the impact on their daylight; however, as reported all windows tested were compliant.

2-12 Clave Street

- 9.141 This property is a row of terraced houses opposite Site A and in the case of 12 Clave Street, opposite Site C as well. 2-8 would have a negligible loss of their daylight and sunlight amenity. All 41 windows have been assessed and they pass the BRE guidelines. These properties are also dual aspect. In the case of 10 Clave Street, this unit is approximately 11m away from Site A. 11 windows serve 7 rooms facing Site A. All windows would be within the BRE guidelines in terms of VSC. There is a noticeable effect on the daylight distribution on three rooms; however, these rooms are served by 3 windows in total and the overall impact is seen as being minor adverse. It is noted that the resident at 10 Clave objected on loss of light and direct overlooking. In this instance and in accordance with the independent assessment undertaken, the loss of light would not be considered as significant as to affect the resident's enjoyment of their property. Furthermore, officers visited this property and the room in question is dual aspect and has more than one window on both elevations.
- 9.142 12 Clave Street sits on the corner with Clave and Cinnamon Street. All windows within 6 rooms of this property have been tested and two of the rooms have two windows. 3 of the 6 rooms would be fully BRE compliant in terms of VSC. The two ground floor rooms would experience VSC and NSL alterations which are beyond the guidance and these would be assessed as being minor significant, especially when taken together with their daylight amenity values. It is also noted that the ground floor windows are already shadowed by a fence surrounding the corner of the site. Loss of sunlight for the whole terrace would be within the BRE guidelines for all main windows.
- 9.143 A first floor room (R2/61) would experience an alteration in NSL beyond the guidance; however, its VSC would be over 26% against the BRE recommendation of 27%. Therefore, this room's loss in daylight amenity would be considered to be minor. Officers visited this property as well and it was noted that there is a surrounding wall that encloses the urban garden. Furthermore, the ground floor level room has a window and door. The results of the assessment show that on balance, this property would not suffer an excessive loss of its daylight or sunlight.

18-32 Cinnamon Street

- 9.144 This row of terraced properties is three storey high and abuts Site C to its east. No VSC losses are noted for 20-32 Cinnamon Street. The effect of this proposal to these houses would be negligible. 18 Cinnamon Street is located close to the site and one room (R1/41) (out of two) would experience a VSC alteration above the recommended guideline. The other window would pass the VSC daylight test. The effect on this room is therefore considered as being minor in nature. Loss of sunlight to the whole terrace would be within the BRE guidelines. Residents at 18, 20, 22 and 28 wrote in to object about this proposal. Officers visited the properties at 18 and 20 Cinnamon Street. As with the properties on Clave Street these properties are dual aspect with more than one window in the living rooms. In accordance with the independent assessment, it is noted that only 18 Cinnamon Street would experience an alteration in its VSC and that is only to one window within a room with two windows. The effect to these houses would be negligible.

Tasman House

- 9.145 An objection letter came from a resident of Tasman House. Officers visited this resident and it was noted that the flats are dual aspects. This block of flats is situated close to Site B and in the northwest direction. There are no windows on this elevation. The flats are dual aspect and to the north east is Site C where the

entrance of the flats are located. There are 63 windows serving 59 rooms and they have all been tested. All windows assessed would meet BRE guidance in terms of VSC and NSL alterations and therefore they would pass their daylight amenity level.

- 9.146 In terms of sunlight level, this is an issue for the south west side of the building. All living rooms would meet the guidance. Two rooms which would not pass the test are bedrooms and the BRE report states that loss of sunlight is less important in this instance. That said, it is noted that both these rooms would retain a 3% winter APSH against the recommended 5% and in terms of total APSH the rooms would retain 32% and 41% against a recommended 25%. In view of these values and the fact that these rooms are bedrooms and within an urban location such as this, the effect would be considered as minor in nature.

#### Ross House

- 9.147 Whilst no objection letters came from this block of flats, officers paid a visit to two flats during their meeting with residents. This block of flats is very similar to Tasman House and is dual aspect. Ross House would face Site A in its entirety. It would also have an oblique view of Site B as it sits alongside this site. The property is five storeys tall and is abutted by a blank wall currently forming part of Site B. 41 out of 55 windows assessed would meet BRE guidance.
- 9.148 6 windows on ground floor level would suffer a loss of light outside of the BRE guidance, as would 3 on the first, 2 on the second and 1 on the third floors. For most of these windows, the loss of light is only marginally outside the guidelines and 3 of these windows already have low VSC due to the balcony above them.
- 9.149 Two further rooms would suffer VSC alterations above the BRE recommended maximum; however, the NSL alterations to these rooms are well within the BRE guidance.

#### Columbus House

- 9.150 This block of flats is similar to Tasman and Ross Houses. It lies to the west of the application site and is the furthest away. Residential properties are located above the ground floor café. All windows assessed would meet BRE VSC guidance. Loss of sunlight would also be acceptable and furthermore the windows in question face to the north east.

#### Context for daylight and sunlight losses

- 9.151 It is inevitable that in an urbanised borough such as Tower Hamlets and with such pressure being placed on the local planning authority to optimise the potential of development sites, daylight and sunlight infringement would be a regular occurrence. In reaching final conclusions in relation to daylight and sunlight impacts, sufficient weight needs to be given (a) to the nature of buildings and street patterns, (b) the current levels of daylight and sunlight enjoyed by existing residential occupiers that may fall below the absolute targets set out in the BRE Guidelines and (c) due weight and impact given to any existing consent that has yet to be implemented.
- 9.152 It is therefore fair and appropriate for the Council to apply a certain amount of flexibility when applying the recommendations, as set out in the BRE Guidelines. This degree of flexibility is utilised on a regular basis. However, as Members will

be aware, one needs to make judgements as to the acceptability of daylight and sunlight infringements on a case by case basis, when balanced against other material planning considerations.

### Conclusion

9.153 In this instance, the development is considered acceptable in terms of daylight/sunlight as the impacts of the scheme taken overall is well within normal levels of failings given the urban context and with an acceptance that any new development, however modest in its height, might have significant impacts on a small number of neighbouring windows.

9.154 Although, it is acknowledged that there would be some daylight and sunlight impacts on neighbouring properties and these would result in a detrimental impact on the amenities of those residential occupiers, on balance, the proposed development is considered to accord with Policy SP10(4) of the adopted Core Strategy (2010), and Policy DM25 of the Managing Development Document (2013).

### Daylight and Sunlight within the Development

9.155 The daylight conditions within new homes are normally assessed in terms of the Average Daylight Factor (ADF). British Standard 8206 recommends the following minimum ADF values for new residential dwellings:

- >2% for kitchens;
- >1.5% for living rooms; and
- >1% for bedrooms.

9.156 Only the windows of the lowest two floors – ground and first - of the proposed development have been tested by Point 2. A total of 67 rooms have been tested to establish the ADF standards and 58 would meet the required ADF value, representing 87% of the total number of rooms. 7 of the 9 rooms which do not meet the minimum daylight amenity levels do so because their view is obscured by balconies belonging to the above flats. The test was also carried out without the balconies and had this been the intended design for the upper floors flats, the compliance level would have been 97%. However, this approach is not a recommended measure especially if these said balconies are not being removed.

9.157 The two remaining rooms that do not meet their ADF are a ground floor kitchen in Block B (Site B) and a first floor living space within Site A. The levels achieved are 1.3% and 1.81% respectively. Where living/kitchen/dining rooms fall below the target ADF levels, the living areas are located close to the windows, to maximise the levels of daylight to the primary living spaces, whilst the kitchens are located to the rear of the rooms. It is considered that this approach provides a degree of mitigation. The independent assessment by bre states that daylight provision would be generally good for most of the scheme. It should be noted that the new buildings are all very close to each other. In the case of Sites B and C, the separation distance is less than 9m. This would normally (using the recommended 18m window separation distance) be insufficient to enable the daylight standards to be met.

9.158 Taking into account the above, on balance it is considered that the proposed residential units would be afforded adequate levels of daylight, in accordance with

the objectives of Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

#### Overlooking, Outlook and Sense of Enclosure

- 9.159 Policy DM25 of the Managing Development Document requires new developments to be designed to ensure that there is sufficient privacy and that they do not lead to an unreasonable level of overlooking between habitable rooms of adjacent residential properties and their private amenity spaces. The degree of overlooking depends on the distance and the horizontal and vertical angles of view. The policy specifies that in most instances, a distance of approximately 18 metres between windows of habitable rooms would reduce inter-visibility to a degree acceptable to most people.
- 9.160 Issues of overlooking, outlook and sense of enclosure are considered to be subjective. Given the narrow width of all the streets around the application sites including the application land parcels themselves, it is noted that the acceptable 18m distance would not be achievable in this instance. The separation distance between the new buildings and neighbouring properties would range from approximately 10m to 29m. Separation distance from Tasman House to Site C is approximately 21m; Ross House to Site A across Cinnamon Street is approximately 18m; Site A across Clave Street to 10-12 Clave Street is between 10m – 11.5m; 12 Clave Street to Site C is approximately 10.3m; and Site A across Wapping High Street to 142 Wapping High Street is about 28m. With regards to the new blocks themselves, on Site A all the buildings would be buffered by the internal courtyard. Sites B and C face each other; however, the building on Site B is stepped away from Site C and the balconies at Site C are on the upper level.
- 9.161 Whilst many of these separation distances are below the Council's target separation distance of 18 metres between facing residential windows, given the across-street relationship between the buildings, together with the spatial constraints of the site and the setbacks that have been included in the design of the new blocks, it is considered that the separation distance between the buildings is acceptable in this instance and would afford residents comparative levels of privacy to existing conditions. This is pertinent to Clave Street where the separation distance is at its lowest. The second floor of the new houses has been set back and a balcony introduced to mitigate the impact of direct overlooking and the sense of enclosure. Furthermore, it is noted that Clave Street already has a residential block facing on the west facing 2-12 on the east. Similarly, residents along Cinnamon Street, 18-34, would not be significantly or unreasonably affected by the proposals due to their orientation which is south east and away from Site C. 18 Cinnamon Street being the closest of the properties to Site C would notice a significant change in outlook due to the height of Site C. However, the outlook and openness that all residents have enjoyed so far have been on a borrowed basis, due to the low levels of the existing buildings on site. It has already been argued that the height and mass of all new buildings are acceptable within the context of the local area.
- 9.162 Taking into account the above, it is considered that on balance, the proposed development would afford existing and future residents within and around the site with acceptable levels of privacy and outlook, in accordance with the objectives of Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

## Noise & Vibration

- 9.163 The NPPF is the principal guidance adopted England for assessing the impact of noise. Policy 7.15 of the London Plan (MALP 2016), Policies SP03 and SP10 of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013) seek to ensure that development proposals reduce noise by minimising the existing and potential adverse impact and separate noise sensitive development from major noise sources.
- 9.164 The applicant's has submitted a Noise and Vibration Assessment report by Aecom dated 21 December 2015. Dominant noise sources at the site were noted to be road traffic, intermittent construction noise and drilling noise from the garage located on Cinnamon Street (now moved to another location). Vibration levels were assessed and these were considered low enough so that the proposed residential use would be acceptable and no mitigation measures would be required. The report concluded that subject to acceptable and suitable mitigation measures taken, for example low level plant equipment and locating all plant within plant rooms and suitable glazing on all windows, the sites would be considered acceptable for their intended use, which is residential.
- 9.165 It would be advisable to recommend that conditions be included to ensure that the above measures are adhered to, in terms of the plant rooms and to require post completion noise testing to demonstrate compliance, and to require the use of adequate sound insulation for residential units that adjoin commercial premises, together with post completion noise testing.
- 9.166 The objections received cited noise and disturbance as a concern by local neighbours in particular during construction works. Recent objections brought another noisy issue to officers' attention. This matter was also brought up by Councillor Denise Jones, in her objection letter. It is understood that noisy disturbance occurs every 3 or 4 months by London Overground Infrastructure undertaking critical 3 monthly maintenance activities in Wapping, on Site A. London Overground confirmed in an email to one resident that *"The 4 monthly sucking out the drainage interceptors and sumps are required to ensure their critical drainage pumps don't fail due to blockages and that the water which is discharged into the Thames is coal tar free. They have discussed with their contractor to ensure a more efficient working practice is in place for future maintenance as the night in questions resulted in prolonged clearing time due to a drainage bung not being applied in the correct position to allow easy clearance of their main sump"*.
- 9.167 This is clearly concern for the residential development on Site A and the mitigation measures to be put in place to preserve future residents' amenity. To address this matter Officers would secure stringent means of acoustic and triple glazing for all windows within Site A via a condition.
- 9.168 In general, noise level is not considered to be of a significant nature in this area. As a result of the loss of the light industrial uses in particular on Site C, noise levels and air quality should be significantly improved. The proposed residential dwellings and the development as a whole would not be a major or significant source of noise. Construction works are of a temporary nature and officers would as a matter of course, condition the working hours and noisy activities to be done within an acceptable time rather than early morning or late afternoon. Saturday working would be capped till 1pm and Sunday and public holidays would be non-construction days. Subject to conditions, it is considered that the proposed

development would adequately protect future residents from undue noise disturbance, in accordance with Policy SP10 (4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

### **Secured by Design**

- 9.169 Policy 7.3 of the London Plan (MALP 2016) seeks to ensure that developments are designed so as to reduce the opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating. Policy DM23 (3) of the Council's adopted Managing Development Document (2013) requires development to improve safety and security without compromising good design and inclusive environments by locating entrances in visible, safe and accessible locations, by creating opportunities for natural surveillance, by avoiding the creation of concealment points, by making clear distinctions between public, semi-public and private spaces and by creating clear sightlines and improving legibility.
- 9.170 The proposal has been developed in accordance with the principles of Secured by Design. The scheme would deliver significant benefits in terms of safety and security by providing active frontages around and throughout the site. The design, layout and landscape strategy of this scheme lend itself well to the aims of Secured by Design. At present, the sites are vacant, unused, derelict and in a poor state of repair. They have inactive frontages along Wapping High Street and Cinnamon Street as well as Clegg Street. This lack of activity limits the opportunities for natural surveillance of the streets, which in turn can encourage anti-social behaviour.
- 9.171 However, the proposed replacement buildings would be in residential use, with defensible spaces, doors and windows onto the street at ground level and balconies and windows above. This will result in enhanced natural and passive surveillance of these streets, which will discourage anti-social behaviour and make the streets feel safer. The communal amenity space and child play space within the development, which are located on Sites A and B would be secured with gated access.
- 9.172 The proposals have been assessed by the Metropolitan Police Designing out Crime Officer, who raised minor objections as detailed above. It is recommended that a condition be included to ensure all Secured by Design measures as well as external lighting are designed in line with Secured by Design Statement, which shall detail the measures that are to be incorporated into the development to ensure that it achieves Secure by Design accreditation.
- 9.173 Subject to condition, it is considered that the proposals would reduce the opportunities for criminal behaviour and improve safety and security within and around the site without compromising good design. The proposals therefore accord with Policy 7.3 of the London Plan (MALP 2016) and Policy DM23 (3) of the Council's adopted Managing Development Document (2013).

### **Inclusive Design**

- 9.174 Policy 7.2 of the London Plan Policy SP10 of the CS and Policy DM23 of the MDD seek to ensure that developments are accessible, usable and permeable for all users and that a development can be used easily by as many people as possible without undue effort, separation or special treatment. A growing awareness of the importance of creating environments that are accessible for all people has led the



Council to emphasise the importance of 'inclusive design'. The development has been designed with the principles of inclusive design in mind.

- 9.175 Because the area is within a flood plain, the applicant has had to take measures to ensure that the design of the proposal is resilient and the proposal would not increase the risk or impact of flooding at the site. Therefore, ground floor levels to most of the units at lower level would be raised. The entrances into Site A are both levelled but there is a stepped and ramped access to enter the courtyard. Houses accessed through the courtyard would have a level threshold into the properties. The triplex along Clave Street would also have level access from street level but all habitable rooms are located above and are accessed via a staircase.
- 9.176 On Site B, access from Cinnamon Street would be level but the accommodation at ground floor would be raised above entrance level. Therefore, the lobby would incorporate platform lift access and stairs as well. Sites A and B would also have two lifts serving the flats. The scheme would provide double level thresholds to all the ground floor uses and entrances and dual lift access will be provided to all the fully wheelchair accessible residential units. Site C would have level access from street but would incorporate some steps in the internal lobby together with a concealed platform lift.
- 9.177 Subject to condition, it is considered that the proposed development would provide an appropriate environment for wheelchair users and accords with current accessibility standards, in accordance with Policy SP02 (6) of the Council's adopted Core Strategy (2010).

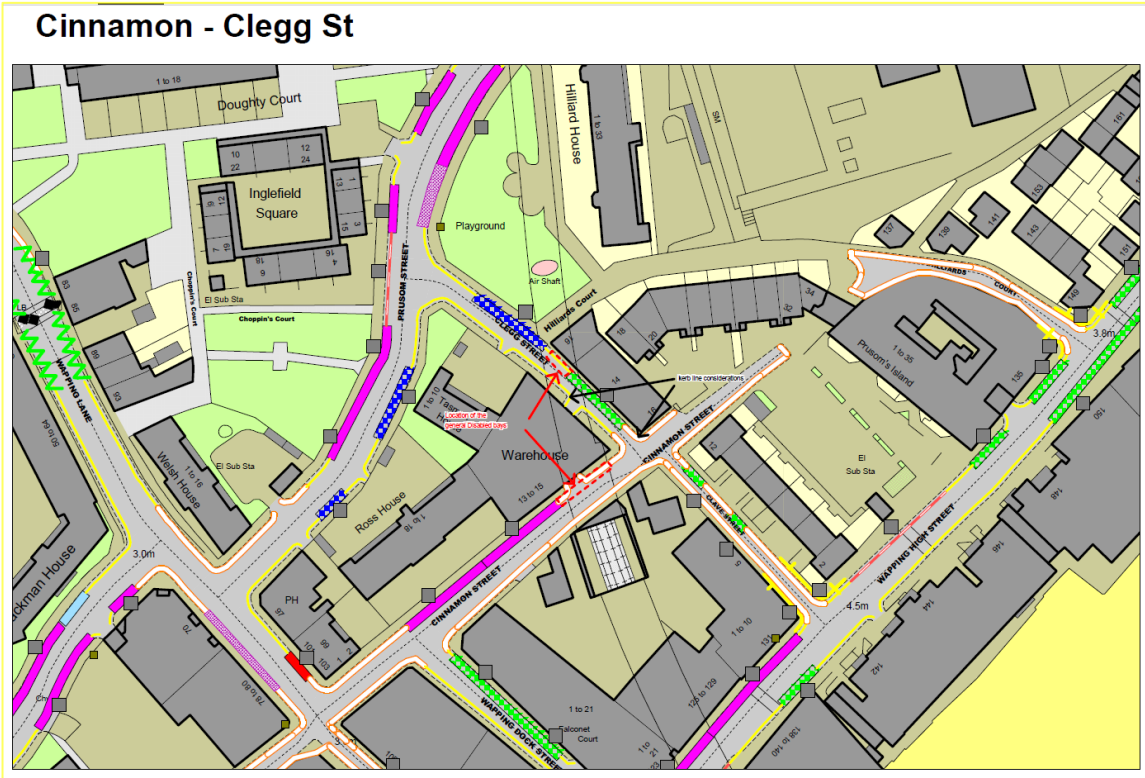
### **Archaeology**

- 9.178 The National Planning Policy Framework (Section 12) and the London Plan (Policy 7.8) emphasise that the conservation of archaeological interest is a material consideration in the planning process. Paragraph 128 of the NPPF says that applicants should be required to submit appropriate desk-based assessments, and where appropriate undertake field evaluation, to describe the significance of heritage assets and how they would be affected by the proposed development.
- 9.179 Greater London Archaeology Advisory Service has advised that the submitted documentation of the application indicates the need for field evaluation to determine appropriate mitigation. However, although the NPPF envisages evaluation being undertaken prior to determination, in this case consideration of the nature of the development, the archaeological interest and/or practical constraints are such that it is considered that a condition could provide an acceptable mitigation and safeguard. A condition is therefore recommended to require a two stage process of archaeological investigation comprising: first, evaluation to clarify the nature and extent of surviving remains, followed, if necessary, by a full investigation.
- 9.180 To conclude, it is considered that subject to these appropriately worded conditions, the impact of the development on archaeology would be acceptable.

### **Highways and Transportation**

#### Car Parking

- 9.181 Policy SP09 (4) of the Council's adopted Core Strategy (2010) and Policy DM22 (2) of the Council's adopted Managing Development Document (2013) require developments located in areas of good public transport accessibility to be secured as 'car free'. Policy 6.13 of the London Plan (MALP 2016) also promotes 'car free' development in areas with good access to public transport, whilst still providing for disabled people. This policy also seeks to ensure that 20% of parking spaces (both active and passive) provide an electrical charging point to encourage the uptake of electric vehicles.
- 9.182 The Council's Parking Standards, as set out in Appendix 2(1) of the Managing Development Document (2013), require developments with off-street parking to include 2 spaces or 10% of all spaces to be provided as accessible parking as a minimum.
- 9.183 It is recognised by the Highways Authority that Cinnamon Street has night time parking occupancy of 100% and Clegg Street has parking occupancy of 100% and 143% during weekdays and night time respectively. This exceeds the 80% level, which is considered to be 'stressed'. However, it is also recognised that the layout of the site, is such that it is not possible to provide accessible parking on site for registered blue badge holders. The transport statement states that blue badge users would be able to utilise the existing resident parking bays on street. Whilst this may be the case, officers opine that this would also add to the existing parking stress in the area, affecting existing residents' ability to park in those bays.
- 9.184 It is therefore recommended that the applicant should enter into a S106 agreement to fund up to three disabled bays on street if required by residents of the development within a three year period from the date of first occupation. This would be secured by a legal agreement in line with advice from the parking section. Following a site visit with the Highways officers and the applicant, it was agreed that two general use disabled bays would be installed on Cinnamon Street, on existing double yellow line. A further single general use disabled bay would be installed on Clegg Street near 16 Hilliards Court on existing single yellow line. The single yellow lines along Clegg Street would require upgrading to double yellow lines. These new bays would be subject to changes in the kerb line and would involve the relocation of a lamp column in Clegg Street to allow for free movement of large vehicles. A total of £10,000 would be secured in the S106 towards these highways works. The map below shows the location of these disabled bays and the kerb line in question that would be changed.



**Figure 19: Map showing local parking provision**

- 9.185 The site benefits from an acceptable access to public transport, with a PTAL of 3; in accordance with both adopted policies and the recommendations of LBTH Transportation & Highways, the associated S106 agreement would include a clause to secure the residential units as 'car and permit free' (with the exception of disabled parking and on-street parking for residents using the Permit Transfer Scheme).
- 9.186 It is noted that a majority of the objections has been received on the grounds that there is already parking stress in the area and that this proposal would exacerbate this problem. However, as set out above, the proposed provision of 3 disabled car parking spaces and the omission of on-site resident and visitor parking is considered to be acceptable and in accordance with the requirements of Policy SP09 (4) of the Core Strategy (2010), Policy DM22 (2) of the Managing Development Document (2013) and Policy 6.13 of the London Plan (MALP 2016).

Cycle Parking

- 9.187 Policy DM22 (4) of the Managing Development Document (2013) and Policy 6.9 of the London Plan (MALP 2016) require developments to include adequate provision of safe, secure and accessible cycle parking facilities. The cycle parking standards are also set out at Table 6.3 of the London Plan (MALP 2016) which require the following minimum provision of cycle parking, 1 space per 90sqm (commercial) and 1 space per studio / 1 bed unit; 2 spaces per all other dwellings.
- 9.188 The proposed number of cycle spaces provided for the entire development would exceed the minimum policy requirement. The applicant would provide a mixture of Falco single tier and Falco 2 tier cycle stands throughout the development. The

highways officer was concerned about this type of stand which does not comply with the Council's policy requirement. The applicant subsequently submitted further information and illustration to show that the stands to be used in the development would allow the user to lock both wheel and the frame, therefore ensuring the safety and security of the parked bikes. This is considered to be acceptable and would be subject to the inclusion of conditions to secure full details of the layout of the cycle stores and to require the cycle spaces to be retained and maintained for the life of the development.

- 9.189 Subject to condition, it is considered that the proposals include adequate provision of safe, secure and usable cycle parking facilities, in accordance with Policy DM22 (4) of the Council's adopted Managing Development Document (2013) and Policy 6.9 of the London Plan (2015).

#### Waste & Recyclables Storage

- 9.190 Policy SP05 of the Council's adopted Core Strategy (2010) and Policy DM14 of the Managing Development Document (2013) require planning applications to be considered in light of the adequacy and ease of access to the development for waste collection and the adequacy of storage space for waste given the frequency of waste collections.
- 9.191 The proposals include the provision of designated refuse stores, located within each block and within short walking distance of the residential units and of the residential lift cores. In the case of Site C, the four houses would share a refuse store to the side along Hilliards Court. The refuse stores are well located for collections, being directly accessed from the public highway on Cinnamon Street and Wapping High Street as well as Clegg Street.
- 9.192 The proposed waste and recyclables storage arrangements have been assessed by LBTH Waste Policy & Development and Transport for London and are considered to be appropriate, subject to the inclusion of a condition to secure plans showing full details of the waste storage facilities, together with a waste access plan. On this basis, the proposed waste and recyclables storage facilities are considered to be acceptable, in accordance with Policy SP05 of the Core Strategy (2010) and Policy DM14 of the Managing Development Document (2013).

#### Servicing

- 9.193 Servicing for the proposal has been deemed inadequate by the Highways team. However, following a site visit, the highway officers are now satisfied that concerns raised would be resolved in the following ways. A condition would be attached to the planning application requiring the applicant to agree a S278 agreement to adjust the footway at Clegg St, remove all existing crossovers, improve footpath outside the development (to be widened to 1.5m), and any other highways improvement work that may be required to enable this development.
- 9.194 LBTH Transportation & Highways further recommend that a condition be included to secure a Delivery and Servicing Management Plan.
- 9.195 Taking into account the above and subject to condition, it is considered that the proposed servicing arrangements would not result in any significant adverse impacts on the safety or capacity of the road network. The proposals therefore

accord with Policy SP09 (3) of the Core Strategy (2010) and Policy DM20 (2) of the Managing Development Document (2013).

### **Air Quality**

- 9.196 Policy 7.14 of the London Plan (MALP 2016) seeks to ensure that design solutions are incorporated into new development to minimise exposure to poor air quality and promotes sustainable design and construction to reduce emissions from the demolition and construction of buildings.
- 9.197 Policy SP03(2) of the Council's adopted Core Strategy (2010) seeks to manage and improve air quality along transport corridors and traffic congestion points and seeks to implement a 'Clear Zone' in the borough to improve air quality. Policy DM9 of the Council's adopted Managing Development Document (2013) requires applications for major development to be accompanied by an Air Quality Assessment to demonstrate how it will prevent or reduce associated air pollution during construction or demolition.
- 9.198 The applicant has provided an Air Quality Assessment Report (AQA), prepared by Aecom, dated December 2015, which provides an assessment of the potential effect on local air resulting from the demolition, construction and operational phases of the development.
- 9.199 The Council's Air Quality Officer has reviewed the AQA and has found it to be acceptable. The assessment concludes that the site is suitable for the proposed uses and that the impacts of the development are negligible and therefore not significant. It is recommended that the air quality section of the Construction Environmental Management Plan should include a statement of compliance with the new GLA Non Road Mobile Machinery (NRMM) Low Emission Zone emissions requirements as set out in the GLA 'Control of Dust and Emissions during Construction SPG'. The Site manager will also need to maintain a list of all on-site NRMM using the GLA's database.
- 9.200 To conclude, it is considered that, subject to conditions, the proposed development is acceptable in air quality terms, in accordance with the objectives of Policy 7.13 of the London Plan (MALP 2016) and Policy SP03(2) of the Council's adopted Core Strategy (2010).

### **Contaminated Land**

- 9.201 In accordance with the requirements of the NPPF and policy DM30 of the MDD, the application has been accompanied by a land contamination assessment which assesses the likely contamination of the site. The Council's Environmental Health Officer has reviewed the submitted assessment, and advises that subject to conditions to ensure that further site based assessments and appropriate mitigation measures are taken should contamination be found there are no objections to the scheme on grounds of contaminated land issues, subject to the appliance of an appropriately worded planning condition
- 9.202 The Council's Environmental Health Team have advised that the Council's standard full contaminated land condition requires a developer to risk assess their site, and that the desk study requested as part of this condition is also called a Preliminary Risk Assessment (PRA). This is a search of existing records to see what the likely risk is. If there is a risk of contamination on the site, or nearby from mobile contamination, then an intrusive investigation is required so that soil

samples can be tested for the likely contaminants. When these results come through, the PRA is revised in light of actual data. If there is still a problem, then remediation proposals are required, to be agreed with the Contaminated Land Officers. Following remediation, a Verification Report is required to be submitted (as secured by an appropriately worded condition) to show that the agreed work has been carried out and that there is no longer a risk from contaminated land on the site. Typically, this will include waste transfer notes, soil test data and photographs. Accordingly, the protocol in place to ensure public health and safety during development works is suitably robust, and there is no need for the Council to carry out independent Risk Assessments.

### **Energy & Sustainability**

- 9.203 At a national level, the National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The climate change policies as set out in Chapter 5 of the London Plan, policy SP11 of the Core Strategy and the Managing Development Document policy DM29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.
- 9.204 The submitted proposals have followed the energy hierarchy of be lean, be clean & be green and have sought to focus on using less energy and the integration of renewable energy technologies. The Council would seek to lean towards a centralised heating system (the applicant's Option A) and this should be delivered for the whole proposal. The applicant has confirmed that this would be supported. The delivery of Energy Strategy Option A would ensure the scheme can easily connect to a district energy system in the future and is compliant with London Plan Policy 5.6B and delivers a communal heating system. A 41.4kWp photovoltaic array is also proposed for this proposal.
- 9.205 The CO2 emission reductions are anticipated to be circa 35% against the Building Regulations 2013 baseline. This is significantly below the adopted policy DM29 requirements for a 45% reduction. In accordance with policy requirements, the applicant has also agreed to the full financial contribution of £12,600 to the Council's carbon off-setting programme to achieve a total reduction of 45%.
- 9.206 To conclude, the overall approach to reducing carbon dioxide is supported by the Energy Officer and this is in accordance with relevant policies. However, it is recommended that appropriate conditions are secured for the delivery of Option A – centralised heating system, submission of PV specification and delivery of a 41.4kWp PV array and financial contribution towards carbon offsetting secured within the s106 agreement.

### **Flood Risk and Water Resources**

- 9.207 The site is located in Flood Zone 3 and therefore, the proposed development would result in a 'more vulnerable' use. However, the Environment Agency states that the residential use could be appropriate within a Flood Zone 3 provided the site passes the Flood Risk Sequential Test. The Local Planning Authority has carried out a Flood Risk Sequential Test and has found that there are no other reasonably available sites in a lower flood risk zone or at a lower risk of flooding than the application site. It is also noted that the area is already built up with both residential and commercial uses. Furthermore, despite being in Flood Zone 3, the site is protected by the Thames Tidal flood defences from a 1 in 1000 (0.1%)

chance in any year flood event, but is at risk of flooding if there was to be a breach or they were to be overtopped.

- 9.208 The Environment Agency has recommended raising finished floor levels (FFLs) above the 2100 tidal breach flood level (5.75m AOD on site). The submitted FRA states that FFLs will be set to 4.980m AOD at Site A and 4.392m AOD at Sites B & C. This doesn't quite meet the recommended height. However, the FRA also states that safe havens will be provided at residential floor levels for each site and the applicant has committed to providing the 2100 tidal level. This would be secured by conditions. It is therefore considered that the site has the potential to meet the borough's growing housing need and that the proposed development would incorporate adequate flood resilient design and would not increase the risk or impact of flooding at the site. Therefore, subject to a planning condition to ensure that the necessary mitigation measures proposed are in place, the scheme would be in accordance with Policy SP04 (5) of the Council's adopted Core Strategy (2010), policy DM13 of the MDD, Policy 5.12 of the London Plan (MALP 2016) and government guidance set out in Section 10 of the National Planning Policy Framework (2012).

### **Biodiversity**

- 9.209 Policy 7.19 of the London Plan (MALP 2016), policy SP04 CS and policy DM11 of the MDD seek to protect and enhance biodiversity value through the design of open space and buildings and by ensuring that development protects and enhances areas of biodiversity value in order to achieve a net gain in biodiversity. Policy DM11 of the MDD also requires elements of living buildings. The application site is not located within a Site of Importance for Nature Conservation (SINC). The application was supported by a Preliminary Ecological Appraisal Report (PEA) by Aecom (November 2015) and this report was assessed by the Council's Biodiversity officer.
- 9.210 The LBTH Biodiversity officer has concluded that on the whole, the application site has no significant habitats; however, Site A has the potential to support bats and Black Redstarts, which are protected species. Also, two features with low potential to support low-value non-maternity roosts for single or small numbers of bats were found on site A. It was noted that there are missing bricks near the western corner of 125-129 Wapping High Street and loose flashing on Baltic Court. Whilst it is accepted that the latter building is not part of the development site, any proposed new buildings immediately adjacent would still impact on this potential roost. It is noted that many residents have mentioned the presence of bats in the area. Whilst this may be so, officers would ensure that the recommendations of the PEA report are adhered to and correct procedures are used to remove these features so that bats do not remain in these places or get trapped.
- 9.211 The Local Planning Authority would therefore strongly request that these features are made unsuitable for roosting bats (either by demolition or by preventing bats access) during November to February inclusive. During these months, there is no chance that bats would be using these features. Should this work not take place between the specified months, then an ecologist would be required to undertake a check to confirm the absence of roosting bats. This would be secured by specifically worded conditions and would need to be discharged prior to the commencement of works on this particular part of the site.

- 9.212 Furthermore, the Biodiversity Officer has recommended that a number of other conditions be imposed to secure the maximum ecological value from the development proposals. These conditions would require the submission of a further bat survey, details of biodiverse roofs, substrate depth and type, planting and additional habitats, landscaping and details of bat and bird nesting boxes, including numbers and locations of these boxes.
- 9.213 Having regard to the concerns of residents and the imposition of robust conditions in line with the PEA and advice of the Council's Biodiversity officer, to secure the necessary mitigation and enhancements, it is considered that the proposal would have an acceptable impact on biodiversity and would be in accordance with relevant policies as detailed above.

### **Planning Obligations**

- 9.214 Core Strategy Policy SP13 seeks planning obligations to offset the impacts of the development on local services and infrastructure in light of the Council's Infrastructure Delivery Plan (IDP). The Council's draft Planning Obligations SPD (2015) sets out in more detail how these impacts can be assessed and what the appropriate mitigation could be. The Council adopted a Borough-level Community Infrastructure Levy on April 1<sup>st</sup> 2015. Consequently, planning obligations are much more limited than they were prior to this date, with the CIL levy used to fund new education, healthcare and community facilities to meet the additional demand on infrastructure created by new residents.
- 9.215 The NPPF requires that planning obligations must be:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and,
  - Fairly and reasonably related in scale and kind to the development.
- 9.216 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. Furthermore, Regulation 123 stipulates that a planning obligation must not constitute a reason for the grant of planning permission if it provides for the funding or provision of any type of infrastructure which appears on the local planning authority's Regulation 123 infrastructure list.
- 9.217 The applicant has agreed to meet the following planning obligations. The financial obligations secured include:
- Financial contributions:
- a) £19,464 construction phase employment training
  - b) £832 end-user phase employment training
  - c) £12,600 carbon off-setting
  - d) £10,000 towards the cost of three disabled on street car parking spaces
  - e) Monitoring fee of £3,500 (equivalent to £500 per each substantial Head of Terms)



Total financial contribution: £46, 396 including monitoring contribution.

9.218 Non-financial contributions:

- f) On-site affordable rented housing consisting of 2 x one bedroom, 4 x two bedroom and 5 x three bedroom units at Borough Framework Levels inclusive of service charges (including 2 two bed wheelchair units)
- g) 1 x one bedroom and 2 x three bedroom intermediate units
- h) Annual income for social and intermediate housing to be capped
- i) Access to employment
  - 20% local procurement
  - 20% local labour in construction
- j) 6 apprenticeships delivered during the construction phase
- k) Car and Permit Free
  
- l) Compliance with the Code of Construction Practice

9.219 All of the above obligations are considered to be in compliance with aforementioned policies, the NPPF and the Regulations 122 and 123 tests.

9.220 With regard to affordable housing provision, the applicant has submitted a Financial Viability Assessment which has been independently reviewed by consultants appointed by the Council. Officers are satisfied that the proposal would deliver the maximum amount of affordable housing that could be supported by the viability of the scheme without threatening the deliverability of the development.

### **Financial Considerations**

9.221 Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that the 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.

9.222 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.

9.223 In this case, the proposed development would be liable for Tower Hamlets and the London Mayor’s Community Infrastructure Levy.

9.224 Mayor of London CIL liability is estimated to be £114,450 (following estimated social housing relief (£55,860)).

- 9.225 Tower Hamlets CIL liability is estimated to be £650,240 (following estimated social housing relief (£319,200))
- 9.226 Using the DCLG's New Homes Bonus Calculator, this development is likely to generate approximately £63,482 of New Homes Bonus in the first year and a total payment of £380,890 over 6 years.

### **Health Considerations**

- 9.227 Policy 3.2 of the London Plan (MALP 2016) seeks to improve health and address health inequalities having regard to the health impacts of development proposals while the Council's policy SP03 of the Core Strategy seeks to deliver healthy and liveable neighbourhoods that promote active and healthy lifestyles, and enhance people's wider health and well-being.
- 9.228 The proposal raises no unique health implications, and would not prejudice the opportunity of, residents, neighbours or members of the public to benefit from appropriate living conditions and lead healthy and active lifestyles. The play space and communal amenity space proposed would adequately meet the policy requirements. The standard of the proposed residential accommodation would be high, commensurate with the high density of the scheme.

### **Human Rights Considerations**

- 9.229 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:-
- 9.230 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and,
  - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".
- 9.231 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.

- 9.232 Were Members not to follow Officer's recommendation, they would need to satisfy themselves that any potential interference with Article 8 rights will be legitimate and justified.
- 9.233 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 9.234 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 9.235 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.
- 9.236 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered.

### **Equalities Act Considerations**

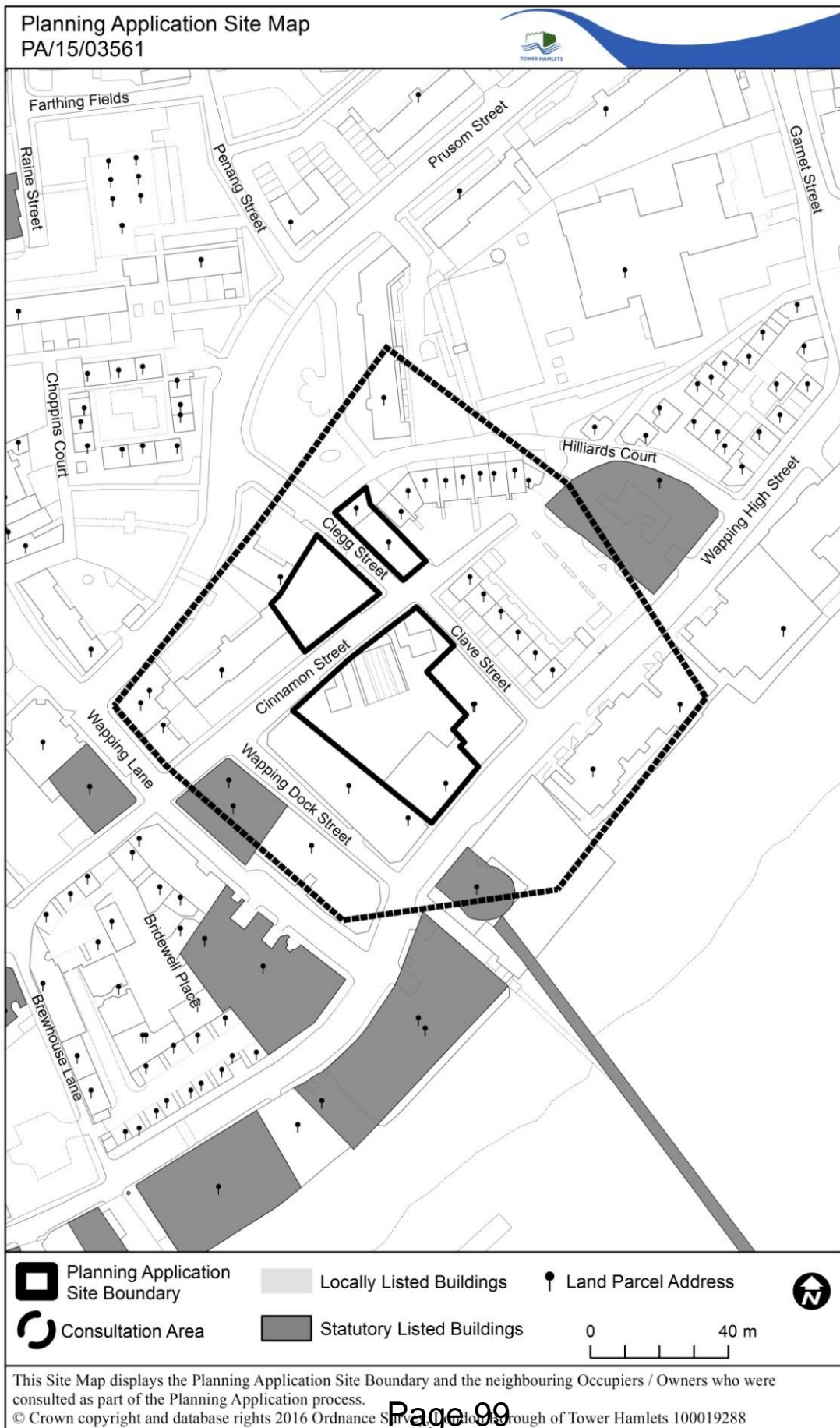
- 9.237 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due 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:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.238 The residential units and commercial floor space within the development meet the standards set in the relevant regulations on accessibility. Of the residential units proposed within the development, 10% would be wheelchair accessible. The design standards across the three sites offer significant improvements in accessibility and would benefit future residents or visitors with disabilities or mobility difficulties, and other groups such as parents with children.
- 9.239 Furthermore, the proposed contributions towards the Tower Hamlets CIL, large affordable housing, commitments to use local labour and services during construction, apprenticeships and employment training schemes, provision of a 37% quantum of high quality affordable housing and improvements to permeability would help mitigate the impact of real or perceived inequalities and would serve to support community wellbeing and promote social cohesion.
- 9.240 The proposed development and uses as a consequence are considered to have no adverse impacts upon equality and social cohesion

## **10.0 CONCLUSION**

- 10.1 All other relevant policies and considerations have been taken into account. Planning Permission should be approved for the reasons set out in the RECOMMENDATIONS section at the beginning of this report.

## SITE MAP

11.1 Please refer to the next page of this report.



This page is intentionally left blank

## LONDON BOROUGH OF TOWER HAMLETS

### DEVELOPMENT COMMITTEE

28 September 2016

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

---

Agenda item no	Reference no	Location	Proposal / Title
5.1	PA/15/03561	Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London E1W	Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

#### 1.0 Clarifications

- 1.1 Paragraph 3.2 – condition 29 to also include a requirement for extended noise surveys to account for any additional noise sources, and details of mitigation.
- 1.2 Paragraph 9.57 makes reference to Commercial Street and this is incorrect. The sentence “*The building would be faced.... existing building.*” should be omitted.
- 1.3 Paragraph 9.160 the sentence 12 Clave Street to Site C should read 10.3m rather than 103m.
- 1.4 Paragraph 228 - delete the sentence ‘~~The gym and swimming pool available to the private and intermediate tenures would serve to promote active and healthy lifestyles.~~’ This is a drafting error and an incorrect statement and is deleted.
- 1.5 Drawing number (03)-E-002 PL00 has been revised and should read as (03)-E-002 PL01.
- 1.6 Figure 16 – should refer to intermediate units rather than intermediate (shared ownership) units”.

#### 2.0 Consultation Updates

- 2.1 Mayor John Biggs has received a number of objections directly from local residents which he has considered and has been noted by Officers. It is acknowledged that the Mayor is not part of the decision making process for planning applications.
- 2.2 Since the publication of the committee agenda, two addendums to objections have been received. These are from neighbouring residents but do raise any

material considerations which have not already been addressed in the Officer report.

- 2.3 The Council's Noise Pollution Team Manager confirmed that his long serving officers were not aware of complaints of cold tar sucking activities in Wapping

### **3.0 RECOMMENDATION**

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



# Agenda Item 4.2

<b>Committee:</b> Development Committee	<b>Date:</b> 23 <sup>rd</sup> November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
---	---	--	----------------------------

<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Application for Planning Permission
<b>Case Officer:</b> Chris Stacey-Kinchin	<b>Ref No:</b> PA/15/03433
	<b>Ward:</b> Mile End

## 1. APPLICATION DETAILS

- Location:** Harley House and Campion House, Frances Wharf, London
- Existing Use:** Class C3 (Residential) at upper levels, Class A1 (Retail) at ground floor
- Proposal:** Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units along with the reconfiguration of 1 existing unit

## 2. **BACKGROUND**

- 2.1 This application for planning permission was considered by the Development Committee on 28<sup>th</sup> September 2016. A copy of the original report is appended.
- 2.2 Members were minded to REFUSE planning permission on the following grounds:
- The density of the proposal given the failure to meet the special circumstances criteria in the London Plan density matrix, enabling applications to exceed the recommended density range.
  - Impact on the amenity of the existing residents in terms of loss of sunlight and daylight, noise, access to the building and disturbance during the construction phase.
  - Incremental development in view of the planning history of the site.
  - That the design of the proposal would undermine that of the main development.
- 2.3 In accordance with Development Procedural Rules, the application was **DEFERRED** to a later committee to enable officers to prepare a deferral report to provide wording for reasons for refusal and provide commentary on the detailed reasons for refusal on the application.

## 3. **IMPLICATIONS ARISING FROM A DECISION TO REFUSE THE APPLICATION**

- 3.1 In the event that the Committee resolves to refuse the application, the following options could be exercised by the applicant.
- 3.2 The applicant could withdraw the application and later approach the Council for further pre-application advice on an amended proposal and thereafter submit new applications.

- 3.3 The applicant could exercise their right to appeal to the Secretary of State against the Council's decision and lodge an application for costs. The appeal would be determined by an independent inspector appointed by the Secretary of State.

#### **4. RECOMMENDATION**

- 4.1 Officers' original recommendation as set out in the officers' report for Development Committee on 28<sup>th</sup> September 2016 to **GRANT** planning permission for the proposal remains unchanged.

- 4.2 However, if Members are minded to refuse planning permission for this scheme, then the proposed refusal reasons are as follows:

##### Reasons for Refusal:

##### Density

1. The proposed development by reason of its excessive density constitutes overdevelopment of the site, which is exhibited by the resulting inadequate access to sunlight and daylight for neighbouring residential properties. There is no exceptional circumstance to justify exceeding the advised density range for this development site. The development is contrary to the NPPF, policies 3.4 of the London Plan (MALP 2016), SP02 of the Core Strategy (2010) and the London Plan Housing SPG (2016).

##### Amenity

2. The proposed additional storeys at 7<sup>th</sup> and 9<sup>th</sup> floor levels, by reasons of their siting, form and mass would result in unacceptable sunlight and daylight failures to existing residential units and the construction of the development would result in an unacceptable level of noise, vibration and dust pollution for existing residents and building occupiers. The proposal is therefore contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policy DM25 in the Managing Development Document (2013), along with the objectives set out in the National Planning Policy Framework (2012), which seek to ensure that development safeguards the amenity of surrounding existing and future residents and building occupants.

##### Incremental Development

3. The absence of a policy complaint affordable housing provision for this incremental development would fail to ensure the development contributes to the creation of socially balanced and inclusive communities. As a result the proposal is contrary to policy SP02 (3) which requires housing development to provide 35%-50% affordable housing on all sites providing a total of 10 or more residential units.

##### Design

4. The proposed additional storeys to the existing building at 7<sup>th</sup> and 9<sup>th</sup> floor levels, by reasons of its scale, bulk and appearance; and when considered in conjunction with the overall character of its immediate environs, would have a detrimental effect on the appearance and character of the surrounding area and the adjacent Limehouse Cut conservation area. The proposal is therefore

contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policies DM24 and DM27 in the Managing Development Document (2013), along with the objectives set out in the National Planning Policy Framework (2012), which seek to ensure that development is appropriate in terms of design, is sensitive to and enhances the local character and its setting, and protects and enhances the borough's heritage assets.

This page is intentionally left blank

<b>Committee:</b> Development	<b>Date:</b> 28 <sup>th</sup> September 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
----------------------------------	--	--	----------------------------

<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Chris Stacey-Kinchin	<b>Ref No:</b> PA/15/03433
	<b>Ward:</b> Mile End

## 1.0 APPLICATION DETAILS

**Location:** Harley House and Campion House, Frances Wharf, London

**Existing Use:** Class C3 (Residential) at upper levels, Class A1 (Retail) at ground floor

**Proposal:** Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units along with the reconfiguration of 1 existing unit

**Drawings and documents:** 3389.6.OS  
3389.S.1  
3389.S.2  
3389.S.3  
3389.S.4  
3389.S.5  
3389.S.6  
3389.S.7  
3389.S.8  
3389.S.9  
3389.S.10  
3389.S.11  
3389.S.12  
3389.P.10, Rev A  
3389.P.20, Rev A  
3389.P.30, Rev B  
3389.P.40, Rev B  
3389.P.50, Rev B  
3389.P.60, Rev B  
3389.P.70, Rev A  
3389.P.80, Rev B  
3389.P.90, Rev B  
3389.P.100  
3389.P.110, Rev B

3389.P.120, Rev B  
3389.P.130, Rev A  
3D Images  
3389/Planning/DAS, Nov 2015  
Planning Statement, Nov 2015  
3389/RT/Planning, 28/01/2016  
Energy Statement V2.0, 15/07/2015  
43462/IM, 04/08/2015  
50739/IM/EB, 29/06/2016  
10865-NEA-01, 29/02/2016

**Applicant:** Frances Wharf LLP

**Ownership:** Frances Wharf LLP  
A2 Dominion  
Individual Leaseholders

**Historic Building:** None

**Conservation Area:** Site is adjacent to Limehouse Cut Conservation Area

## 2.0 EXECUTIVE SUMMARY

- 2.1 This application is reported to the Development Committee as the proposal has attracted a total of 26 letters in objection from nearby residents.
- 2.2 This application has been considered against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2013) as well as the London Plan 2016 and the National Planning Policy Framework and all other material considerations.
- 2.3 The proposal is for the extension of the existing building at 7<sup>th</sup> and 9<sup>th</sup> floor levels to provide an additional 6 residential units (3 x market units and 3 x intermediate units) along with the reconfiguration of 1 existing residential unit (from a 3 bed to a 2 bed unit). It is also proposed to reconfigure the existing 7<sup>th</sup> floor external communal amenity space and re-provide it across both the 7<sup>th</sup> and 8<sup>th</sup> floor levels, and provide new child play space at ground floor level.
- 2.4 The addition of 6 new residential units along with the reconfiguration of 1 existing residential unit on this site can be considered to be acceptable and accords with Policy 3.3 of the London Plan (2016), Policy SP02 of the Core Strategy 2010 and Policy DM3 of the Managing Development Document 2013.
- 2.5 The proposed mix and standard of the additional residential accommodation being proposed and the associated amendments being proposed to the communal external amenity space provision and child play space on site is considered to be acceptable. The proposal therefore accords with Policies 3.3, 3.4, 3.5, 3.6, 3.8, 3.12, 7.2 of the London Plan (2016), Policy SP02 of the Core Strategy 2010 and Policies DM3 and DM4 of the Managing Development Document 2013.

- 2.6 Subject to safeguarding conditions, it is considered that the development would not have an unacceptable impact on the amenity of adjoining residents in terms of noise, overlooking, natural light and construction impacts in accordance with Policy SP10 of the Core Strategy 2010 and Policy DM25 of the Managing Development Document 2013.
- 2.6 The proposed design of the extensions to the existing building at 7<sup>th</sup> and 9<sup>th</sup> floor levels are considered acceptable as they complement the existing building by matching the material palette and architectural detailing of the existing building below. The proposal therefore accords with Policies 7.4 and 7.6 of the London Plan (2016), Policies SP10 of the Core Strategy 2010 and Policies DM24 and DM27 of the Managing Development Document 2013.
- 2.7 Subject to the management of the impacts through the use of conditions, the proposed development would not unacceptably impact on the public transport network or the highway. This would accord with Policies 6.3, 6.9 and 6.13 of the London Plan (2016), Policy SP09 of the Core Strategy 2010 and Policies DM20 and DM22 of the Managing Development Document 2013.
- 2.8 The refuse provision on site is generally considered to be acceptable in accordance with Policy 5.17 of the London Plan (2016), Policy SP05 of the Core Strategy 2010 and Policy DM14 of the Managing Development Document 2013.
- 2.9 Subject to conditions, it is considered that the proposed development is acceptable with regard to energy and sustainability considerations. This would accord with Policies 5.2, 5.3 and 5.7 of the London Plan (2016), Policy SP11 of the Core Strategy 2010 and Policy DM29 of the Managing Development Document 2013.

### 3.0 RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to:
- a) That the Corporate Director of Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:
  - b) A unilateral undertaking to secure the proposed affordable housing offer

### 3.2 Conditions on planning permission

1. Time limit
2. Development to be built in accordance with the approved plans (*compliance*)
3. Proposed materials to match existing and details of proposed materials to be submitted for approval (*pre-commencement*)
4. Construction management plan (*pre-commencement*)
5. Risk assessment and method statement (*pre-commencement*)
6. Programme of works and mitigation for lift works (*pre-commencement*)
7. Full details of the proposed PV array and compliance with approved energy strategy (*pre-commencement*)
8. Details of new communal amenity space and child play space (*pre-commencement*)
9. Details of obscuring glazing to 7<sup>th</sup> floor corridor (*pre-commencement*)
10. Permit free agreement (*pre-occupation*)
11. Cycle parking (*compliance*)
12. Proposed glazing to comply with recommendations in noise report (*compliance*)
13. Refuse (*compliance*)

14. Hours of construction works (*compliance*)

### 3.3 **Informatives on planning permission**

1. Canal and River Trust code of practice for works

## 4.0 **LOCATION AND PROPOSAL DETAILS**

### **Site and Surroundings**

- 4.1 The application site is the Frances Wharf development on Burdett Road which is a 5-10 storey 'stepped' residential block which features 101 residential units along with a 'Tesco Express' retail store at ground floor level, and is focused around a small private courtyard. The Frances Wharf development comprises of Harley House and Champion House which both benefit from their own entrance cores, with the former sitting adjacent to the Limehouse Cut Canal and the latter sitting adjacent to Thomas Road. It should be noted that the original development permitted (PA/05/01337) at Frances Wharf contained 90 residential units, and subsequently an additional 11 units have been approved and provided on site through alterations to the existing building (see relevant planning history section below).
- 4.2 The building is clad in a variety of materials, namely white render, red brick, timber cladding and grey cladding panels, and also features a number of protruding balconies with glazed upstands. It should be noted that the upper portions of the building, which are slightly set back from the main portion of the building below and comprise of parts of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floors fronting Burdett Road are clad entirely in white render which 'caps off' the top of the building.
- 4.3 The subject site is located on the east side of Burdett Road directly to the north of the Limehouse Cut Canal, which sits in the adjacent Limehouse Cut conservation area, and to the south of Thomas Road. On the opposite side of Burdett Road sits a retail superstore housed in a single storey structure with associated car parking, whilst to the north of the site (on the opposite side of Thomas Road) sits a large residential block rising to 11 storeys at its southern end. To the south of the site (on the opposite side of Limehouse Cut) sits a vacant piece of land known as 307 Burdett Road, however it should be noted that this site does currently benefit from planning permission for the erection of an 11 storey residential block. Directly to the east of the site sits a small business park comprising of two 3 storey blocks along with associated parking in the centre of the site.
- 4.5 The site does not sit within a flood zone or an archaeology priority area and does not feature any trees within its curtilage. The site has a PTAL rating of 4 indicating a good level of public transport accessibility and is located within controlled parking zone B2 which is in operation between 8:30am to 5:30pm Monday to Friday with residents parking bays.

### **Proposal**

- 4.7 The applicant seeks full planning permission to extend the existing building at 7<sup>th</sup> floor and erect an additional level to provide an additional 6 residential units along with the reconfiguration of 1 existing residential unit (from a 3 bed to a 2 bed unit). It is also proposed to reconfigure the existing 7<sup>th</sup> floor external communal amenity space and re-provide it across both the 7<sup>th</sup> and 8<sup>th</sup> floor levels, and provide new child play space at ground floor level.



- 4.8 The proposed development will provide a total of 411sqm of additional residential (class C3) floor space, comprising of 3 x 1 bed units, 2 x 2 bed units and 1 x 4 bed unit. The applicant proposes to provide to deliver the 3 x 1 bed units as 'shared ownership' units, whereas the 2 x 2 bed units and 1 x 4 bed unit are to be delivered as market units.
- 4.9 In order to service the proposed extensions at 7<sup>th</sup> and 9<sup>th</sup> floor levels the applicant intends to extend the lift and stair cores of both Harley and Campion House by 1 storey. It is also proposed to provide additional refuse and cycle parking facilities to accommodate the additional residential units being proposed.

### **Relevant Planning History**

#### *Application Site:*

- 4.12 PA/04/01682 – Demolition of existing building and relocation of sub-station and redevelopment of the site by a 9 storey mixed use building to create 107 residential units and 1,930 sq.m of offices with associated landscaping. (Application withdrawn 08/08/2005)
- 4.13 PA/05/01337 – Demolition of existing building and erection of a 4 to 9 storey mixed use building with basement to create 90 residential units (30 x one-bedroom, 40 x two-bedroom, 20 three-bedroom) and 947 sq.m of offices (Use Class B1) at basement and ground floor level. Creation of a public walkway and associated landscaping. (Permission granted 07/06/2007)
- 4.14 PA/09/02132 – Conversion of two, 2 bedroom duplex apartments to four units (1 x Studio, and 3 x 2 Bed) including the addition of a balcony within a residential apartment block permitted under reference PA/05/1337. (Permission granted 25/03/2010)
- 4.15 PA/09/02423 – Variations to legal agreement dated 7th June 2007 associated with planning permission reference PA/05/01337. (Permission granted 25/03/2010)
- 4.16 PA/12/01961 – Conversion of redundant spaces associated with unused B1 commercial units into 1no. (comprising 1 x 1 bedroom 2 person) duplex. Residential unit will be within the existing development. Development will be on the Lower Ground Floor and Ground Floor levels. (Permission granted 26/09/2012)
- 4.17 PA/12/01962 – Conversion of redundant spaces associated with unused B1 commercial units into 1 no. (comprising 1 x 3 bedroom 5 person) duplex. Residential unit will be within the existing development. Development will be on the Ground Floor and Mezzanine Levels. (Permission granted 10/09/2012)
- 4.18 PA/12/02000 – Change of use and conversion of vacant B1 commercial units into 4no. (comprising 4 x 2 bedroom 3 person) flats. Residential units will be within the existing development. Development will be in the Lower Ground Floor and Ground Floor. (Permission granted 26/09/2012)
- 4.19 PA/12/03364 – Extension and upgrade of concierge and entrance area, to include improved an enlarged concierge and lobby, storage and a self-contained flat in the mezzanine. Development will be on the Ground Floor and Mezzanine Levels, and will be situated within the entrance to the development off Burdett Road. (Permission granted 14/02/2013)

- 4.20 PA/12/03366 – Change of use and conversion of vacant B1 commercial units into 2no. (comprising 2 x 2 bedroom 3 person) duplex units. Residential units will be within the existing development. Development will be on the Ground Floor and Mezzanine Levels. (Permission granted 25/02/2013)
- 4.21 PA/13/01529 – Application for a non-material amendment for the following alterations following grant of planning permission (PA/12/3364), dated 14.02.13: (Permission granted 18/07/2013)
- 4.22 PA/14/01495 – Alteration and enlargement of site 5 (unit 6) from a 2 bedroom apartment to a 3 bedroom apartment, to include the set back of the existing entrance door, conversion of existing plant room into a bedroom and the provision of a balcony at first floor level. (Permission granted 28/07/2014)
- 4.23 PA/15/02258 – Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units of use class C3 along with reconfiguration of 1 existing unit. (Application withdrawn 05/11/2015)

*Neighbouring Site (307 Burdett Road):*

- 4.24 PA/08/01796 – Redevelopment of site involving the erection of a part 6 and part 11 storey building and lower ground floor level adjacent to Limehouse Cut to provide 56 residential units, 658 square metres of commercial space (Use Classes A1/A3/A4) at ground and lower ground floor level, cycle parking, amenity space and other associated works. (Application withdrawn 11/12/2008)
- 4.25 PA/09/00214 – Redevelopment of the site involving the erection of a part 6 and part 11 storey building and lower ground floor level adjacent to Limehouse cut to provide 56 residential units, 658 square metres of commercial floorspace (Use Classes A1/A3 and A4) at ground and lower ground floor level, cycle parking, amenity space and other associated works. (Permission refused 06/01/2010 and allowed by appeal APP/E5900/A/10/2131760/NWF 17/05/2011)
- 4.26 PA/13/01656 – Minor Material Amendments to Planning Permission ref: PA/09/214 dated 17 May 2011 for the redevelopment of the site involving the erection of a part 6 and part 11 storey building and lower ground floor level adjacent to Limehouse cut to provide 56 residential units, 658 square metres of commercial floorspace (Use Classes A1/A3 and A4) at ground and lower ground floor level, cycle parking, amenity space and other associated works.  
Proposed amendments:  
1. internal rearrangement of the consented building resulting in a reduction in units to 42  
2. internal rearrangement to amend the proposed employment floorspace at ground floor to provide child play space for the residential units. (Permission granted 10/06/2014)
- 4.27 PA/13/01764 – Application for a non-material amendment following a grant of planning permission. Erection of a part 6 and part 11 storey building and lower ground floor level adjacent to limehouse cut to provide 42 residential units, with associated child playspace at ground level, cycle parking, amenity space and other associated works. (Application withdrawn 05/08/2013)
- 4.28 PA/14/00153 – Application for a Non-material Amendment to vary the wording of condition no. 3 (landscaping scheme), no. 5 (wheelchair adaptable units), no. 6

(renewable energy), no. 8 (elevation drawings), and no. 12 (floor levels) of planning permission dated 17/05/2011, ref: PA/09/00214. (Permission granted 20/02/2014)

- 4.29 PA/14/00332 – Application for a Non-Material amendment to condition 7 (risk assessment and method statement) of Planning Permission PA/09/00214, dated 17/05/2011 to amend the trigger for submission of the details required by this condition. (Permission granted 07/03/2014)
- 4.30 PA/14/00386 – Application for a Non-Material amendment to condition 9 (contaminated land site investigation) of Planning Permission PA/09/00214, dated 17/05/2011 to amend the trigger for submission of the details required by this condition. (Permission granted 10/03/2014)
- 4.31 PA/15/01397 – Application for non-material amendments for planning permission PA/13/1656 dated 10/06/2014:
- Reconfiguration of plant areas, removal and relocation of louvers on the east elevation
  - Introduction of a new pedestrian access on Dod Street and reconfiguration of the fenestration;
  - Re-arrangement of bicycle racks, 36 cycle spaces are proposed at ground floor level with a further 60 spaces on lower ground floor level
  - The removal of the vertical ladders to the external envelope to reduce security risk
  - Minimal increase in parapet heights to facilitate (where possible) a clear 2.5 metre floor to ceiling height as well as increased balustrade height to 1.5 metres to the 6th floor roof terrace
  - Revisions to the ground floor residential and child play space entrance to meet disable access requirements
  - First floor roof terrace extended over the plant located at ground floor to provide residents with additional amenity
  - Garden store on the 6th floor has been redesigned to house additional plant located adjacent to the stair core
  - Revisions to the proposed material palette (Permission granted 08/04/2016)
- 4.32 PA/16/01385 - Non-material amendment (S96A) following grant of Minor Material Amendment application (S73) approved under PA/13/01656 dated 10/06/2014. Amendments sought: Revision to wording of Condition 14 to allow the development to be implemented in accordance with the CLP documents approved under PA/14/00324 and addendum prepared by Steer Davies Gleave dated January 2016. (Permission granted 17/06/2016)

## **5.0 POLICY FRAMEWORK**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 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:

### 5.3 **Government Planning Policy**

National Planning Policy Framework 2012  
National Planning Practice Guidance 2016

### 5.4 **London Plan (Consolidated with Alterations since 2011) 2016**

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  
3.8 – Housing choice  
3.12 – Negotiating affordable housing on individual private residential and mixed use schemes  
5.2 – Minimising carbon dioxide emissions  
5.3 – Sustainable design and construction  
5.17 – Waste capacity  
6.3 – Assessing effects of development on transport capacity  
6.9 – Cycling  
6.13 – Parking  
7.1 – Lifetime neighbourhoods  
7.2 – An inclusive environment  
7.4 – Local character  
7.6 – Architecture  
7.15 – Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes  
7.30 – London’s canals and other rivers and waterspaces

### 5.5 **Core Strategy 2010**

SP02 – Urban living for everyone  
SP04 – Creating a green and blue grid  
SP05 – Dealing with waste  
SP09 – Creating attractive and safe streets and spaces  
SP10 – Creating distinct and durable places  
SP11 – Working towards a zero-carbon borough  
SP12 – Delivering placemaking

### 5.6 **Managing Development Document 2013**

DM3 – Delivering homes  
DM4 – Housing standards and amenity space  
DM12 – Water spaces  
DM14 – Managing waste  
DM20 – Supporting a sustainable transport network  
DM21 – Sustainable transportation of freight  
DM22 – Parking  
DM24 – Place-sensitive design  
DM25 – Amenity  
DM27 – Heritage and the historic environment  
DM29 – Achieving a zero carbon borough and addressing climate change

### 5.7 **Supplementary Planning Documents**

London Plan Housing Supplementary Planning Guidance (2016)

Limehouse Cut Conservation Area (adopted August 2011) character appraisal and management guidelines

## **6.0 CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

### **LBTH Access Officer**

6.3 No comments received.

### **LBTH Affordable Housing Officer**

6.4 The proposed affordable housing offer is welcomed.

### **Canal and River Trust**

6.5 The daylight and sunlight assessment included with the submission does not make any reference to the Limehouse Cut, and any additional overshadowing that may be caused by the extension, the CRT would request that this be considered. As the development would bring more people to the canal side the CRT would request that a contribution be made towards the improvement of the canal environment. If the Council is minded to grant planning permission, it is requested that a condition requiring a risk assessment and method statement is imposed.

### **Crime Prevention Officer**

6.6 No comments received.

### **LBTH Design and Conservation**

6.7 No objections to the amended design.

### **LBTH Energy Efficiency Unit**

6.8 No comments received.

### **LBTH Environmental Health – Noise & Vibration**

6.9 An acoustic report which outlines how the facades of the proposed development have been designed to meet the daytime and night time internal acoustic standards set out in BS8233:2014 should be submitted.

### **Transport for London**

6.10 TFL have no objections to the proposed development and welcome the inclusion of 9 cycle parking spaces which meets the relevant standards. Conditions should be imposed upon the proposed development which exempt future residents from applying for local car parking permits and require the submission of a Construction Management Plan.

## **Thames Water**

- 6.11 No objections.

## **LBTH Transportation & Highways**

- 6.12 The proposed development should be secured as car free by way of a S.106 agreement. Officers welcome the addition of cycle parking for the residents of the proposed residential units, and these should be provided in line with FALP standards. The bike store should be safely and conveniently accessible for residents.

## **LBTH Waste Policy & Development**

- 6.13 The proposed development should provide waste storage in line with the shortly to be adopted waste capacity guidelines in order to future proof the development.

## **7.0 LOCAL REPRESENTATION**

- 7.1 A total of 143 letters were sent to neighbours and interested parties. A site notice was also displayed on site and the application was advertised in 'East End Life'.

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

No of individual responses:	Objecting: 26
	Supporting: 0

No of petition responses:	Objecting: 0
	Supporting: 0

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

- The construction of the additional residential units will result in considerable disruption for residents, including noise, dirt and dust. Residents have already been subjected to disruption by previous developments on this site.
- The lift shaft of Harley House will be out of action during construction which will adversely impact upon those who rely on this lift, including those with mobility issues. Residents of Harley House currently do not have access to use the lift in Campion House as an alternative and will therefore be forced to climb up to 8 flights of stairs.
- The proposed development will adversely impact upon the privacy and security of existing residents.
- The proposed development will result in the loss of daylight and sunlight for some residents. The submitted daylight and sunlight assessment is insufficient as it does not assess all of the flats within the existing development.
- The existing facilities on site such as the bin store cannot cope with additional residents.
- The proposed development will make parking in the surrounding area harder and will adversely impact upon traffic congestion in the locality.

- The proposed development is of poor design as it is inconsistent with the existing building, creates a 'top heavy' building and does not respect the local context.
- The proposed development represents an overdevelopment of the site, and will result in an overcrowded building.
- A further 6 'luxury' apartments will not contribute towards the housing crisis, affordable housing solutions are required instead.

## **8.0 MATERIAL PLANNING CONSIDERATIONS**

8.1 This application has been assessed against all relevant policies under the following report headings:

1. Land Use
2. Housing
3. Amenity
4. Design
5. Transportation and Highways
6. Refuse
7. Energy and Sustainability

### **Land Use**

- 8.2 The application proposes to provide 6 new residential units (class C3) and reconfigure 1 existing residential unit (class C3) at 7<sup>th</sup> and 9<sup>th</sup> floor levels.
- 8.3 Policy 3.3 of the London Plan (2016) seeks to ensure that sufficient new housing is brought forward in order to meet demand, in accordance with table 3.1 in the London Plan which sets Borough housing targets.
- 8.4 The Council's Core Strategy policy SP02 seeks to deliver 43,275 new homes (equating to 2,885 per year) from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by supporting new developments which provide housing including infill developments where they meet an identified need and contribute towards creating sustainable communities.
- 8.5 The Council's Managing Development Document policy DM3 supports development which delivers new homes and provides further guidance on how development can help to deliver new homes to meet the full range of needs of existing and future residents of the Borough.
- 8.6 The proposed development seeks to deliver an additional 6 residential units on this site (3 x 1 bed units, 2 x 2 bed units and 1 x 4 bed unit) along with the reconfiguration of 1 existing residential unit (from a 3 bed to a 2 bed unit). This will result in the creation of an additional 411sqm of residential (C3) floor space across the 7<sup>th</sup> and 9<sup>th</sup> levels of the building. Given the fact that this site already features predominantly residential (C3) uses and is located in an area which is predominantly residential, officers are supportive of the principle of the proposed land use.
- 8.7 Considering the above, officers conclude that the proposed development can be supported in land use terms, in accordance with the relevant policies as set out above.

## Housing

- 8.8 The application proposes to provide 6 new residential units and reconfigure 1 existing residential unit (from a 3 bed to a 2 bed unit) at 7<sup>th</sup> and 9<sup>th</sup> floor levels, reorganise the existing external communal amenity space at roof level and provide new child play space at ground floor level.
- 8.9 Policy 3.3 of the London Plan (2016) seeks to ensure that sufficient new housing is brought forward in order to meet demand, whilst policy 3.4 seeks to ensure that development optimises housing output for different types of location. Policy 3.5 seeks to ensure that new residential accommodation is of the highest quality and policy 3.6 seeks to ensure that provision is made within new developments for play and informal recreation. Policy 3.8 seeks to ensure that new residential developments provide a genuine choice of homes that are affordable and policy 3.12 seeks to ensure that local authorities seeks the maximum reasonable amount of affordable housing in all new developments. Policy 7.2 seeks to ensure that development demonstrates how it has incorporated the principles of inclusive design, including the specific needs of older and disabled people.
- 8.10 The Council's Core Strategy policy SP02 seeks to ensure that new housing assists in the creation of sustainable places by optimising the use of the land, delivers the maximum reasonable amount of affordable housing, and is appropriate, high-quality, accessible, well-designed and sustainable. This will be achieved by setting housing design standards, requiring new developments to be compliant with up to date building regulation standards, and ensuring that an adequate level of private and communal amenity space is provided within proposed developments, along with child play space.
- 8.11 The Council's Managing Development Document policy DM3 seeks to ensure that development maximises affordable housing and provides a balance of housing types, including family homes. Policy DM4 seeks to ensure that all housing developments include an adequate provision of internal space in order to provide an appropriate living environment, along with sufficient levels of both private and communal external amenity space in accordance with the London Plan Housing SPG, and also seeks to secure 10% of new housing as either accessible or 'easily adaptable'.
- 8.12 It should be noted that 11 additional market units (1 x studio unit, 1 x 1 bed unit, 7 x 2 bed units and 2 x 3 bed units) have been constructed on this site since the grant of planning permission (PA/05/01337) for the original development of 90 units (see relevant planning history). As the original S.106 agreement specified that the 35% affordable housing provision should be calculated in the form of gross floor space, the above subsequent applications did not qualify for affordable housing contributions as they involved the reorganisation of the existing building and thus did not result in the creation of any additional gross floor space. It should be noted that it is no longer the Council's policy to calculate affordable housing provision in the form of gross floor space.
- 8.13 Whilst the proposed development does result in the creation of new floor space, it should be noted that as the existing development is complete and occupied, officers do not consider that the proposed development can reasonably be considered to be 'incremental development', and are instead treating it as a standalone application (albeit on the same site and physically connected to the existing building). As such the existing provisions relating to affordable housing within the S.106 of the original consent (PA/05/01337) do not apply to this application, and as the proposal only seeks to create an additional 6 residential units, no affordable housing provision is



formally required by policy. Notwithstanding the above however, the applicant has put forward an offer of 3 x 1 bed intermediate units, which equates to 35% of the proposed development by habitable rooms, and this is welcomed by officers. The existing registered provider on site (A2 Dominion) has expressed an interest in these additional units, and this provision will be secured through a Unilateral Undertaking (UU).

- 8.14 The proposed development involves the creation of 3 x 1 bed units, 2 x 2 bed units and 1 x 4 bed unit. This represents an overall mix of 50% 1 bed units, 33% 2 bed units and 17% 4 bed units which officers consider to be broadly acceptable. It should be noted that the 3 x 1 bed units are to be of intermediate tenure, whilst the 2 x 2 bed units and 1 x 4 bed unit are to be of market tenure.
- 8.15 The application site is considered to be in an ‘urban’ location due to the fact that it is greater than 800m walking distance from Canary Wharf major centre (in accordance with table 3.2 in the London Plan), and also has a PTAL rating of 4 (good).

	London Plan Density	Existing Development	Proposed Development
<b>Units/ha</b>	260	459	486
<b>Hab Rooms/ha</b>	700	1327	1400

The above table outlines that the proposed development will have a minimal impact upon the overall density of the existing development. Whilst both the existing and proposed developments do exceed the London Plan density matrix, officers do not consider that the proposed development displays symptoms of ‘overdevelopment’, and the quality of the residential units and their associated amenity spaces is further discussed below.

- 8.16 Officers have assessed the 6 new residential units along with the reconfigured 1 existing residential unit (from a 3 bed to a 2 bed unit) at 7<sup>th</sup> and 9<sup>th</sup> floor levels, and can confirm that they either meet or exceed the housing standards as set out within table 3.3 of the London Plan, in terms of both their internal floor space and the level of private external amenity space that they provide.
- 8.17 As the proposal seeks the creation of under 10 units there is no formal requirement for the development to provide any additional fully wheelchair accessible units in line with Part M4(3) of the Building Regulations. The inclusion of wheelchair turning circles on the plans demonstrates however that accessibility to all of the new units has been considered as part of the design which is welcomed by officers.
- 8.18 The existing development currently provides a communal terrace at 7<sup>th</sup> floor level accessed via the Campion House core for the use of existing residents, and this space measures a total of 316sqm. As part of the proposed development the existing communal amenity space is to be reorganised resulting in a net loss of 33sqm (circa 10%), however it is still substantially above the minimum communal amenity space requirements. It should also be noted that 50sqm of the reorganised communal amenity space is to be provided in the form of child play space at ground floor level, and that none of the existing communal amenity space features any child play space. Given the fact that child play space is now to be provided on site for the first time and that the reorganised communal amenity space is still substantially above the minimum communal amenity space requirements officers are content with the implications of the development on the communal amenity space within the development. Full details of the reorganised communal amenity space and the proposed child play space will be secured by condition.

- 8.19 Considering the above, and subject to the necessary conditions, officers conclude that the proposed development is acceptable in housing terms, and therefore can be seen to be in accordance with the relevant policies as set out above.

### **Amenity**

- 8.20 Officers have assessed the amenity implications of the proposal, including the proposed physical extensions to the building and the impact of the construction phase of the proposal.
- 8.21 According to paragraph 17 of the NPPF local planning authorities should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.22 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that all development protects the amenity of surrounding building occupiers.
- 8.23 The Council's Managing Development Document policy DM25 states that development should seek to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants by not creating unacceptable levels of noise, vibration, artificial light, odour, fume or dust pollution during the construction and life of the development.
- 8.24 The applicant has submitted a daylight and sunlight assessment which outlines the impacts of the proposed development on existing residents and the levels of daylight and sunlight which will be afforded to future occupiers of the additional units. All habitable rooms which face into the existing courtyard of the building have been tested along with a number of windows on the adjacent Argyle Court development and affected windows on the Burdett Road facing elevation of the building. Out of the 98 windows tested, all but 2 experience daylight reductions which are considered acceptable in line with BRE guidance. The two windows which do experience reductions in their daylight which are greater than the recommended levels suggested by BRE do so as a result of a new balcony which is to be placed above them, however it should be noted that their resultant daylight levels will still remain above the minimum recommended levels contained within the BRE guidance, and therefore on balance officers consider that the proposal is acceptable in terms of its daylight impacts on existing residents. No gardens or amenity spaces, as defined in the BRE guidance, are located close enough to the proposed development to be adversely affected by overshadowing from the proposal, and as the Limehouse Cut sits to the south of the proposed development officers do not consider as though the proposal will cause any significant additional overshadowing of this space. Due to the siting of the new residential units officers are content that all of these units will receive adequate levels of daylight and sunlight and this has been confirmed within the daylight and sunlight report.
- 8.25 A number of objectors have raised concerns that the construction of additional units on top of the existing building will result in considerable disruption for residents and will also result in the Harley House lift being out of action during construction works. In order to address the concerns of the objectors the applicant has outlined various measures that will be undertaken during the construction process to minimise disruption to existing residents including: locating equipment, site offices and worksites away from neighbouring properties where reasonable practical; ensuring that standard construction working hours are not exceeded; the use of site hoardings or portable acoustic enclosures/screens; and the use of quieter alternative methods of construction where reasonably practical. Whilst officers appreciate that the above

measures will not completely remove all disturbances to existing residents, through a robust construction management plan which would be secured by condition in the event that permission is granted, officers consider that the proposed works can be undertaken in an acceptable manner where disruption to existing residents is kept to a minimum. With respect to the disruption caused by extending the existing Harley House lift the applicant has confirmed in writing that the majority of the necessary works to the existing lift core can, in the main, be undertaken whilst the existing lift is still operating on the floors below, therefore causing minimal disruption to existing users of the Harley House lift. A condition requiring further details of the programme of works to the Harley House lift prepared by a lift manufacturer will be secured in the event that planning permission is granted to ensure that any disruption to existing residents is kept to a minimum and suitable mitigation measures are put in place during any periods of disruption.

- 8.26 With respect to issues surrounding overlooking, outlook and sense of enclosure for existing residents, officers consider the proposal to be broadly acceptable. At 7<sup>th</sup> floor level the existing unit in the north east corner of Harley House which is most affected by the proposals will still receive a good level of outlook, despite the proposed new additions at this level, and will also still retain a good level of privacy, as the large private external amenity space and the associated planting around it (which will act as a buffer zone) will prevent others from being able to look directly into the unit itself. It should be noted that this unit currently features a similar situation to what is being proposed in the sense that its private amenity space will directly abut a communal amenity space. A condition will be placed on the glazing to the adjacent hallway to ensure that it is obscured so users of this route do not look directly into the adjacent private amenity space. At 8<sup>th</sup> floor level the proposal additional communal amenity space is separated from the nearby existing units by 9m to ensure that existing residents still retain an acceptable level of privacy and this arrangement is considered acceptable by officers. Officers do not consider that the addition of a new 9<sup>th</sup> floor level raises any further amenity issues with regard to overlooking, outlook and sense of enclosure as such units will be located directly above existing units.
- 8.27 With respect to the proposed new residential units the applicant has submitted a noise survey to determine what measures are required to be undertaken to ensure that the proposed new residential units provide a suitable level of amenity for their future occupiers. This survey has stipulated the necessary specification for all new glazing to ensure that the new residential units meet the relevant British standards with respect to noise levels, and a compliance condition stating that new glazing shall meet the specification recommended within this report shall be imposed in the event that planning permission is granted.
- 8.28 Considering the above, officers conclude that the proposed development is acceptable in amenity terms, and therefore can be seen to be in accordance with the relevant policies as set out above.

### **Design**

- 8.29 The application proposes to extend the existing building at 7<sup>th</sup> floor and erect an additional level to provide an additional 6 residential units. No other external alterations to the lower portions of the existing building are proposed.
- 8.30 Policies 7.4 and 7.6 of the London Plan (2016) seek to ensure that proposed buildings are of a high architectural quality and relate well to their surroundings.

- 8.31 The Council's Core Strategy policy SP10 seeks to ensure that proposals promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds.
- 8.32 The Council's Managing Development Document policies DM24 and DM27 seeks to ensure that development is designed to the highest quality standards, incorporating principles of good design. Development is also required to protect and enhance the borough's heritage assets, their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'.
- 8.33 The existing building steps up in height and is part 5, 6, 7, 8 and 10 storeys in height (inclusive of both ground and mezzanine levels). The proposed extensions involve the erection of a 7<sup>th</sup> floor level in the north west corner of the building (above Campion House) along with the erection of a 9<sup>th</sup> floor level above the southern portion of the building (Harley House). The proposal also involves the extension of the existing stair and lift cores by a further level. An 11 storey building sits to the north of the site (Argyll Point) and permission exists for a part 6 and part 11 storey building to the south of the site (307 Burdett Road) on the south side of the Limehouse Cut.
- 8.34 Given both the context of the site, where taller buildings exist (or are approved) to both the site's north and south sides, and the fact that the proposed additional floor will only raise the existing overall height of the building by 2.75m from 30m to 32.75m, officers consider the principle of raising the height of this building acceptable in this instance. As the proposed development seeks to extend the building at both 7<sup>th</sup> and 9<sup>th</sup> floor levels, the 'stepped' form of the building will be retained, and the resultant form of the building with the proposed extensions will appear similar to the building as it is currently stands, albeit with the addition of a further 2.75m in height. Officers have also considered the impacts of the proposal on the adjacent Limehouse Cut conservation area and are content that the proposed development will not have an adverse impact upon the conservation area.
- 8.35 Concerns have been raised by some objectors that the proposed development will result in a 'top heavy' building, however officers consider that in this instance the existing building can accommodate an additional storey without appearing 'top heavy'. It should be noted that the existing building currently features a clearly defined 'top, middle and bottom' to it (highlighted by changes in materials). Both Campion House and Harley House feature single storey 'tops' and double storey 'bottoms', whilst Campion House has a 5 storey 'middle', and Harley House has a 7 storey 'middle'. Due to the fact that the building currently features a double storey 'bottom' and a considerable 'middle' (5/7 storeys), officers consider that a double storey 'top' (as a result of the 7<sup>th</sup> and 9<sup>th</sup> storey extensions) would appear proportionate to the remainder of the building and would neither upset the existing architectural language and order of the building nor result in the building appearing 'top heavy'.
- 8.36 In order to ensure that the proposed extensions at 7<sup>th</sup> and 9<sup>th</sup> floor levels complement and relate to the existing building in an acceptable manner, the same material palette, design details and pattern of openings have been carried through from the existing floors below. Officers consider that this approach is acceptable as it ensures that the additional extensions to the building do not appear incongruous, and instead appear as though they form a portion of the original building as opposed to a later addition.
- 8.37 The layout of the proposed 7<sup>th</sup> floor extension involves the creation of a new internal glazed corridor which will link Campion House to Harley House running directly to the east of the 3 x 1 bed units which it serves. This corridor also provides access to the

7<sup>th</sup> and 8<sup>th</sup> floor external terraces and provides passive surveillance opportunities for the adjacent communal amenity space which is welcomed. The layout of the proposed 9<sup>th</sup> floor extension largely follows the layout of the levels below and features a central hallway which allows residents of the proposed additional residential units to access both the lift and stairs. Officers consider that the proposed layouts of the extensions at 7<sup>th</sup> and 9<sup>th</sup> floor levels are acceptable.

- 8.38 The proposed development involves the reorganisation of the existing communal amenity space at 7<sup>th</sup> floor level and re-provides it across both 7<sup>th</sup> and 8<sup>th</sup> floor levels (in addition to new child play space at ground floor level). The proposed landscaping to these new terraces will feature both hard and soft landscaping which is welcomed as the existing terrace only features hard standing and has no landscaping to it. Full details of both the hard and soft landscaping treatments to the proposed new terraces at 7<sup>th</sup> and 8<sup>th</sup> floor levels will be secured via condition.
- 8.39 Considering the above, officers conclude that the proposed development is acceptable in design terms, and can therefore be seen to be in accordance with the relevant policies as set out above.

### **Transportation and Highways**

- 8.40 The application proposes to provide additional cycle parking spaces within the existing basement bike store for the use of future residents of the proposed 6 additional residential units.
- 8.41 Policy 6.3 of the London Plan (2016) states that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed and that development should not adversely affect safety on the transport network. Policy 6.9 states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum cycle parking standards which are set out in a table which forms a part of policy 6.13.
- 8.42 The Council's Core Strategy policy SP09 (3) seeks to ensure that all new development does not have an adverse impact upon the capacity of the road network.
- 8.43 The Council's Managing Development Document policy DM20 (2) states that development must be able to demonstrate that it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network. Policy DM22 (1 & 4) both state that development will be required to comply with the Council's minimum parking standards in order to ensure suitable provision for cyclists, however it should be noted that these standards have now been superseded by the parking standards set out within the recently adopted London Plan (2016), which this application is being assessed against.
- 8.44 It is proposed to provide an additional 9 cycle parking spaces (in the form of 'Sheffield' stands) in the existing secure bike store at basement level (which is accessed via a lift) for the 6 additional units. Such provision is in line with the current FALP cycle parking standards which require 1 cycle parking space per 1 bed unit, and 2 cycle parking spaces per 2 or larger bed unit and is welcomed. Officers have viewed inside the existing bike store during the site visit and are content that there is sufficient space to provide the additional 9 cycle parking spaces required for the additional units. LBTH Highways officers are also content with the proposed cycle parking provision.

- 8.45 In addition to the provision of adequate cycle parking spaces, officers will impose a condition which requires the applicant to enter into a S.106 agreement in order to prevent future occupiers of the proposed development obtaining parking permits thus securing the development as car free. This will ensure that the development will not exacerbate the existing strain on car parking spaces in the surrounding area nor adversely impact upon traffic congestion in the locality.
- 8.46 In order to understand the potential impacts upon the highway network during the construction phase of the proposal and how they will be mitigated against, the submission of a Construction Management Plan will be conditioned.
- 8.47 Considering the above, and subject to the necessary conditions, officers conclude that the proposed development is acceptable in highways terms, and therefore can be seen to be in accordance with the relevant policies as set out above.

### **Refuse**

- 8.48 The development currently benefits from an existing bin store at ground floor level adjacent to Thomas Road. In order to accommodate the uplift in residential units the applicant proposes to place an additional 2 x refuse bins and 1 x recycling container within the existing bin store.
- 8.49 Policy 5.17 of the London Plan (2016) states that all developments should plan for waste management, and should minimise waste and achieve a high level of performance with respect to reuse and recycling.
- 8.50 The Council's Core Strategy policy SP05 (1) states that the Council will ensure that development implements the waste management hierarchy of reduce, reuse and recycle by ensuring that building users reduce and manage their waste effectively.
- 8.51 The Council's Managing Development Document policy DM14 (2) states that development should demonstrate how it will provide appropriate storage facilities for residual waste and recycling as a component element to implement the waste management hierarchy of reduce, reuse and recycle.
- 8.52 In line with the shortly to be adopted waste capacity guidelines, the proposed 6 residential units will require 665 litres of refuse storage and 450 litres of recyclable storage.
- 8.53 The existing refuse bins and recycling containers within the bin store at ground floor level adjacent to Thomas Road are currently subject to overflowing, however the applicant has demonstrated that there is space within the existing refuse store to accommodate further bins, and officers can confirm that this is the case after visiting the store during a site visit.
- 8.54 In order to cater for the proposed 6 additional residential units and help to alleviate the issue of overflowing bins the applicant proposes to install 2 x 1100 litre refuse bins and 1 x 660 litre recycling container within the existing bin store. As this offer exceeds the waste capacity guidelines for the proposed 6 units by a factor of 2.5, officers are supportive of this element of the proposal.
- 8.55 A condition requiring the installation of the additional bins prior to the occupation of the additional 6 residential units will be imposed in order to secure the proposed refuse provision.

- 8.56 Considering the above, and subject to the necessary conditions, officers conclude that the proposed development is acceptable in refuse terms, and therefore can be seen to be in accordance with the relevant policies as set out above.

### **Energy and Sustainability**

- 8.57 Policies 5.2, 5.3 and 5.7 of the London Plan (2016) seek to ensure that development proposals make the fullest contribution to minimising carbon dioxide emissions, demonstrate that sustainable design standards are integral to the proposal and integrate on-site renewable energy generation, where feasible.
- 8.58 The Council's Core Strategy SP11 seeks to ensure that carbon emission are reduced in non-domestic buildings by supporting non-domestic developments that promote the use of renewable energy technologies and reducing the carbon emissions of all public buildings in the Borough.
- 8.59 The Council's Managing Development Document policy DM29 states that all development will be required to be accompanied by an Energy Assessment to demonstrate its compliance with the Borough's carbon reduction targets and will also need to demonstrate that climate change mitigation measures are maximised within development.
- 8.60 The applicant has submitted an Energy Statement which outlines the measures that are being taken to ensure that the proposed development has been designed with sustainability measures in mind. This document states that the proposed development achieves a 54% CO2 reduction over the baseline Building Regulations through both energy efficiency measures and the incorporation of renewable energy technologies (in this instance a PV array on the roof) which exceeds the policy expectation of a 45% CO2 reduction over the baseline Building Regulations. To ensure that such measures are carried out conditions will be imposed in the event that planning permission is granted to ensure that the development is carried out in line with the submitted Energy Statement and that further information on the design of the proposed PV array is submitted for approval.
- 8.61 Considering the above, and subject to the necessary conditions, officers conclude that the proposed development is acceptable in energy and sustainability terms, and therefore can be seen to be in accordance with the relevant policies as set out above.

## **9.0 HUMAN RIGHTS CONSIDERATIONS**

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a

person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;

- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

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

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

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

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

## **10.0 EQUALITIES ACT CONSIDERATIONS**

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

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



## **11.0 FINANCIAL CONSIDERATIONS**

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

11.1 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the 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.

11.2 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.

11.3 In this context “grants” might include New Homes Bonus.

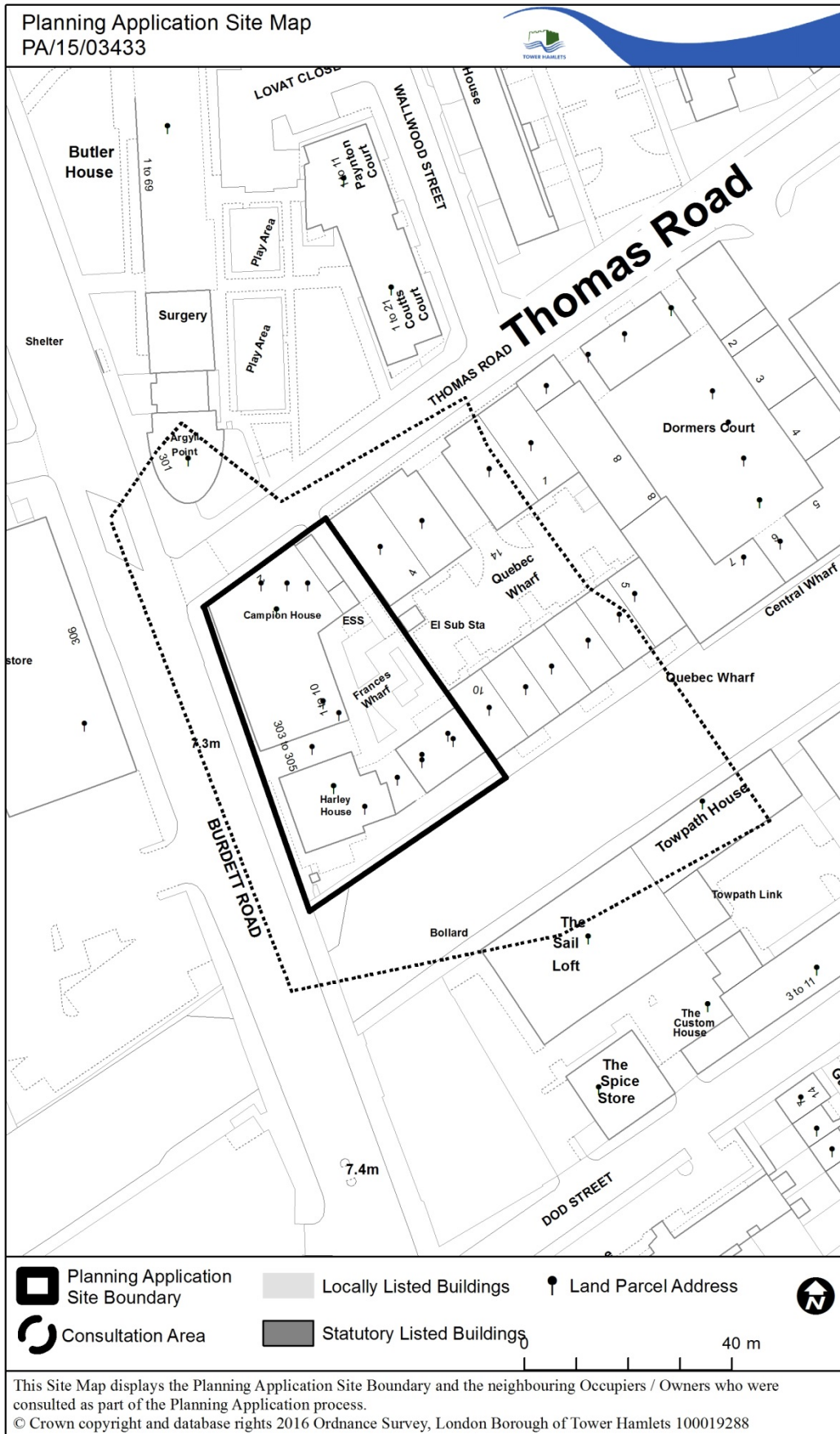
11.4 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012.

11.5 The Borough’s Community Infrastructure Levy came into force from 1st April 2015.

## **12.0 CONCLUSION**

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

13.0 SITE MAP



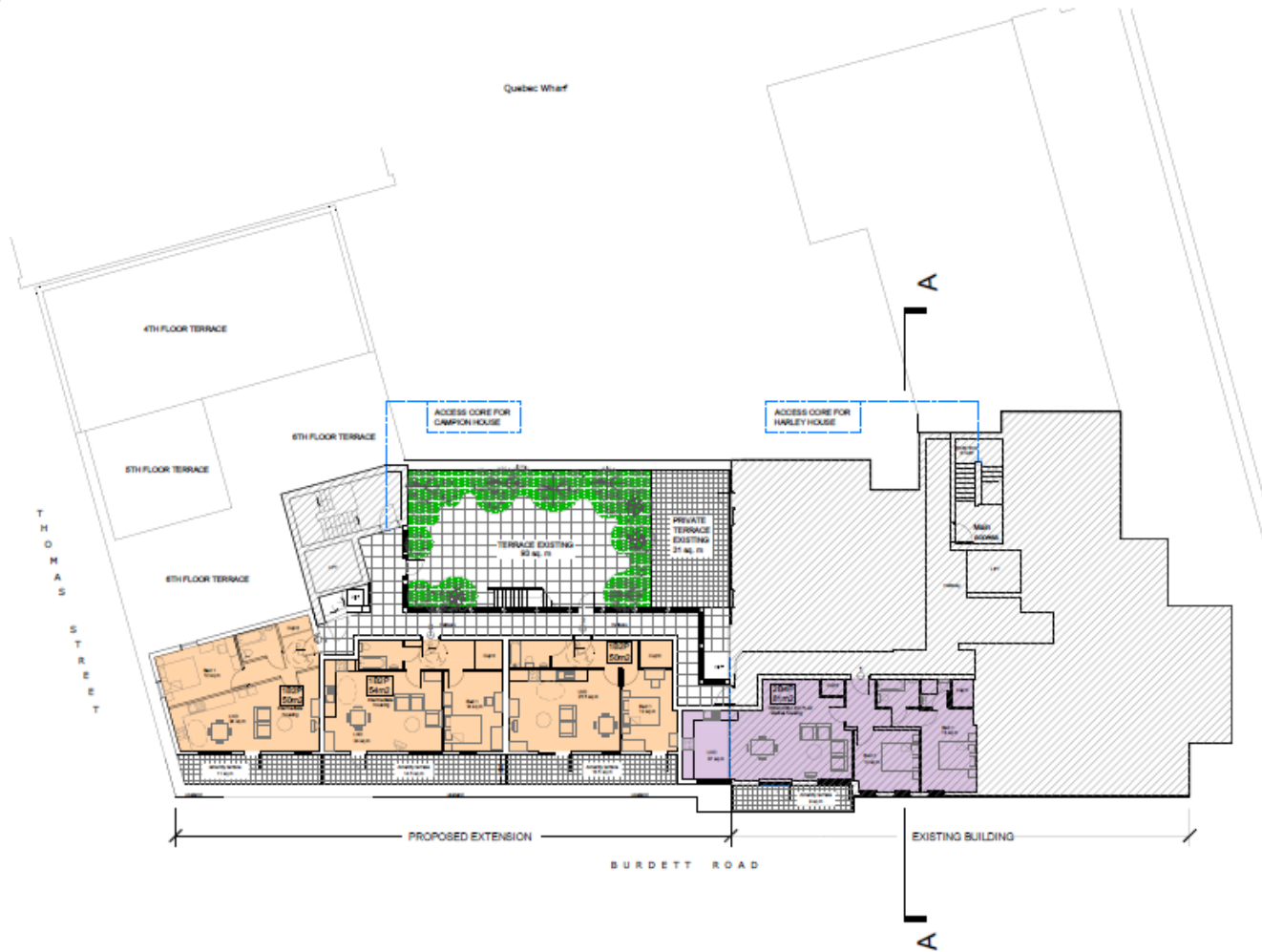
**APPENDIX 1 – PROPOSED PLANS**

**View of proposed development from Burdett Road**



Proposed 7<sup>th</sup> floor plan

Page 130



7th Floor Proposed, 1:200 (A3)



A3  
© 2011 mgl architects

**P30**<sup>B</sup>

---

PLANNING

---

Notes:  
 \*NB - THIS DRAWING HAS BEEN ELECTRONICALLY PRODUCED THEREFORE DO NOT RELY ON ANY SCALES QUOTED WORK ONLY TO FIGURED DIMENSIONS, DO NOT SCALE. ALL DIMENSIONS TO BE CHECKED ON SITE. ANY ERRORS TO BE REPORTED TO THE ARCHITECT IMMEDIATELY.

**LEGEND**

- Existing Structure
- Market housing, 2 bed flat.
- Intermediate housing, 1 bed flat.
- Market housing, 4 bed flat.

---

B Flat 455, layouts amended 09/2016  
 A General amendments 01/2016  
 Rev Details: \_\_\_\_\_ Date: \_\_\_\_\_  
 Project Title:  
 Harley House and Campion House, Frances Wharf, Burdett Road, London, E14

---

Drawing Title:  
 Proposed Seventh Floor Plan

---

Drawing no: 3380.P.30 Revision: B  
 Scale: 1:200 @ A3 Date: 07.08.2014  
 Drawn: \_\_\_\_\_ Checked By: \_\_\_\_\_

---

**mgl architects**  
 Unit 4, Tanners Yard,  
 1/3 Treadway Street,  
 London, E2 6QB  
 t: +44 (0)20 7729 2269  
 f: +44 (0)20 7729 6362  
 e: admin@mgl-architects.com  
 w: www.mgl-architects.com

Proposed 9<sup>th</sup> floor plan

Page 131



9th Floor Proposed, 1:200 (A3)



**P50<sup>B</sup>**

PLANNING

Notes:  
 \*B - THIS DRAWING HAS BEEN ELECTRONICALLY PRODUCED. THEREFORE DO NOT RELY ON ANY SCALES QUOTED. WORK ONLY TO FIGURED DIMENSIONS. DO NOT SCALE. ALL DIMENSIONS TO BE CHECKED ON SITE. ANY ERRORS TO BE REPORTED TO THE ARCHITECT IMMEDIATELY.

Legend	
	Existing Structure
	Market housing: 2 bed flat.
	Intermediate housing: 1 bed flat.
	Market housing: 4 bed flat.

B. 7th floor terrace amended 03/16

A. Amended layouts and balconies 01/16

Rev Details: Date:

Project Title:  
 Harley House and Campton House, Frances Wharf, Burdett Road, London, E14

Drawing Title:  
 Proposed Ninth Floor Plan  
 3no. Penthouse Units

Drawing no: 3389.P.50

Revision: B

Scale: 1:200 @ A3

Date: 07.08.2014

Drawn:

Checked By:

**mgl architects**

Unit 4, Tanners Yard,  
 1/3 Treadway Street,  
 London, E2 6QB

t: +44 (0)20 7729 2289  
 f: +44 (0)20 7729 6382  
 e: admin@mgl-architects.com

This page is intentionally left blank

Agenda item no	Reference no	Location	Proposal / Title
5.2	PA/15/03433	Harley House and Campion House, Frances Wharf, London	Roof extensions at 7th floor and 9th floor levels to provide 6 new residential units of use class C3 along with reconfiguration of 1 existing unit at Harley House and Campion House, Frances Wharf, Burdett Road. (Amended design of roof extensions).

### 1.0 Clarifications

1.1 Paragraph 8.25 discusses the mitigation measures being undertaken to reduce the length of the time that the lift within Harley House will be out of use for. The applicant has clarified that a worst case scenario for these works would result in the lift being out of action for between 10-12 weeks.

### 2.0 Additional Consultation response

1.1 5 further objections were received from local residents.

### 3.0 RECOMMENDATION

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

This page is intentionally left blank



# Agenda Item 4.3

<b>Committee:</b> Development Committee	<b>Date:</b> 23 November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development & Renewal  <b>Case Officer:</b> Jennifer Chivers		<b>Title:</b> Applications for Planning Permission  <b>Ref No:</b> PA/16/01628  <b>Ward:</b> Spitalfields and Banglatown	

## 1.0 APPLICATION DETAILS

**Location:** Holland Estate, Commercial Street, London

**Existing Use:** Residential

**Proposal:** Application for variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1<sup>st</sup> April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.

**Location:** Holland Estate, Commercial Street, London

**Existing Use:** Residential

**Proposal:** PA/16/01628

Application for variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1<sup>st</sup> April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.

**Drawings and documents:**

Drawing Numbers

2195-0500 P01, 2195-0501 P01, 2195-0502 P01, 2195-0503 P01, 2195-0504 P01, 2195-0505 P01, 2195-0506 P01, 2195-0507 P01, 2195-0508 P01, 2195-0509 P01, 2195-0510 P01, 2195-0511 P01, 2195-0512 P01, 2195-0513 P01, 2195-0514 P01, 2195-0515 P01, 2195-0516 P01, 2195-0517 P01, 2195-0600 P01, 2195-0601 P01, 2195-0602 P01, 2195-0603 P01, 2195-0604 P01, 2195-0605 P01, 2195-0606 P01, 2195-0607 P01, 2195-0700 P01, 2195-0702 P01, 2195-0703 P01, 2195-0800 P02, 2195-0801 P02, 2195-0803 P01, 2195-0804 P01, 2195-0806 P01, 2195-0807 P01, 2195-0809 P01, 2195-0815 P01, PL\_L02 Rev A,

Supporting documents

Design and Access Statement (including June 2016 annex)  
Planning, Impact, Design & Access Statement dated 17  
June 2016  
Planning and Regeneration Statement – October 2008  
Phase I Desk Top Study Report – May 2008  
Arboricultural Impact Assessment – 3 October 2008  
Stage D Proposals, Landscape Strategy – October 2008  
Statement of Community Involvement – October 2008  
Project Management Plan – 16 October 2008  
Flood Risk Assessment ref. 5788001704 – August 2008  
Flood Risk Assessment ref. 5788001704 – October 2008  
Site Waste Management Plan – 22 June 2008  
Wind Microclimate Study – 3 October 2008  
Report on the Availability of Natural Daylighting and  
Sunlighting – October 2008  
Noise Assessment – October 2008  
Air Quality Assessment – October 2008  
Archaeological Assessment – June 2008  
Site Utilities Desk Study – December 2008  
Energy Strategy – September 2008  
Transport Assessment – October 2008

**Applicant:** Leaside Planning Limited  
**Ownership:** East End Homes  
**Historic Building:** None  
**Conservation Area:** Adjacent to Wentworth Town Conservation Area

## 2.0 BACKGROUND

- 2.1 This application for planning permission was considered by the Development Committee on 26<sup>TH</sup> October 2016. A copy of the original report is appended as Appendix One.
- 2.2 The Committee resolved to approve the application against the officer recommendation. The Committee were minded to approve the application as they considered that the mitigation of anti-social and public safety concerns contemplated by the proposal outweighed the policy presumption against planning permission in respect of gated developments (as set out in the original report).
- 2.3 In accordance with Development Procedural Rules, the application was deferred to enable Officers to prepare this supplementary report to Committee setting out proposed detailed reasons for approval and proposed conditions.

## 3.0 UPDATE

- 3.1 On the 31<sup>st</sup> October 2016, the Council received the appeal decision in relation to the Council delegated decision to refuse planning application reference PA/16/00254 (as discussed in the original officers' report). The inspector dismissed the appeal and

upheld the decision to refuse planning permission for the erection of a 2.3 metre high metal security gate on a private estate road between nos. 16 and 36 Goulston Street at the entrance to Herbert House and Jacobson House. That appeal proposal is almost identical to the proposed minor material amendment to planning application PA/08/02347 which is the subject of the application currently before Committee (reference PA/16/01628).

3.2 Officers consider that this appeal decision is now a material consideration in the determination of this application PA/16/01628 which carries significant weight. A copy of this decision is attached as Appendix Three. Prior to a final decision the Committee is advised to consider whether this new information has a material impact on their resolution not to support the officer's recommendation.

3.3 The inspector dismissed the appeal for the following reasons:

*'There is nothing to suggest that the appeal site suffers from any greater incidence of crime or anti-social behaviour than the surrounding area given its inner city location. In addition, the appellant has not provided any substantive evidence to show what, if any, other measures have already been undertaken to mitigate or prevent such activity in and around the appeal site prior to this proposal being considered.... Other measures which utilise the principles of urban design are capable of providing similar benefits without have the potentially negative impacts of segregation, reduced permeability and loss of access.'* (paragraph 8-9)

*'The proposal would have a significant adverse effect on the accessibility and permeability of the local area. I appreciate the concerns of the local residents regarding crime and anti-social behaviour and that there would be some benefit in terms of a safer and more secure site. However, the proposed gate would have the harmful effect of segregating the community, creating a barrier to permeability and would prevent public access across the site and wider area from Goulston Street. Therefore, I find that the benefits of the proposal would not demonstrably outweigh the material harm which I have identified.'* (paragraph 13)

3.4 The inspector upheld the Council's decision to refuse planning permission which is considered contrary to the Committee's resolution set out above. In line with the officer recommendation as presented to the Development Committee on 26<sup>th</sup> October 2016, the Inspector considers that the installation of gates would cause harm to the accessibility and permeability of the local area. This appeal decision provides additional weight in favour of the officer's recommendation to refuse planning permission.

3.5 In light of this, officers are discussing with the applicant whether it is feasible to attach a condition to any planning consent requiring the proposed gates to be open during daylight hours. These discussions are on-going and the Committee will be updated at its next meeting.

3.6 Should members be minded to approve the application after weighing the additional material considerations the following reasons for approval and conditions are recommended.

*Suggested reason for approval*

1. The proposed gates provide a safer and more secure environment and will help address crime and anti-social behaviour which is evident in the local area through crime statistics and anecdotally through local representation. This is considered to outweigh the benefits in terms of permeability and public access resulting from a new pedestrian link between Jacobson House and Herbert House.

In this instance, local plan policy SP09(c), which does not support developments that create gated communities which restrict pedestrian movement, is afforded lesser weight as similar alternative pedestrian routes exist in close proximity to the site.

Furthermore, the vibrant night-time economy in close proximity is considered to exacerbate problems of crime and anti-social behaviour in this specific location, and therefore local plan policy DM23 (3), which states that development will be required to improve safety and security without compromising good design and inclusive environments, and Policy 7.3 of the London Plan 2016 (as amended with alterations since 2011), which seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime does not undermine the quality of life or cohesion, are provided more weight given the safety concerns associated with this specific location.

- 3.7 Were the Committee minded to approve the application, it is recommended that the Corporate Director of Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

#### *Suggested Conditions*

2. Details of materials, typical details, mock up and lighting strategy shall be in accordance with PA/12/00967 and maintained in perpetuity.
3. Detailed design of ground floor frontages through the central route shall be in accordance with PA/14/02553.
4. Landscaping and public realm works including management plan and temporary landscaping for new build shall be in accordance with PA/13/01497
5. Landscaping and public realm works including management plan and temporary landscaping for refurbishment required
6. Protective fences (compliance)
7. Boundary treatment and security gates refurbishment required.
8. Boundary treatment and security gates new build shall be in accordance with PA/12/01185
9. Construction management plan in accordance with PA/12/01185
10. Servicing and Delivery management plan in accordance with PA/14/00897
11. Building works hours (compliance)
12. Noise nuisance (compliance)
13. Lifetime homes (compliance)
14. External noise assessment in accordance with PA12/01185
15. Internal noise assessment PA/12/01665
16. Details of insulation and assessment of the ventilation system and any associated plant required, including routing of the ventilation systems from ground floor uses in accordance with PA/16/00889 and PA/16/00915

17. Energy efficiency assessments and implementation in accordance with PA/15/00357
18. Code for sustainable homes in accordance with PA/14/00620 and PA/15/01558
19. Full particulars of the refuse/ recycling storage required.
20. Details of the design of the cycle store in accordance with PA/11/03692
21. Land contamination study in accordance with PA/11/03692
22. Surface water drainage in accordance with PA/12/00622
23. Water supply and local infrastructure in accordance with PA12/00622
24. Provision of two car charging points in accordance with PA/12/01185
25. Details of oil/petrol interceptors in accordance with PA/12/01185
26. Accessible housing compliance
27. Water Management Strategy for water efficiency measures in accordance with PA/15/00357
28. Highways works in accordance with PA/13/01497
29. Development carried out in accordance with approved plans and details as listed below.
30. Gates shall remain open between the hours of 8am – 6pm.

3.8 Were the committee minded to approve the application it is recommended that the application is subject to the prior completion of a legal agreement to carry over all of the obligations relating to the section 106 agreement required for the original planning permission, taking account of the revised conditions.

3.9 That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above acting within delegated authority. If within three months of the resolution the legal agreement has not been completed, the Corporate Director Development & Renewal is delegated power to refuse planning permission.

#### 4 **RECOMMENDATION**

4.1 That members take into consideration the appeal decision referred to above prior to making a decision.

4.2 Officers' original recommendation to **REFUSE** planning permission remains unchanged.

## APPENDIX ONE – OFFICER’S ORIGINAL REPORT

<b>Committee:</b> Development	<b>Date:</b> 26 <sup>th</sup> October 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b> 5.1
----------------------------------	---	--	-----------------------------------

<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Jennifer Chivers	<b>Ref No:</b> PA/16/01628
	<b>Ward:</b> Spitalfields and Banglatown

### Drawings and documents: Drawing Numbers

2195-0500 P01, 2195-0501 P01, 2195-0502 P01,  
2195-0503 P01, 2195-0504 P01, 2195-0505 P01,  
2195-0506 P01, 2195-0507 P01, 2195-0508 P01,  
2195-0509 P01, 2195-0510 P01, 2195-0511 P01,  
2195-0512 P01, 2195-0513 P01, 2195-0514 P01,  
2195-0515 P01, 2195-0516 P01, 2195-0517 P01,  
2195-0600 P01, 2195-0601 P01, 2195-0602 P01,  
2195-0603 P01, 2195-0604 P01, 2195-0605 P01,  
2195-0606 P01, 2195-0607 P01, 2195-0700 P01,  
2195-0702 P01, 2195-0703 P01, 2195-0800 P02,  
2195-0801 P02, 2195-0803 P01, 2195-0804 P01,  
2195-0806 P01, 2195-0807 P01, 2195-0809 P01,  
2195-0815 P01, PL\_L02 Rev A,  
13-161 A (90) 04 Rev P1; P463 PL-L01 Rev B

### Supporting documents

Design and Access Statement (including June 2016 annex)  
Planning, Impact, Design & Access Statement dated 17 June 2016  
Planning and Regeneration Statement – October 2008  
Phase I Desk Top Study Report – May 2008  
Arboricultural Impact Assessment – 3 October 2008  
Stage D Proposals, Landscape Strategy – October 2008  
Statement of Community Involvement – October 2008  
Project Management Plan – 16 October 2008  
Flood Risk Assessment ref. 5788001704 – August 2008  
Flood Risk Assessment ref. 5788001704 – October 2008  
Site Waste Management Plan – 22 June 2008  
Wind Microclimate Study – 3 October 2008  
Report on the Availability of Natural Daylighting and Sunlighting – October 2008  
Noise Assessment – October 2008  
Air Quality Assessment – October 2008  
Archaeological Assessment – June 2008

Site Utilities Desk Study – December 2008  
Energy Strategy – September 2008  
Transport Assessment – October 2008

**Applicant:** Leaside Planning Limited  
**Ownership:** East End Homes  
**Historic Building:** None  
**Conservation Area:** Adjacent to Wentworth Town Conservation Area

## EXECUTIVE SUMMARY

- 2.1 The Local Planning Authority has considered this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2011) in addition to the London Plan (2011) and its subsequent Minor Alterations (MALP 2016) as well as the National Planning Policy Framework and all other material considerations.
- 2.2 The applicant seeks to vary the original planning permission (PA/08/02347) which involved the refurbishment of the wider Holland Estate, construction of 209 residential units, community centre, East End Homes local office and retail units. As part of this application a new pedestrian link between Jacobson House and Herbert House was proposed. This link would connect Goulston Street in the west through the new public open space towards Commercial Street in the east. The applicant seeks to remove this pedestrian link as part of the proposed development retaining the existing fence and to erect a vehicular and pedestrian entrance gate at the main vehicular entrance along Goulston Street.
- 2.3 The main material planning considerations for Members to consider are; whether the proposed entrance gate would restrict the movement of people into and around the site and reducing permeability to the wider area leading to the creation of a gated community; and whether the proposal would be an unsightly addition to the public realm and detract from the character and setting of the development.
- 2.4 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels within the surrounding area near Jacobson House and Herbert House; however, it is considered that it would be more appropriate for problems to be addressed by the managing agent and local police service, as opposed to erecting a gate which is contrary to the Council's objectives of building inclusive and welcoming communities.
- 2.5 In conclusion, officers consider that the erection of a security gate and loss of pedestrian through route is not acceptable for the reasons set out below, primarily because it would create a gated community; and restrict pedestrian and cycle access in the area which is contrary to national, regional and local planning policies.

## 3.0 RECOMMENDATION

That the Committee resolve to **REFUSE** planning permission for the reasons below:

- a) The proposal would restrict full public access and inclusive access resulting in an unacceptable form of development that would fail to create a permeable environment, by reason of creating a physical barrier and result in the loss of a publically accessible route. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 7.2 and 7.27 of the London Plan (2011), policy and SP10 of the Core Strategy (2010), and policy DM23 of the Managing Development Document (2013).
- b) The proposed gates and fixed means of enclosure would appear visually intrusive within the streetscene and would result in an inappropriate form of development that would create a 'gated' community and would therefore fail to achieve an inclusive environment and create an unacceptable level of segregation. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 3.9, 7.1-7.5 and 7.27 of the London Plan (2011), policies SP04, SP09, SP10 and SP12 of the Core Strategy (2010), and policies DM12 and DM23 of the Managing Development Document (2013). These policies require development to promote the principles of inclusive communities, improve permeability and ensure development is accessible and well connected.

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

##### **Proposal**

- 4.1 The applicant seeks to vary the original planning permission (PA/08/02347) under S73 of the Town and Country Planning Act for a minor material amendment to Planning Permission PA/08/02347 dated 1 April 2010 by way of varying condition 29 (as added by NMA PA/11/00899). The original planning permission involved the refurbishment of the wider Holland Estate, construction of 209 residential units, community centre, East End Homes local office and retail units. As part of this application a new pedestrian link between Jacobson House and Herbert House was proposed. This link would connect Goulston Street in the west through the new public open space towards Commercial Street in the east. The applicant seeks to remove this pedestrian link as part of the proposed development retaining the existing fence and to erect a vehicular and pedestrian entrance gate at the main vehicular entrance along Goulston Street (see Figure 1 and 2 below).
- 4.2 The proposed gates are to be installed within the western edge of the subject site, between 16 (London Metropolitan University) and 36 (Café East) Goulston Street. The site boundary along Old Castle Street is encompassed by a high black rail fence which runs the entire length of the site along this boundary. This fence would remain as part of the proposal.
- 4.3 The proposed entrance gate measures 6.2m in width and 2.3m in height. The gate will be set back 6 metres from the highway.
- 4.4 Vehicular access will be through a double gate opening inwards and pedestrian access will be through the single gate on the left side of the vehicular gate.





Figure 1 (above): New pedestrian link between Jacobson House and Herbert House as originally proposed



Figure 2: (above): Reduced pedestrian link now proposed.

## **Site and Surroundings**

- 4.5 Holland Estate is located within the Spitalfields/Banglatown Ward of the London Borough of Tower Hamlets, near the Tower Hamlets boundary with the city of London. The site lies within a mixed commercial and residential area. The Holland Estate comprises a collection of sites within distinct areas containing a total of 2.4 hectares.
- 4.6 The area of the proposed changes is located between Goulston Street and Old Castle Street and contains Herbert House and Jacobson House Estate buildings. Each block was constructed in the late 1960's and are approximately 5 storeys in height.
- 4.7 The site is located within the Central Activity Zone and the Tech City Boundary. The application site is not located in close proximity to any Listed Buildings; however, the site does lie to the south of the Wentworth Street Conservation Area.

## **Planning History**

- 4.9 PA/08/02347 - Refurbishment of the retained existing dwellings on Holland Estate, the replacement of 43 dwellings, (13 x one bed flats, 9 x two bed flats, 18 x three bed flats and 3 x four bed flats) totalling 143 habitable rooms within Ladbrooke House, Bradbury House, Evershed House and Denning point; the erection of 209 new residential units containing studio, 1, 2, 3, 4 and 5 bedrooms, provision of a new community centre (use class D1) of 644sq.m. and a new Eastend Homes local housing office and head office of 1,078sq.m. (use class B1) and 6 new retail units providing some 1,490sq.m. comprising use classes A1, A2 and A3 and the introduction of an Estate wide landscaping scheme.
- 4.10 PA/11/00899 - Application for non material amendment to Planning Permission dated 1st April 2010 Ref: PA/08/02347. Amendment is for addition of a Condition to the Planning Permission to include the approved plans and drawings.
- 4.11 PA/16/00254 - Erection of a 2.3 metre high metal security gate on a private estate road between nos. 16 and 36 Goulston Street at the entrance to Herbert House and Jacobson House. Refused 24/3/16. Appeal Lodged

## **5.0 POLICY FRAMEWORK**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.3 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:
- 5.4 **Government Planning Policy**

National Planning Policy Framework 2012

## 5.5 London Plan MALP 2016

- 2.18 - Green infrastructure: the network of open and green spaces
- 2.9 - Inner London
- 3.9 - Mixed and balanced communities
- 6.3 - Assessing effects of development on transport capacity
- 6.10 - Walking
- 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 assets
- 7.14 - Improving air quality

## 5.6 Tower Hamlets Core Strategy 2010

- SP04 - Creating a green and blue grid
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating Distinct and Durable Places
- SP12 - Delivering placemaking

## 5.7 Managing Development Document 2013

- DM20 – Supporting a sustainable transport network
- DM23 - Streets and the public realm
- DM24 - Place-sensitive design
- DM25 - Amenity
- DM27 - Heritage and the historic environment

## 5.8 Supplementary Planning Documents

Wentworth Conservation Area Character Appraisal

## 6.0 CONSULTATION RESPONSE

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

### **LBTH Transportation & Highways**

- 6.3 The proposal appears to be different from what was approved as part of the previous planning application (ref: PA/08/02347). The existing proposal provides a better public access through the site. With this in mind Highways would prefer the exiting proposal is implemented. However, Highways have no major objection to the current proposal.

*Officer comment: noted*

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

6.4 The Council's Design officer raised no comment on the application.

### **Transport for London**

6.5 No objection

### **Greater London Authority**

6.6 Not of strategic importance

### **Met Police - Crime Prevention Officer**

6.7 Supports the proposal.

## **7.0 LOCAL REPRESENTATION**

7.1 A total of 612 neighbours letters were sent to neighbours and interested parties. Due to the site lying adjacent to the Conservation Area, a site notice was displayed outside the application site on Goulston Street and further site notice on Old Castle Street and the application was advertised in local press.

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

No of individual responses:	letters: 2 letters of representation (1 in support and 1 objecting) Petition: 73 signatures in support
-----------------------------	---

7.3 The following comments were raised in support of the proposal:

- There has been an increase in anti-social behaviour since the removal of the temporary gate on old castle street and we would recommend that this application be approved to remedy this.
- The causes of the ASB include a food court and street market within the immediate vicinity operating 5/6 days a week that does not provide appropriate facilities, which leads the public to utilise the common areas of Herbert and Jacobson House.
- Traders often dump commercial refuse.
- There is often drug dealers and users utilising the area.
- If the application is approved this will go a long way toward improving the quality of life and well-being of residents.

7.4 The following comments were raised against the proposal:

- I support a public access route between these two buildings, and I object to a fenced off private route that the public cannot use. This planned route would greatly improve public access and enjoyment of the area as a pedestrian and cyclist and residents like me.

- There is currently no link between Old Castle and Goulston Streets between Whitechapel High Street and Wentworth Street and this makes for a very long and inaccessible block. As a cyclist the routes along Whitechapel High Street and Wentworth Street are very difficult to use, there is no right turn onto Whitechapel High Street from old Castle and at the other end is Petticoat Lane market which has a high pedestrian count and stalls.
- As a pedestrian it would be beneficial to be able to directly access Goulston Street by walking West from the new Resolution Plaza and between Jacobsen house and Herbert house with the lines of site of the city in the background.
- As a local resident who arrives home and to the area late at night I have never noted any antisocial behaviour in my time living here. I also don't believe the new public pedestrian route would attract antisocial behaviour as there are clear lines of sight from Resolution Plaza and there are a great many residents new and old in the area.

## 8.0 MATERIAL PLANNING CONSIDERATIONS

- 8.1 In accordance with the National Planning Practice Guidance, minor material amendments to extant planning permissions can be secured via a Section 73 application provided there is a suitably worded condition on the original permission which refers to the development being carried out in accordance with the approved plans. Condition 29 of the extant permission PA/08/02347 (as amended by by NMA PA/11/00899) is such a condition, stating:

*“The development hereby permitted shall be carried out in accordance with the following approved plans and documents*

*Drawing numbers: 2195-0500 P01, 2195-0501 P01, 2195-0502 P01, 2195-0503 P01, 2195-0504 P01, 2195-0505 P01, 2195-0506 P01, 2195-0507 P01, 2195-0508 P01, 2195-0509 P01, 2195-0510 P01, 2195-0511 P01, 2195-0512 P01, 2195-0513 P01, 2195-0514 P01, 2195-0515 P01, 2195-0516 P01, 2195-0517 P01, 2195-0600 P01, 2195-0601 P01, 2195-0602 P01, 2195-0603 P01, 2195-0604 P01, 2195-0605 P01, 2195-0606 P01, 2195-0607 P01, 2195-0700 P01, 2195-0702 P01, 2195-0703 P01, 2195-0800 P01, 2195-0801 P01, 2195-0803 P01, 2195-0804 P01, 2195-0806 P01, 2195-0807 P01, 2195-0809 P01, 2195-0815 P01, PL\_L02 Rev A,*

*Design and Access Statement*

*Planning and Regeneration Statement – October 2008*

*Phase I Desk Top Study Report – May 2008*

*Arboricultural Impact Assessment – 3 October 2008*

*Stage D Proposals, Landscape Strategy – October 2008*

*Statement of Community Involvement – October 2008*

*Project Management Plan – 16 October 2008*

*Flood Risk Assessment ref. 5788001704 – August 2008*

*Flood Risk Assessment ref. 5788001704 – October 2008*

*Site Waste Management Plan – 22 June 2008*

*Wind Microclimate Study – 3 October 2008*

*Report on the Availability of Natural Daylighting and Sunlighting – October 2008*

*Noise Assessment – October 2008*  
*Air Quality Assessment – October 2008*  
*Archaeological Assessment – June 2008*  
*Site Utilities Desk Study – December 2008*  
*Energy Strategy – September 2008*  
*Transport Assessment – October 2008*

*Reason: for the avoidance of doubt and in the interests of proper planning.”*

8.2 The application proposes no change of use at the site and therefore raises no land use implications. The substitution of plans 2195-0800 P01; and 2195-0801 P01 to be replaced with 2195-0800 P02; 2195-0801 P02; 13-161 A (90) 04 Rev P1; and P463 PL-L01 Rev B (as per the schedule listed on the first page of this report) to vary the original permission raises the following material considerations and has been assessed against all relevant policies under the following report headings:

1. Crime
2. Accessibility/Permeability
3. Design
4. Amenity
5. Transportation
6. Conclusion

8.3 The application proposes no change of use at the site and therefore raises no land use implications.

#### **Crime**

8.4 The application proposes to retain the existing fence along old Castle Street and an entrance gate at the main vehicular access on Goulston Street. The application has been submitted to seek to address concerns raised by residents that unrestricted access will cause further anti-social behaviour and incidents of crime at the application site. Full details of the levels of crime are detailed below.

8.5 According to paragraph 69 of the NPPF the planning system should encourage safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

8.6 Policy 7.3 of the London Plan (MALP 2016) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime does not undermine the quality of life or cohesion. This policy also highlights that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.

8.7 The Council's Core Strategy policy SP09 (2C) states that gated communities will not be supported. The supporting text for policy SP09 highlights evidence from the Urban Design Compendium 2 dated 2007 which states that a high quality urban environment and layout can help deliver social benefits, including civic pride, increased connectivity, social cohesion, reduced fears of crime and improved health and well-being. The supporting text goes on to state that a poor quality public realm can have severe negative effects on communities.



- 8.8 The Council's Managing Development Document DM23 (3) states that development will be required to improve safety and security without compromising good design and inclusive environments. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.9 The principle of erecting entry gates to create a gated community is not supported by the National Planning Policy Framework (2012), the London Plan (MALP 2016) or Tower Hamlets planning policies. It is considered that only in exceptional circumstances should the Council make an exception to the policy position.
- 8.10 Whilst the comments received from the Metropolitan Police's Crime prevention Officer are in support of the proposal, it should be considered that the Crime Prevention Officer's role is purely that of crime prevention, and officers recommendation to refuse the application takes into account a much broader set of considerations including national, London-wide and local planning policies.
- 8.11 A crime log was submitted by the applicant as part of the evidence in support of the application (see appendix.2). This log details 34 call outs to Jacobson and Herbert house over a period of 3 years. Given the inner city location, and the high numbers of visitors to the area and the high number of residents in and around the area this number is not considered to be particularly high.
- 8.12 Crime statistics obtained from the police website ([www.police.uk](http://www.police.uk)) over a period which overlaps with the applicants time frames have been collated (January 2013-December 2013) for the area between Wentworth Street, Goulston Street, Whitechapel High Street and Commercial Street (See figure 2 below). The total crimes reported during this period was 126 incidents, with the majority being anti-social behaviour. The total number of residents within this area is unknown, however this block contains a large mix of uses including a large hotel, a university, a market, small scale retail stores and large highly dense housing estates.

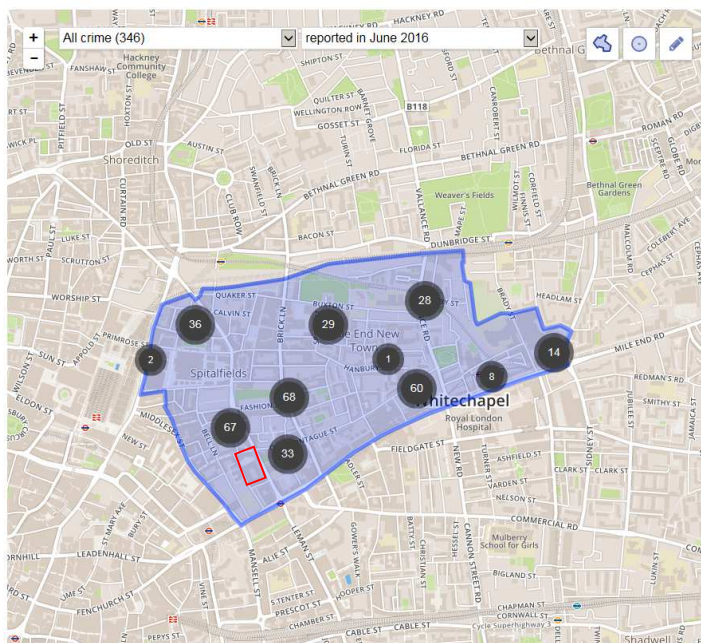


Figure 1: The most recent reported incidents in the wider spitalfields/Banglatown area (June 2016) (taken from [www.police.uk](http://www.police.uk))

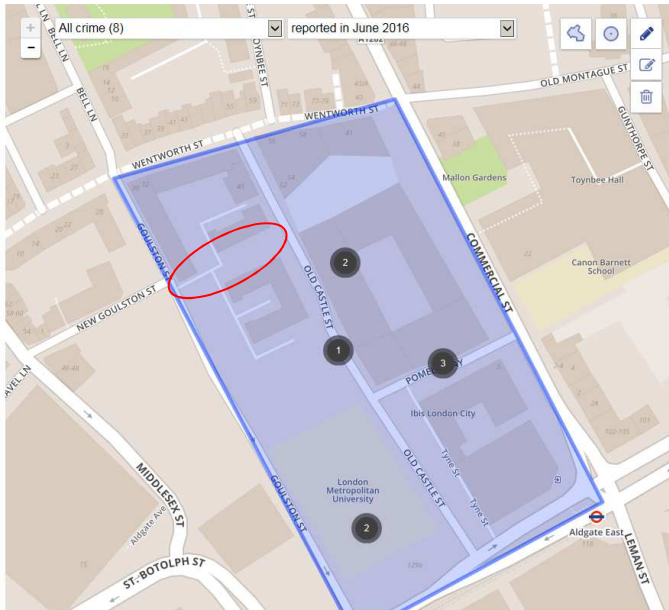


Figure.2 – Crime map including Denning Point and Jacobson and Herbert House (taken from [www.police.uk](http://www.police.uk))

- 8.13 Whilst officers do observe that there is evidence of a level of criminal activity recorded in and around the host properties, in light of the above evidence it cannot be considered that the crime rate experienced specifically within Herbert House and Jacobson House is exceptional given its context, and therefore officers consider it would not be appropriate for the Council to make an exception to the policy position in this instance.
- 8.14 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, there is insufficient evidence to suggest that crime and anti-social behaviour levels are such that greater weight should be given to this argument in planning terms. In addition it should also be considered that the applicant has not demonstrated or outlined any steps that have been taken by management or in association with the police to address the current issues with anti-social behaviour in the first instance without resorting to the gating of the estate. In light of the above, it is considered on balance that the negative implications of the proposal by virtue of its potential to contribute to the segregation of communities far outweigh the perceived benefits of providing a gated entrance.

#### **Accessibility/Permeability**

- 8.15 According to paragraph 69 of the NPPF the planning system can play an important role in facilitating social interaction and inclusive communities. Paragraph 73 states that access to high quality open spaces and the opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. In paragraph 75 it is stated that all opportunities for the protection and enhancement of public rights of way and access should be taken in both the formation of planning policy and in planning decisions.
- 8.16 Policy 3.9 of the London Plan states that development should foster social diversity, repress social exclusion and strengthen communities' sense of responsibility for, and identity with, their neighbours. Policies 7.1 – 7.5 set out that development should interface appropriately with its surroundings, improve access to the blue ribbon



network and open space, be inclusive and welcoming with no disabling barriers and be designed so that everyone can use them without undue separation.

- 8.17 The Council's Core Strategy policy SP09 (2C) states that the Council will not support developments that create gated communities which restrict pedestrian movement. Policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.18 The Council's Managing Development Document policy DM23 (1A, 1E & 1F) seeks to ensure that development should be well connected with the surrounding area and should be easily accessible for all people by; improving permeability and legibility, particularly to public transport, town centres, open spaces and social and community facilities; incorporating the principles of inclusive design; and ensuring development and the public realm are comfortable and useable. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.19 The retention of the existing fence on Old Castle Street and erection of an entrance gate on Goulston Street will restrict access, interaction and movement with the wider surrounding sites including the Denning Point development to the east and the central city area to the West which would be contrary to planning policies at a number of levels (see NPPF paragraph 75, London Plan 7.2, Core Strategy SP12 and Managing Development Document DM23). This proposal would result in a dead end to the public open space adjacent to the Denning point development with no clear demarcation of where to proceed from this point. The retention of the gates would be intended to be a barrier to movement, and will subsequently restrict the movement of non-residents. The erection of a gate will not contribute towards the Council's objectives of creating a more well-connected Borough.
- 8.20 The approved walkway between Jacobson House and Herbert House functions as an important pedestrian linkage within a wider network of public space given its location adjoining the area of public open space at Denning Point. The maintenance and enhancement of the pedestrian network within the Aldgate Central Activity Zone is an important planning consideration as it positively contributes towards the permeability and legibility of the wider area.
- 8.21 As part of the initial design concepts for the redevelopment and enhancement of the wider Holland estate it was argued that the new public open space between the new development (Denning Point) and the community centre would allow permeability between Goulston Street (and the city to the west and Commercial Street (and Brick Lane) to the East.

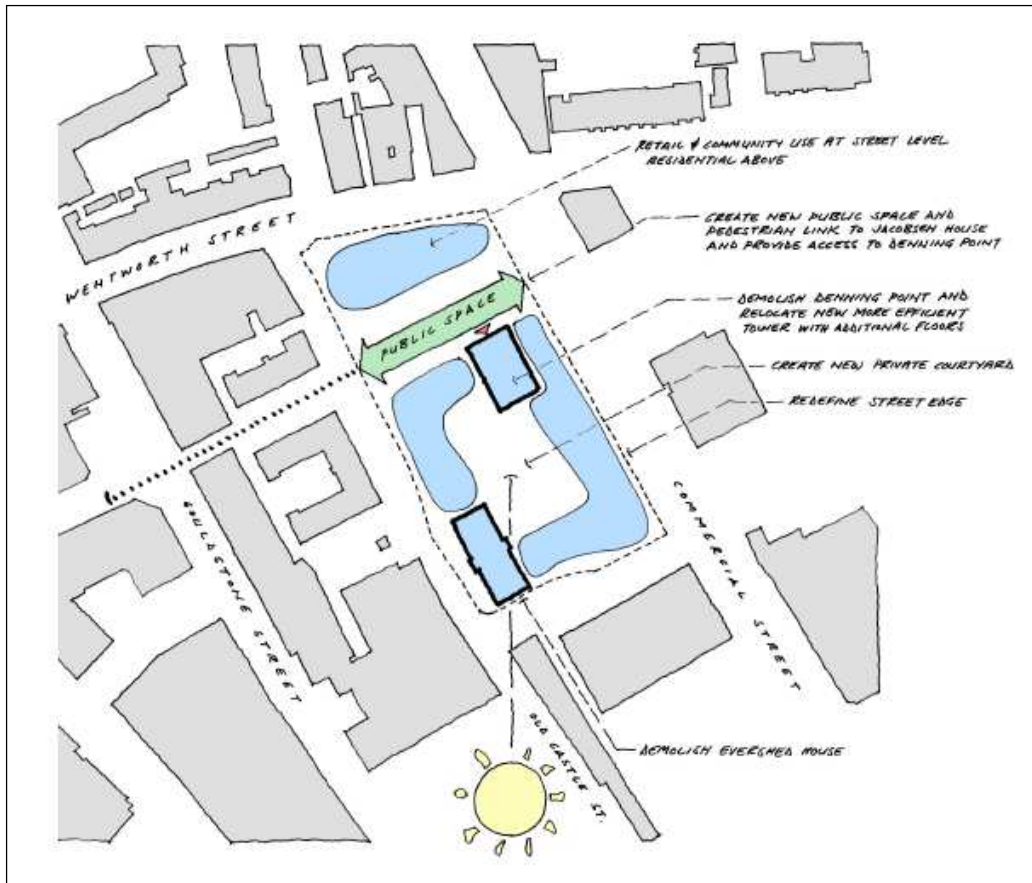


Figure 3. Diagram taken from page 14 of Design and access statement prepared by Jestico and Whiles.

- 8.22 This increased permeability and greater accessibility to the development site (Denning point) allowed for a considerable increase in density for the existing site. The proposed changes would hinder the permeability of both sites and movement of people, both residents and the wider public.
- 8.23 Both national and local planning policies place a strong emphasis on creating mixed and inclusive communities where social interaction between all members of society is encouraged (see NPPF paragraph 69, London Plan 3.9, Core Strategy SP09 and Managing Development Document DM23). This Council has made a clear stance in its planning policies that it is against the creation of gated communities, and any proposals to segregate communities will be strongly resisted.
- 8.24 The proposed gates would create a gated community and segregate both Jacobson House and Herbert House. This is contrary to the council's policies, in particular policies DM23 of the Managing Development Document (2013) and SP09 of the Core Strategy (2010).
- 8.25 Considering the above, the proposal would also create a 'gated' community which would be impermeable for non-residents which is against the general planning principle of inclusive communities.

**Design**

- 8.26 According to paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

- 8.27 Policy 7.1 and 7.4 of the London Plan states that development should promote a good quality environment, provide a character that is easy to understand and relate to and have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Development should also improve an areas visual or physical connection with natural features.
- 8.28 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.29 The Council's Managing Development Document policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.
- 8.30 The proposed entrance gate measures 6.3m in width and 2.3m in height. Due to the set back from the Goulston street frontage it will not represent an overly dominant addition within the streetscape and the scale, design, and materiality of the proposed gate is consistent with the amenity of the nearby conservation area.
- 8.31 The Council's planning policies seek to ensure that development is sensitive to and enhances the local character of an area (see Core Strategy SP10 and Managing Development Document DM24). The retention of the existing fence along Old Castle Street maintains the status quo. However it would not enhance the character and setting of the adjacent Wentworth Conservation Area.
- 8.32 In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention shall also be paid to the desirability of preserving or enhancing the character and appearance of the designated conservation area. As a statutory requirement the desirability of preserving or enhancing the character and appearance of a conservation area is a consideration to which a decision maker should give considerable weight.

### **Amenity**

- 8.33 According to paragraph 17 of the NPPF local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.34 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that development protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight); and uses design and construction techniques to reduce the impact of noise and air pollution.
- 8.35 The Council's Managing Development Document policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of enclosure or create unacceptable levels of noise, odour or fumes during the life of the development.
- 8.36 The Council's policies (see Core Strategy SP10 and Managing Development Document DM25) seek to protect, and where possible improve the amenity of

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

- 8.37 Given the set back of the proposed gates, it is unlikely that they will have any impact on neighbouring amenity.

### **Highways and Transportation**

- 8.38 According to paragraphs 32 and 35 of the NPPF local planning authorities should take account of whether safe and suitable access to the site can be achieved for all people; and whether development creates safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, and avoid street clutter.
- 8.39 Policy 6.3 of the London Plan states that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed. Development should not adversely affect safety on the transport network.
- 8.40 The Council's Core Strategy policy SP09 (3) states that the Council will not support development which has an adverse impact on the safety and capacity of the road network.
- 8.41 The Council's Managing Development Document policy DM20 (2) states that development will need to demonstrate it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network or on any planned improvements and/or amendments to the transport network.
- 8.42 The proposed gate is sited on private land within the host property which is set back from the boundary with the public highway. LBTH Highways and Transportation department have not objected to the proposal as there is sufficient set back from the boundary with the public highway so that vehicles can wait within the boundary of the private road before entering the estate. It is considered that the proposal accords with policy on both safety and capacity grounds and does not form a reason for refusal of the application.

### **Conclusion**

- 8.43 Whilst officers acknowledge the existing anti-social behaviour issues on site that cause harm to some residents of Herbert and Jacobson House and have led to the applicant submitting this application (and other related applications) it cannot be overlooked that such a proposal discords with planning policy at all levels. In principle, Officers cannot consider the proposal to be acceptable in the context and the proposal goes against the core principles of creating inclusive communities which is integral to the success of the Borough.
- 8.44 In light of the above, it is considered that the proposal would be contrary to national, regional and local planning policy as it restricts movement, creates a gated community, restricts access, does not incorporate the principles of inclusive design and is not sensitive to nor enhances the local character of the area.

## **9.0 HUMAN RIGHTS CONSIDERATIONS**

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
  - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".
- 9.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 9.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 9.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 9.6 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.
- 9.7 Officers have considered the rights of residents to live free of crime and disorder and the fear of crime and weighed this against the desirability of maintaining permeability for pedestrians and cyclists and the policy which discourages the creation of gated communities.

## **10.0 EQUALITIES ACT CONSIDERATIONS**

- 10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the

exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:

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

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.

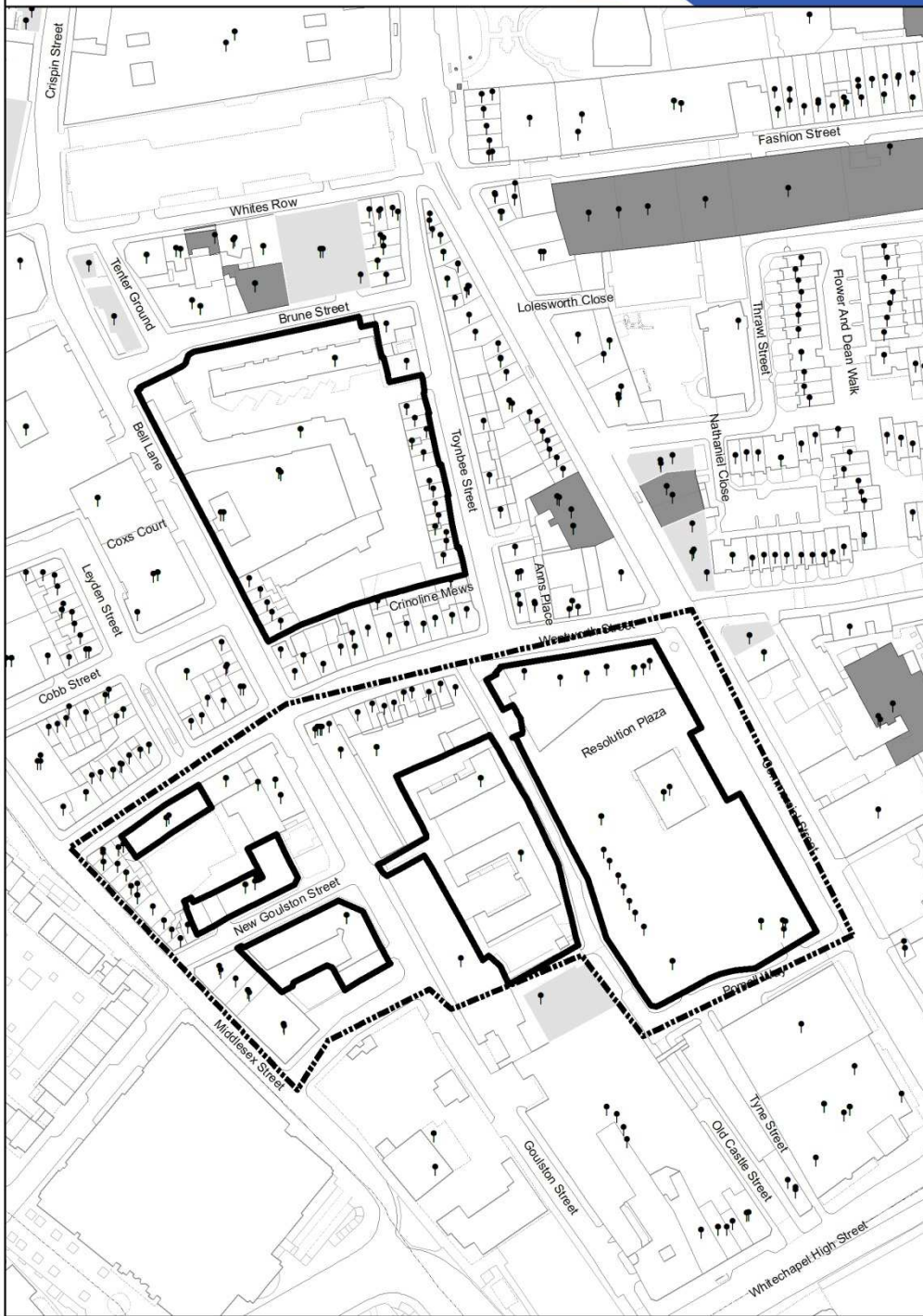
10.3 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation it is considered that the perception of crime might be felt more readily by some people who feel more vulnerable than others, however this is not considered to justify a decision which would be against the principles of the development plan in this instance.

## **11.0 CONCLUSION**

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

## **12.0 SITE MAP**

Planning Application Site Map  
PA/16/01628



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	
Consultation Area	Statutory Listed Buildings	0 40 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.  
© Crown copyright and database rights 2016 Ordnance Survey, London Borough of Tower Hamlets 100019288

Appendix 2 – Calls to New Goulston Street



Calls to New Goulston Street until June 2014			
Date	CAD	Location	Classification of call
12/04/2014	4570	Herbert House	ASB
14/06/2013	10006	Herbert House	Street Drinking / ASB
02/05/2013	4225	Herbert House	Drugs / ASB
14/06/2013	10117	Herbert House	Street Drinking / ASB
14/06/2013	10589	Herbert House	ASB
06/03/2014	10329	Jacobson House	Street Drinking / ASB
13/02/2014	8210	Jacobson House	ASB
10/01/2014	8139	Jacobson House	Drugs / ASB
12/12/2013	6490	Jacobson House	ASB
11/10/2013	800	Jacobson House	Prostitution / ASB
05/10/2013	378	Jacobson House	ASB
15/07/2013	1187	Jacobson House	Drugs / ASB
28/06/2013	210	Jacobson House	Prostitution / ASB
11/06/2013	372	Jacobson House	Prostitution / ASB
21/02/2013	3606	Jacobson House	Drugs / ASB
23/11/2012	1833	Jacobson House	Vagrancy / ASB
12/10/2012	121	Jacobson House	ASB
17/06/2012	586	Jacobson House	ASB
22/05/2012	72	Jacobson House	Prostitution / ASB
14/04/2012	7435	Jacobson House	ASB
30/03/2012	185	Jacobson House	Prostitution / ASB
08/02/2012	9465	Jacobson House	ASB
21/02/2012	559	Jacobson House	Drugs / ASB
21/02/2012	417	Jacobson House	Trespass / Drugs / ASB
04/01/2012	9290	Jacobson House	Drugs / ASB
28/11/2011	442	Jacobson House	Alcohol / ASB
21/08/2011	1437	Jacobson House	Prostitution / ASB
04/01/2011	511	Jacobson House	Prostitution / ASB
21/03/2013	404	Jacobson House	Drugs / ASB
27/02/2013	10132	Jacobson House	Drugs / ASB
22/12/2012	1472	Jacobson House	ASB
08/08/2012	698	Jacobson House	Prostitution / ASB
16/06/2012	2278	Jacobson House	ASB
20/02/2012	110	Jacobson House	Prostitution / ASB
11/02/2011	811	Jacobson House	Prostitution / ASB



---

## Appeal Decision

Site visit made on 4 October 2016

by **Andrew McCormack BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31<sup>st</sup> October 2016

---

**Appeal Ref: APP/E5900/W/16/3151998**

**Entrance adjacent to 36 Goulston Street, Tower Hamlets, London W1 7TP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steve Inkpen on behalf of EastEndHomes against the decision of the Council of the London Borough of Tower Hamlets.
  - The application Ref PA/16/00254, dated 26 January 2016, was refused by notice dated 24 March 2016.
  - The development proposed is to introduce a new 2.3 metre high metal security gate on a private estate road between Nos. 16 and 36 Goulston Street at the entrance to Herbert House and Jacobson House.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to public access and permeability.

### Reasons

3. The appeal site is located between Goulston Street and Old Castle Street and contains two five storey blocks of flats known as Herbert House and Jacobson House. The site lies within a mixed commercial and residential area and is situated approximately one mile from the City of London and as such I consider it to be an inner city location.
4. Policy DM23(1) states that development can positively contribute to the borough's streets and public realm in terms of improving connectivity, permeability and legibility whilst also improving safety and security. Furthermore, the policy establishes the need to incorporate the principles of inclusive design which include improved access to, from and within the development site and buildings for all users without due effort, separation or special treatment and prevent the creation of barriers to movement.
5. The proposed gate would be set back from Goulston Street and positioned between two sizeable brick flank walls at Nos 16 and 36 Goulston Street. Despite its setting back, given its size and design, the gate would be visible when viewed along New Goulston Street and would create a closed view which would appear as a dead end in the overall streetscene and pattern of development.

6. Furthermore, the proposed gate would close off an existing east-west pedestrian route through the area which consists of New Goulston Street, the appeal site and the public open space near to Denning Point leading on to Commercial Street. I note in the Design and Access Statement supporting the approved development of application Ref: PA/08/02347 that this route would be enhanced and would create a well-connected and cohesive route which would benefit with wider community. In addition, the railings on the eastern boundary of the site, whilst relatively low level along Old Castle Street, were to be removed to create a new pedestrian link as part of the wider improvement works to the area. From the submitted evidence before me, the proposed gate would not provide these benefits.
7. The appellant states that there is no public right of way across the appeal site and that it is private land. However, the Council argues that the existing walkway through the site is an important pedestrian link within a wider network of public open space. Notwithstanding this, there is no substantive evidence to confirm whether a public right of way or access passes through the appeal site. Furthermore, from the site visit I saw no formal signage or notification at the existing entry and exit points to indicate that the route was on private land.
8. I acknowledge that there is a level of criminal activity and anti-social behaviour present in the local area. Furthermore, I appreciate that the proposed gate would provide a more secure environment for the residents of Herbert House and Jacobson House and would likely reduce the criminal and anti-social activity which has been experienced by them. However, there is nothing to suggest that the appeal site suffers from any greater incidence of crime or anti-social behaviour than the surrounding area given its inner city location. In addition, the appellant has not provided any substantive evidence to show what, if any, other measures have already been undertaken to mitigate or prevent such activity in and around the appeal site prior to this proposal being considered.
9. Whilst the proposed gate would create a safer and more secure environment for the local residents of Herbert House and Jacobson House, I find that other measures which utilise the principles of urban design are capable of providing similar benefits without having the potentially negative impacts of segregation, reduced permeability and loss of access. Therefore, having considered the above, I find that the appeal site does not have a level of crime or anti-social behaviour which is over and above that experienced in the wider area. As a result, this would not constitute exceptional circumstances which would justify the installation of the proposed gate.
10. I note the appellant's argument regarding the light use of the existing walkway which runs through the site, to the north of Jacobson House and their view that the approved new route would be similarly underused due to the robust and established routes nearby such as Wentworth Street and the existing streets in the area. I consider that the existing slightly convoluted and poorly overlooked route contributes to its limited use.
11. The approved scheme relating to application Ref: PA/08/02347, would create a more convenient, direct and well-overlooked walkway with clear sight lines though the site and it provide a more legible and better connected pedestrian route through the site. In my view, the design of that approved scheme provides a good example of how the design and layout of a development could



have a positive impact on an area. It would assist in reducing opportunities for crime and anti-social behaviour by being more open, direct, being overlooked and having clear sight lines. It would also create a more legible route and improve connectivity across the area which would potentially increase its use and improve safety as a result due to increased activity in the area.

12. The proposal would be located adjacent to the boundary of the Wentworth Street Conservation Area (CA). The Council say that it would not enhance the character and setting of the CA. However, the appellant has provided no substantive evidence regarding this matter. Notwithstanding this, in considering its extent, siting, design and wider context, I find that the proposed gate would have a neutral effect on the area and the setting of the CA. As a result, it would not harm the character or appearance of the CA and its setting, and thereby the objective of preserving or enhancing the CA would be met.
13. Having had regard to the above, I conclude that the proposal would have a significant adverse effect on the accessibility and permeability of the local area. I appreciate the concerns of the local residents regarding crime and anti-social behaviour and that there would be some benefit in terms of a safer and more secure site. However, the proposed gate would have the harmful effect of segregating the community, create a barrier to permeability and would prevent public access across the site and the wider area from Goulston Street. Therefore, I find that the benefits of the proposal would not demonstrably outweigh the material harm which I have identified.
14. Consequently, I conclude that the proposed gate would be contrary to Policy DM23(1) of the Managing Development Document 2013. Amongst other matters, this policy seeks to ensure that development is well-connected, improves permeability and legibility and assists in creating an attractive network of streets and spaces which is easily accessible for all people.

#### **Conclusion**

15. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Andrew McCormack*

INSPECTOR

This page is intentionally left blank

# Agenda Item 5

<b>Committee:</b> Development	<b>Date:</b> 23 <sup>rd</sup> November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Development and Renewal		<b>Title:</b> Planning Applications for Decision	
<b>Originating Officer:</b> Owen Whalley		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

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

## 2. FURTHER INFORMATION

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

## 3. ADVICE OF 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

---

**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:  
See Individual reports

Tick if copy supplied for register:  
✓

Name and telephone no. of holder:  
See Individual reports

---

Development Plan unless material planning considerations support a different decision being taken.

- 3.4 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the 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 a previous Agenda Item.

#### **5. RECOMMENDATION**

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

# Agenda Item 5.1

<b>Committee:</b> Development Committee	<b>Date:</b> 23 November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
<b>Report of:</b> Director of Development and Renewal		<b>Title:</b> Full Planning Application	
<b>Case Officer:</b> Hannah Connell		<b>Ref:</b> PA/16/01832	
		<b>Ward:</b> Spitalfields and Banglatown	

## 1 Application Details

### Location

Site at corner of Buxton Street and Spital Street, London

### Existing Use:

Former brewery – storage buildings (B8), Industrial building, electricity substations, small commercial enterprise and surface level car parking in yard area.

### Proposal:

#### **PA/16/01832 – application for Full Planning Permission**

Demolition of the existing store building, substation and workshop and boundary wall to Buxton Street and Spital Street up to the Cooperage Building and erection of a 3 storey high Data Centre with basement accommodation (Use Class B8) including provision of Use Class B1 enterprise / D1 training floorspace, provision of rooftop satellite dishes, roof mounted mechanical plant, security fencing and bollards, cycle parking and provision of two electric charging car parking spaces.

### Drawing Nos.

PL16-120-001	Site Location Plan
PL16-120-002	Proposed Site Plan
PL-16-120-003	Proposed Basement Level Plan
PL-16-120-004	Proposed Ground Floor Plan
PL-16-120-005	Proposed First Floor Plan
PL16-120-006	Proposed Second Floor Plan
PL16-120-007	Proposed Plant Deck Plan
PL16-120-008	Proposed Roof Level
PL16-120-009	Proposed Sections A-A and B-B
PL16-120-010	Proposed Elevations
PL16-120-011	Street Scenes Existing and Proposed Buxton Street and Brick Lane
PL16-120-012	Street Scenes Existing and Proposed Woodseer and Spital Street
PL16-120-013	Proposed Demolition Plan
PL16-120-014	Existing Site Sections
PL16-120-015	Proposed Photomontage View Locations
PL-16-120-016	Permitted Access way Plan
PL-16-120-018	Buxton Street Elevation

### Materials

- London Stock brickwork including soldier courses and brick cills.
- Metal framed windows and doors (Dark Bronze)
- Dark bronze roof cladding

- Dark Bronze Acoustic louvre

**Documents**

- Acoustic Assessment
- Energy Assessment
- Site Investigation Report
- Statement of public consultation
- Sustainability report
- Tree report
- Ecological Scoping Phase 1 Habitat Survey
- Archaeological Desk Based Assessment
- Design and Access Statement
- Planning and Impact Statement
- BREEAM Pre-assessment Report
- Television and Radio Reception Survey and Development Impact Assessment
- Tree Report

**Applicant:** Interixon Carrier Hotel Limited (91-95 Brick lane)

**Ownership:** Truman Estates Limited

**Historic Buildings:**

Within the development:

- Former barrel-washing shed
- Courtyard (cobble and stone paving slabs)

Adjacent/close to the site:

- Cooperage Building, Spital Street
- 37 Buxton Street
- Former All Saints Vicarage 35 Buxton Street (Listed Grade II)
- Brickhouse building, Brick lane (Listed Grade II)
- Engineer's House, Brick Lane (Listed Grade II)
- Vat House, Brick Lane (Listed Grade II)

**Conservation Area:** Whole site within Brick Lane and Fournier Street Conservation Area.

## 2. EXECUTIVE SUMMARY

2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Core Strategy 2010, the Council's Managing Development Document MDD (adopted 2013), the London Plan 2016 (as amended since 2011), City Fringe OAPF and the National Planning Policy Framework and has found that:

2.2 The scheme will facilitate the future economic role of the area through the expansion of utility infrastructure, the provision of a Training and Enterprise Centre, the relocation of an existing business and the provision of an active frontage along Buxton Street. The scheme therefore accords with policy 4.11 of the London Plan 2016 (as amended since 2011), policies SP01, SP06 and SP07 of the Core Strategy 2010 and policy DM15 of the Managing Development Document (adopted 2013), which seek to develop appropriate sites for employment/infrastructure use within the borough, maintain a vibrant mix of uses in the Tower Hamlets Activity Area and promote local enterprise and training.



- 2.3 The proposed demolition would not harm the character or appearance of Brick Lane and Fournier Street Conservation Area or the setting of the nearby Listed Buildings and the design of the proposed replacement building is of sufficiently high quality to preserve and enhance the character and appearance of the Area. The proposal therefore accords with the requirements of policy 7.8 of the London Plan 2016 (as amended since 2011), policy SP10 of the Core Strategy 2010, policy DM27 of the Managing Development Document MDD (adopted 2013), which seek to ensure high quality development that preserves and enhances the character of conservation areas and does not harm the setting and special architectural or historic interest of surrounding Listed Buildings.
- 2.4 The scale, bulk and design of the proposed development respond satisfactorily to the context of the existing site and surrounding buildings and sits comfortably within the local streetscape. As such, the scheme is in line with policies 7.4, 7.5 and 7.6 of the London Plan 2016 (as amended since 2011), policy SP10 of the Core Strategy 2010 and policies DM24 and DM26 of the Managing Development Document MDD (adopted 2013), which seek to ensure buildings are of a high quality design and suitably located.
- 2.5 Subject to conditions requiring the submission of further external material samples, the proposed development is considered to preserve and enhance the appearance of the Brick Lane and Fournier Street Conservation Area and the setting of the nearby Listed Buildings through the provision of an appropriately located building of acceptable scale and massing and architectural design. The proposal therefore accords with the requirements of policy 7.8 of the London Plan 2016 (as amended since 2011), policy SP10 of the Core Strategy 2010 and policies DM23, DM24 and DM27 of the Managing Development Document MDD (adopted 2013), which seek to ensure high quality development that preserves and enhances the character of conservation areas without harming the setting of or architectural or historic interest of surrounding listed buildings.
- 2.6 The proposal would not give rise to any unduly detrimental impacts in terms of sunlight, daylight or over shadowing, and subject to appropriate conditions, noise upon the occupiers of existing nearby residential properties. As such, the proposal is considered to satisfy the relevant criteria of policy SP10 of the of the Core Strategy 2010 and policy DM25 of the Managing Development MDD (adopted 2013), which seek to protect residential amenity
- 2.7 Transport matters, including pedestrian movement, parking, access and servicing, are acceptable and in line with the requirements of London Plan policies 6.9, 6.11 and 6.13, policies SP08 and SP09 of the Core Strategy 2010, policies DM20 and DM22 of the Managing Development Document (adopted 2013), which seek to ensure that developments encourage walking, cycling and use of public transport and manage car parking provision to promote sustainable transport options.
- 2.8 Subject to a planning obligation securing the energy and sustainability proposals and the CO2 emission reduction shortfall being met through a carbon offsetting contribution (£90,000), the proposals would be considered in accordance with adopted policies for sustainability and CO2 emission reductions in accordance with the energy hierarchy within London Plan policies 5.2 and 5.7, policy SP11 of the Core Strategy and policy DM29 of the Managing Development Document (2013), which seek to reduce carbon emissions from developments by using sustainable construction techniques and renewable energy measures.
- 2.9 Planning obligations have secured the provision and management of an on-site Training and Enterprise Centre and financial contributions towards training, sustainable transport initiatives, and community facilities in line with Regulation 122 of Community Infrastructure Levy 2010; Policy SP02 and SP13 of the Core Strategy 2010, which seek to secure

contributions toward infrastructure and services required to facilitate proposed development.

### 3. RECOMMENDATION

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

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

#### 3.3 Financial contributions

- a) **£41,640** towards employment initiatives for the construction phase.
- b) **£60,675** towards employment training initiatives for the operational phase.
- c) **£90,000** Carbon offsetting

Total Contribution financial contributions **£192,315** (excluding monitoring fee of £500 per head of term)

#### 3.4 Non-financial contributions and obligations

- a) Delivery of a Training and Enterprise Centre summarised in paras. 8.9 and 8.10 of this report and the implementation of a Training and Enterprise Centre Management Plan (to be approved in writing by the Council prior to first occupation of the data centre).
- b) Access to employment initiatives for construction through 20% of non-technical total construction jobs to be advertised through the Council's job brokerage service.
- c) A target of 20% of total value of contracts which procure goods and services are to be to be achieved using firms located within the borough.
- d) Relocation strategy for existing business to be submitted to and approved in writing by the Council before commencement of development
- e) Public access to be provided over the private pavement area along the Buxton Street frontage
- f) Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal.

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

3.6 That if, within three months of the date of this committee meeting the legal agreement has not been completed, the Corporate Director of Development & Renewal has delegated authority to refuse planning permission.

#### 3.7 **Conditions – Planning Permission**

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

- 1. Three Year time limit for full planning permission
- 2. Development to be carried out in accordance with approved plans, external materials and submitted documents.
- 3. Restriction of use of the Business Enterprise Space to B1 and/or an education training centre and for no other purposes (including any other use within Class D1 of the Use Classes Order).
- 4. No development shall take place until samples and full particulars of the following have been submitted to and approved in writing by the local planning authority :

- i. Surfacing materials and drainage and lighting details of the pavement area adjacent to Buxton Street;
  - ii. External brick and coping details of the walls along Buxton Street and Spital Street;
  - iii. External weathered stone coping;
  - iv. External materials of the roof flues;
  - v. Green walls as shown on drawing PL16-120-010; and
  - vi. Rainwater harvesting system
5. Implementation of an approved archaeological investigation
  6. Implementation of an approved programme of archaeological recording of standing buildings
  7. No occupation until provision of approved car parking (incorporating Electric Vehicle Charging Points and a space wide enough to serve as a parking space for a wheelchair) and retention thereafter.
  8. No occupation until provision of approved cycle parking and retention thereafter (on-going review of number needed and location).
  9. (i) The new plant hereby approved and any associated equipment shall be designed to a level of 10db below the lowest measured background noise (LA90, 15 minutes) as measured one metre from the nearest affected window of the nearest affected residential property  
(ii) Before the approved data centre is first brought into use detailed results of a noise survey measuring the operation of the plant working at full capacity shall be submitted to and approved in writing by the LPA  
(ii) The plant shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.
  10. The approved plant screen shall be erected before the plant is brought into use and retained thereafter.
  11. No commencement until a Contaminated Land Scheme has been submitted to and approved in writing by the LPA
  12. Construction Management Plan including tree protection plan and Highways Construction Logistics plan
  13. No demolition until contract is let for permitted replacement building
  14. Prior to demolition a Material Reclamation Plan shall be submitted to and approved by LPA and an approved Plan implemented.
  15. Cooperage Building. Following the demolition of the 'Existing Building' on Spital Street and before the permitted building is first occupied, the exposed northern boundary to the Cooperage Building and existing chimneys stack shall be made good in accordance with a schedule of remedial works that have been first submitted to and approved in writing by the LPA.
  16. Service Management Plan

### 3.8 **Informatives – Planning Permission**

1. This decision notice is to be read in conjunction with the associated s106 agreement
3. Developer to contact Council's Building Control service.
5. The drainage for the permitted Buxton Street pavement area should be designed and implemented to ensure that surface water does not drain on to the adjacent public highway
7. Any other informatives(s) considered necessary by the Corporate Director Development & Renewal.

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

### **Background**

- 4.1 The applicant is one of Europe's leading providers of data centres and managed ITC services and has its UK Office Headquarters in Block Z of Truman's Brewery. It has an operational data centre in the undercroft of Block Z and in Block B.
- 4.2 Data centres house servers which facilitate data transactions for major companies in the City and City-fringe areas. The physical proximity of such centres to these companies is important as this enables faster electronic transactions to be made.
- 4.3 The application site has a complex and extensive planning history. There are two previous planning permissions that are particularly pertinent to this site. These include applications for data centres which were originally refused under (PA/10/01958), and following negotiations and design and public realm enhancements then approved under (PA/12/00090). The particulars of each application are listed in the planning history of this report.
- 4.4 The proposals represent a resubmission of a previously approved scheme for a Data Centre on the same site (full planning permission granted 3<sup>rd</sup> July 2013, PA/12/00090) which has now expired. No significant changes have been made to the approved scheme in the current proposals.
- 4.5 Officers acknowledge that the principle of development has been established under the previous permission (PA/12/00090) and is therefore a material consideration along with issues such as design, land use and transport having had regard to the NPPF, London Plan and Local Plan policies  
.
- 4.6 The policy context has altered with the adoption of the Managing Development Document in 2013 which removed saved policies in the Unitary Development Plan. Furthermore the introduction of Supplementary Planning Guidance, in particular the OAPF (City fringe/tech city) has weight in the determination of planning applications in this area.
- 4.7 Similarly changes to the Borough's CIL, have resulted in some of the previous financial obligations now being captured by CIL and therefore no longer secured by Section 106. Nevertheless the proposal will seek to incorporate non-financial and financial planning obligations to make the scheme acceptable.

### **Proposal**

- 4.8 In essence, the application brought to committee is for a resubmission of the application approved for a data centre under the (PA/12/00090) permission. The application seeks permission for a data centre including a new electricity sub-station and 235sqm of office (Class B1) enterprise training space (Class D1) along the Buxton Street frontage. The building would be approximately 65m long, as viewed from Buxton Street and approximately 30m along the Spital Street frontage. Due to its L-shaped foot print the depth of the building along the western side would be approximately 49m. The building would include a 5m deep basement, with the main bulk of the building rising to approximately 18.5m above ground level, although the proposed photovoltaic panels would rise to approximately 19m, the satellite dishes on the southern elevation (overlooking the courtyard) to about 19.5m and seven slim flues would rise to about 21.5m.
- 4.9 The building would provide a total of 10,410sqm Gross Internal Area (GIA) and be set out as follows:
  - Basement - data halls (housing banks of servers), electrical plant room, diesel

- storage tanks, grey water storage and pumping area
  - Ground floor – security and reception area on the corner of Buxton Street and Spital Street, office/training space, with access from Buxton Street, sub-station, generators ,electrical and mechanical plant rooms and a recycling and waste store.
  - First floor – ‘break-out’ meeting space overlooking the corner of Buxton Street and Spital Street, data halls, electrical and mechanical plant areas, and gas bottle storage.
  - Second Floor – ‘break-out’ meeting space overlooking the corner of Buxton Street and Spital Street, data halls, office
  - Roof Level – generator radiators and air cooling equipment set behind an acoustic attenuated louver screen with an open grate deck/walkway above. Three satellite dishes would be located on south side of building overlooking the yard and photovoltaic panels would sit on top of the deck/walkway
- 4.10 Data centres use a lot of energy (discussed in detail in section 8 of this report) and the applicant needs to ensure continuity of power supply for commercial reasons. The proposed generators are part of ensuring this continuity. If electricity supply fails, batteries would automatically kick in for 15-30 minutes to provide power and the generators would then come on line to provide power until electricity supply from the national grid is restored. Consequently, other than testing, the generators would not be in use as a matter of course and would constitute emergency back-up.
- 4.11 The main pedestrian access would be from Buxton Street. Vehicular access would be via the existing vehicle access on Spital Street and the existing yard. A 2.5m high security fence would be erected along the western and southern boundaries, incorporating a secondary pedestrian access in the southern boundary (from the yard). A covered cycle parking area would be located within the southern boundary next to this entrance and two electric vehicle charging car parking spaces (one wide enough to serve as a parking space for a wheelchair user), and a waste collection area would be located in the existing yard area, outside of the perimeter fence but within the application site.
- 4.12 The existing wall along Buxton Street and on the Buxton Street/Spital Street corner would be demolished and the building set back 2m from this line; enabling a pavement to be provided along this part of Buxton Street, where at present only a narrow 1 to 1.4m wide pavement exists for only part of the length of the site. A short section of new wall at the western end of the Buxton Street frontage (approximately 5m high) would link the set-back building with the existing wall to the west. The building would step back from Buxton Street, with the ground and first floors rising up sheer, before being set back about 2.1m at second floor and a further 2.1m at plant level.
- 4.13 The existing wall along Spital Street would be demolished and a new 3.0m high wall would be built at the back edge of pavement between the existing Cooperage building and the corner with Spital Street. The building would step back from Spital Street in a similar way as it would from Buxton Street, with the ground and first floors rising up sheer, before being set back about 2.1m at second floor and a further 2.1m at plant level.
- 4.14 The Buxton Street, Spital Street and western elevations would be built in brick, with dark bronze metal framed windows, doors, rainwater goods, louver plant screen and roof cladding and chrome finish flues. The new walls would use reclaimed bricks from the existing walls. The southern (courtyard) elevation would be similar, but include two large (7.8m x 10.8m) green walls.

### **Site and Surroundings**

- 4.15 The site is located at the junction of Spital Street and Buxton Street in the north eastern

corner of the Truman's Brewery site, opposite Allen Gardens open space. It measures approximately 0.36 hectares. The site is within the Tower Hamlets Activity Area and is within close proximity of Brick Lane which is identified as a District Centre in the Core Strategy. The brewery complex itself is home to a number of Small/ Medium enterprises (SMEs). The site is generally represented by creative industries, media industries and leisure uses, including cafes/restaurants and clubs.

- 4.16 The site is located within the Brick Lane/ Fournier Street conservation area and the buildings which make up the Brewery site form an important part of the conservation area. The majority of buildings within the conservation area are relatively low rise, on a domestic scale, however the buildings in the brewery are much taller with an industrial character. A brewhouse was established on the site in the mid seventeenth century and a number of the remaining buildings which formed the brewery are listed. The Directors House on the west side of Brick Lane is Listed Grade II\* and 95 Brick Lane (the Brewmaster's House), also on the west side of Brick Lane is Listed Grade II. On the east side of Brick Lane and between about 18 and 25m away from the site is the Black Eagle Brewery, Nos. 114-12, 125 and 148 Brick Lane (Vat House) (Listed Grade II) and 150 Brick Lane (Engineer's House) (Listed Grade II). No. 35 Buxton Street is another Listed (Listed Grade II) building to note and the Cooperage building immediately the south of the site along Spital Street is also of some architectural and historic interest (although not listed).
- 4.17 The existing wall along Buxton Street is between 5 and 6 metres high. Within this sits a redundant electricity sub-station and immediately behind it sits a small garden and a single-storey brick workshop. A large modern industrial building occupies the majority of the site, with the rest comprising a temporary electricity sub-station, an open yard area, surfaced in a mixture of cobbles and tarmac. The yard is currently used for car parking.
- 4.18 To the north of the site is Allen Gardens open space. To the east, across Spital Street is Stuttle House, a seven storey block of flats. Further to the east is McGlashon House, a five to seven-storey block of flats and to the south on the corner of Spital Street and Woodseer Street is a relatively new block of flats. To the north and west of the site on the corner of Code Street is Daniel Gilbert House which provide temporary accommodation for single homeless people.
- 4.19 The map at end of the report shows the location of the application site in relation to three heritage assets and other buildings.

### **Planning History**

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

#### **PA/12/00090(Full Planning)**

Planning permission was granted on the 3<sup>rd</sup> July 2013 for the Demolition of the existing store building, sub-station, workshops and boundary wall to Buxton Street and Spital Street up to the Cooperage Building and erection of a 3 storey high data centre with basement accommodation including provision of Use Class B1 enterprise / D1 training floorspace, provision of rooftop satellite dishes, roof mounted mechanical plant, security fencing, cycle parking and provision of two electric charging car parking spaces.

#### **PA/12/00091**

(Conservation Area Consent)

Conservation Area Consent was granted on the 23<sup>rd</sup> August 2013 for

the demolition of the existing store building, substation, workshops and boundary wall to Buxton Street and Spital Street up to the Cooperage Building.

- PA/10/01940**  
(Planning) Demolition of existing store building and workshop and erection of a 3 storey building to accommodate a Data Centre was refused in November 2010 for the following 6 reasons (summary only):
1. The proposed bulk, height, footprint and elevational treatment is of poor design quality which does not preserve or enhance the character and appearance of the conservation area, fails to respect the local context and townscape and does not relate satisfactorily to Buxton Street, Spital Street or Allen Gardens.
  2. The inactive nature of the use and position of the building inside the high boundary walls would fail to contribute to the vibrant mix of uses expected in the THAA and would also fail to provide a mix of uses at the edge of the Brick Lane district centre detrimental to the future development of the Brewery site
  3. Insufficient information has been provided to assess the daylight/sunlight impact on homes in Shuttle House.
  4. Insufficient information has been provided in relation to energy efficient design, minimising carbon emissions and on-site renewable energy
  5. Inadequate acoustic attenuation is likely to result in an unacceptable level of noise disturbance
  6. Lack of financial contributions towards public realm enhancements, local training, employment and enterprise initiatives in the area
- PA/10/01958**  
(CAC) Refused in November 2010 for the following reason (summary):
1. In the absence of an approved planning permission for the re-development of the site, the demolition of the buildings would leave an undeveloped site which would represent a blight on the character and appearance of the Brick Lane and Fournier Street Conservation Area
- PA/11/01814**  
(Planning) Temporary planning permission granted in September 2011 for a temporary sub-station and LV switch room (up to end February 2013)
- PA/11/01877**  
(Planning) Planning permission granted in October 2011 for the erection of a permanent substation and LV switch room. (N.B. The approved substation would be integrated into the proposed datacentre building).
- PA/11/01878**  
(CAC) CAC granted in October 2011 for demolition of existing buildings in connection with the erection of a permanent substation and LV switch room

## 5. POLICY FRAMEWORK

5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the development plan unless material considerations indicate otherwise.

5.2 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:

## Government Planning Policy Guidance/Statements

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

### 5.3 Core Strategy Development Plan Document 2025 (adopted September 2010)

Policies	SO5	Mixed use at the edge of Town centres
	SP01	Town Centre activity
	SO15	Support City Fringe
	SO16	Support growth of businesses
	SP06	Industrial land
	SO20	Safe streets
	SP09	Streets
	SO22	Protect heritage assets
	SO23	High quality new buildings
	SP10	Heritage assets and design
	SO24	Zero carbon
	SP11	Low carbon energy
	SO25	Delivering placemaking
	SP12	Securing well designed places
	SP13	Planning obligations

### 5.4 Managing development Document MDD (Adopted April 2013)

Policies	DM1	Development within the town centre hierarchy
	DM11	Living buildings and biodiversity
	DM13	Sustainable drainage
	DM14	Managing waste
	DM15	Local job creation and investment
	DM20	Supporting a sustainable transport network
	DM22	Parking
	DM23	Streets and public realm
	DM24	Place-sensitive design
	DM25	Amenity
	DM27	Heritage and the historic environment
	DM29	Achieving a zero carbon borough and addressing climate change

### 5.5 London Plan 2016 (consolidated with alterations since 2011)(Spatial Development Strategy for Greater London)

	2.13	Opportunity areas and intensification areas
	4.1	Developing London's economy
	4.10	New and emerging economic sectors
	4.11	Encouraging a connected economy
	4.12	Improving opportunities for all
	5.1	Climate change mitigation
	5.2	Minimising carbon dioxide emissions
	5.3	Sustainable design and construction
	5.5	Decentralised energy networks
	5.6	Decentralised energy in development proposals
	5.7	Renewable energy
	5.10	Urban Greening
	5.13	Sustainable drainage
	5.17	Waste capacity



- 5.21 Contaminated land
- 6.9 Cycling
- 6.11 Walking
- 6.13 Parking
- 7.1 Building London's neighbourhoods and communities
- 7.2 An inclusive environment
- 7.4 Local character
- 7.5 Public realm
- 7.8 Heritage assets and archaeology
- 7.15 Reducing noise and enhancing soundscapes
- 7.19 Biodiversity and access to nature
- 7.21 Trees and Woodland
- 8.2 Planning obligations

5.6 **Planning Obligations Supplementary Planning Document (September 2016)**

5.7 **City Fringe Opportunity Area Framework OAPF (Adopted December 2015)**

5.8 **Brick Lane Fournier Street Conservation area Appraisal Document**

## 6. CONSULTATION RESPONSE

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

The following were consulted regarding the application:

6.2 LBTH Design Officer (11/10/2016)  
The application was taken to the Councils internal design drop in session for comment, given the history of the site and the Conservation area status. In general principle there were no principle objections to the development, given that the issues were addressed under the previous planning application. The Conservation Officer has requested a sample for materials to be provided, as there were some concerns raised about the colour of the bricks.

6.3 Environmental Health - Contaminated Land (30/08/2016)  
Development of the site shall not begin until a scheme has been submitted to the local planning authority and written approval has been granted for the scheme. The scheme will identify the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed.

6.4 Environmental Health- Noise & Vibration  
No comments received, although the following comments were received on the previous permission PA/12/00090:

The following residential facades will experience its impact; i) Stuttle House; ii) New residential building on Woodseer Street and iii) Buxton Street/Code Street. Although the assessment in the report meets BS4142 - L90- 10 dB(A), because the data is based on prediction and assumptions this application will require a condition for post completion testing so as to satisfy EH that there will be no noise nuisance impact on local residents, No objections to permission being granted provided that post completion testing condition which has to be discharged at a later date with EH consultation.

6.5 Environmental Health – Air Quality (17/08/2016)

Air Quality assessment not required. Mitigation measures for dust and air pollution during construction and demolition should be included in a CEMP to be submitted prior to commencement. All Non Road Mobile Machinery (NRMM) used in demolition and construction must meet the GLA's NRMM Low Emission Zone emission limits. Any heating plant installed must meet the GLA's NOx emission limits as specified in the 'Sustainable Design and Construction' SPG Please include the above as conditions should the development be approved.

Communities, Localities & Culture Strategy

6.6 No comments received.

Transportation & Highways (05/09/2016)

6.7 Transport and Highways welcome the proposal to have no parking facility on site and the provision of one EV charging space and one disabled parking space provided on site. We recommend a condition be placed to ensure disabled bay is retained and maintained. In addition, another condition requiring exclusive use of the spaces for plug in vehicles and details of the electric charging equipment is submitted to Highways for approval.

The applicant has set out their anticipated demand for cycle parking. As this is based on existing trip patterns for the site Highways are content with the methodology and the results and find the amount of cycle parking acceptable. However, this should be placed under review with additional provision made should the 10 spaces become unable to meet demand.

The applicant is required to provide information on how the infrastructure to support the proposed data centre is to be installed and the extent of such works. Are there likely to be major highway works in order to install the required cabling and electrical supplies for example?

The applicant has demonstrated that the service vehicles will service the site are able to enter and exit the site in a forward gear from the existing access on Spital Street. However, given the constrained nature of Spital Street and the routes leading to the side vehicle access point from the TLRN, Highways recommend a condition is attached requiring approval from Highways of a Service Management Plan prior to operations commencing at the site.

Highways also recommend a condition is placed on any planning permission requiring the applicant to submit to Highways a Construction Logistics Plan which must be approved prior to commencement of construction of the development. Subject to the requested addition of onsite disabled parking, and the recommended conditions described above being attached to any planning permission, Highways does not object to the application.

Crossrail Limited (05/08/2016)

6.8 The site of this planning application is identified outside the limits of land subject to consultation under the Safeguarding Direction.

The implications of the Crossrail proposals for the application have been considered and I write to inform you that Crossrail Limited do not wish to make any comments on this application as submitted.

Historic England (25/08/2016)

6.9 We have reviewed the information submitted in this current application, and note that the proposals are very similar to those that have been approved. We therefore have

no further substantial comments to make on the scheme.

However, we would like to draw your Council's attention to a discrepancy in the photomontages of the proposed development provided as part of the submission. View 7A shows the proposed Data Centre from the corner of Buxton Street and Spital Street, and clearly indicates that the 19th century workshops would be retained as part of the scheme. However, there is no indication that the workshops would be retained any of the other visualisations such as View 3A.

In our view, the workshops contribute to the character of the Conservation Area and so (whilst acknowledging that their demolition has already been approved) our preference would be to see these building, or at least their facades, retained and incorporated into the scheme.

Further comments received on the 27/09/2016

Thank you for clarifying the discrepancy in the visual information for the proposed Data Centre building. I do think it's a shame that the workshops will go, particularly as they make a positive contribution to the character of the Brick Lane and Fournier Street Conservation Area in my opinion. However, I recognise that they may already be approved for demolition under the previous scheme for the site. I would rest on the view set out in our previous advice letter that our preference would be to see these buildings, or at least their facades, retained and incorporated in the scheme

English Heritage Archaeology 8/08/2016

- 6.10 The Greater London Archaeological Advisory Service (GLAAS) provides archaeological advice to boroughs in accordance with the National Planning Policy Framework and GLAAS Charter.

Having considered the proposals with reference to information held in the Greater London Historic Environment Record and/or made available in connection with this application, I conclude that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

Environment Agency

- 6.11 No comments received

London Fire and Emergency Planning Authority

- 6.12 No comments received, although the following comments were received on the previous permission PA/12/00090

The application appears not to give cause for concerns regarding fire authority access or water supplies.

Thames Water

- 6.13 No comments received

Transport for London

- 6.14 Comments received on the 19/08/2016

- TfL welcomes the restrained approach to parking proposed, in line with London Plan Standards
- TfL welcomes the blue badge parking space proposed, in line with London Plan standards, however the applicant should clarify that blue badge parking

spaces will be at least 2.4m wide, 4.8m long with a zone 1.2m wide between designated spaces. TfL are content the council will secure full details of blue badge parking with reference to the Accessible London SPG, in consultation with TfL.

- The applicant proposes 10 long stay cycle spaces in a covered shelter. TfL deem the overall quantum of cycle spaces unacceptable in line with London Plan standards. As the applicant states, based on the proposed floor space, there should be a minimum of 20 long stay and 10 short stay cycle spaces. TfL therefore request the applicant provide cycle parking compliant with London Plan standards.
- TfL welcomes complimentary cycle facilities, such as showers for staff. In addition to measuring suitability of cycle parking against the London Plan standards TfL assess storage and design of cycle facilities against the standards set out in the London Cycle Design Standards (LCDS). The LCDS requires cycle parking to be fit for purpose, secure and well located. TfL finds the access for cycle parking to be acceptable, however the applicant should provide full details of the type of stand to be used for cycle parking. Furthermore the applicant should ensure that cycle parking can accommodate larger cycles (minimum 5%). The council should secure full details of cycle parking, with reference to LCDS, by condition in consultation with TfL.
- TfL finds details of refuse collection acceptable.

6.15 City of London Corporation  
No comments received.

6.16 The Spitalfields Trust  
No comments received.

6.17 Employment Enterprise (05/09/2016)  
Please see below updated S106 employment contributions, in line with the planning obligations SPD 2016.

Construction phase = £41,640  
End-user phase = £60,675.43  
**Total = £102,315.43**

The usual non-financial obligations apply during both phases:

Construction phase

20% local jobs

20% use of local suppliers

The Developer has confirmed that the construction project will cost approx. £50m. According to this cost we will expect 11 apprenticeships with a minimum NVQ L2 to be provided during the construction phase. These apprenticeship placements should be offered exclusively for local residents and they could be on specialist construction trades as well as office administration, facilities, or any other related activities required during the construction phase.

End-user phase

Advertisement of job opportunities through the council's job brokerage

Jobs for local people during operational phase

1 apprenticeship to be delivered within the first 3 years of full occupation (calculated based on expected FTE).

6.18 Sustainability/Energy Officer (01/11/2016)

The current proposals have sought to implement energy efficiency measures and renewable energy technologies to deliver a 43% reduction in CO2 emission reductions. The current proposals for CO2 emission reductions fall short of the 45% requirements of policy DM29.

However, subject to Conditions securing the energy and sustainability proposals and the CO2 emission reduction shortfall being met through a carbon offsetting contribution, the proposals would be considered in accordance with adopted policies for sustainability and CO2 emission reductions.

It is recommended that the proposals are secured through appropriate conditions and planning contributions to deliver:

- Delivery of CO2 savings to at least 43% against the baseline and submission of as built calculations to demonstrate delivery
- Carbon offsetting contribution secured through S106 contribution (£90,000)
- Submission of BREEAM final Certificate demonstrating achievement of an Excellent rating

6.19

LBTH Tree Officer

The tree report submitted with the application does not comply with BS 5837 (2012).

It is required that the tree report is brought in line with BS 5837 (2012) and Tree Protection Plan is provided for the three trees located in the public highway.

**7.0 LOCAL REPRESENTATION**

7.1 Two site notices were displayed around the site on the 1<sup>st</sup> September 2016 and it was advertised in the local press. A total of 292 planning notification letters were sent to nearby properties as detailed on the attached site plan. One written objection was received against the development and is summarised below:

- *The proposal will obstruct the view and light/air will be materially diminished; the height should subsequently be reduced to lessen impacts*

**8.0 MATERIAL PLANNING CONSIDERATIONS**

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

1. Principle of the proposed Land Uses
2. Loss of built fabric and trees in the Fournier Street and Brick Lane Conservation Area
3. Scale, design, appearance and impact on heritage assets
4. Buxton Street frontage and relationship with Allen Gardens
5. Transport, Highways and Parking
6. Impact on Amenity
7. Energy and environmental sustainability
8. Planning obligations
9. Equalities

## 10. Local Finance Considerations

### **Principle of the proposed land uses**

#### Data Centre and Sub-station

- 8.2 The NPPF (para. 42) states that advanced, high quality communications infrastructure is essential for sustainable economic growth and that the development of high speed broadband technology and other communications networks play a vital role in enhancing the provision of local community facilities and services.
- 8.3 London Plan Policy 4.11 (Encouraging a connected economy) calls on authorities to “facilitate the provision and delivery of the information and communications technology (ICT) infrastructure a modern and developing economy needs, particularly to ensure: adequate and suitable network connectivity across London (including well designed and located street-based apparatus); data centre capability; suitable electrical power supplies and security and resilience; and affordable, competitive broadband access meeting the needs of enterprises and individuals.”
- 8.4 Core Strategy Strategic Objective 1 supports the growth of thriving and accessible global economic centres of Canary Wharf and the Central Activities Zone (CAZ) which benefit the regional and local economies. The site is within the Tower Hamlets Activity Area (THAA) (a transitional area between the City Fringe and the rest of the borough). Core Strategy policy SP01 seeks to ensure that these transitional areas are complementary, yet different, to the distinct designations of the CAZ by promoting a vibrant mix of uses that are economically competitive and based on the adopted town centre spatial strategy which is also set out in Strategic Objective 1.
- 8.5 The site is also located within the City Fringe Opportunity area. The Mayor of London sets out objectives for this area, detailed in the Opportunity Area Planning Framework (OAPF). The document supports the enhanced growth of digital and creative clusters and the wider promotion of technology, creative and knowledge intensive businesses as part of their strategy to rebalance the economy and strengthen the UK’s competitive position internationally.
- 8.6 Officers acknowledge that data centres are an important use which complement the functions of the City and the nearby CAZ and that they are required to be located within close proximity of financial institutions in order to transfer data without delay. They can be seen as part of utility infrastructure that supports business. This is very much in line with the Objectives of the OAPF, which encourages the promotion of competitive businesses as part of its strategy to strengthen the UK’s economy. It is considered, therefore, that data centres in the THAA, together with electricity sub-stations that provide power to them, are acceptable in principle. However, whilst Policy SP01 states the uses within the THAA should be complementary to the City functions, they should also include a vibrant mix of uses. The need for provision of mix of uses is also recognised in the Core Strategy Vision for Trumans Brewery.
- 8.7 The site is currently surrounded by high walls and has little pedestrian footfall. The area lacks natural surveillance and, partly as a result of this, the amenity value of Allen Gardens is not fully realised currently. The previous application (PA/12/00090) therefore secured several amendments to ensure that the development would contribute to the vibrant mix of uses expected in the THAA and edge of the Brick Lane District Centre.
- 8.8 Therefore the following measures were secured and therefore have been applied to this scheme:
- Demolishing the existing high wall along Buxton Street;

- Setting the building back from the current line of the wall to create a useable pavement along the whole length of the site
- Locating a building immediately next to a newly created pavement area and incorporating windows in this location at all levels of the building;
- Locating the main pedestrian access on Buxton Street;
- Incorporating the security and reception area on the ground floor corner of Buxton Street and Spital Street and locating breakout/meeting rooms and balconies in this location on the first and second floors; and
- Incorporating a 'business enterprise space' at the ground floor (this use is discussed in more detail below).

#### Training and Enterprise Centre

- 8.9 Strategic Objective 15 of the Core Strategy is to support the thriving and accessible global economic centre of the City Fringe which benefits the regional and local economies and Strategic Objective 17 is to improve education, skills and training. Core Strategy Policy SP07 seeks, amongst other things, to support developments that promote local enterprise and the employment and skills training of local residents.
- 8.10 The proposed business enterprise space (B1/D1) (235sqm) would be located along the ground floor of the Buxton Street frontage. The intended use of this space as a Training and Enterprise Centre. The Centre would comprise:
- A managed workspace flexibly arranged with hot desks and with full connectivity for new ICT start-up companies;
  - A locally managed and ICT supported venue for the delivery of business support services to new start-ups; and
  - Venue also to provide ICT skills training for local people aiming to achieve NQF level 3 and 4 qualifications for careers in the local ICT industry.
- 8.11 The applicant would (in summary):
- Appoint a local agent to manage the marketing and day-to-day management of the Centre (such as Tech Hub, a local university or the Council);
  - Provide professional information, advice and guidance to start-up firms as part of a structured programme of business seminars and mentoring;
  - Work in partnership with public sector agencies to assist trainees by promoting opportunities for jobs, apprenticeships and internships amongst its suppliers, customers and wider IT community;
  - Cover the costs of fittings and overheads for a period of 3 years and make a financial contribution towards the revenue costs of managing the centre (estimated to be £100,000 per annum);
  - Make the centre available rent free to an appointed managing agent for 5 years, with the expectation that the Centre becomes self-sustaining after this period; and
  - Develop with the appointed managing agent a business plan for the future use of the Centre.
- 8.12 The proposed Centre has the potential to deliver real benefits to help small start-up businesses to grow and to help local people learn skills and training that would help them access employment. Such a use would also help activate the Buxton Street frontage. There is a risk that such a Centre would not become self-sustaining and fall out of use. However, officers consider that it represents a credible use of the Buxton Street frontage that should be pursued. It is recommended that, should permission be granted, a planning obligation secures the delivery and management of the proposed Business Enterprise Space in accordance with the above principles and that these principles are developed into a Future Business Enterprise Space Strategy that is approved by the Council prior to first occupation of the data centre and/or the Centre.

- 8.13 The application seeks permission for Business (B1) and/or enterprise training space (D1). In addition to non-residential education and training centres, the D1 use class also includes crèches, nurseries, day centres, places of worship and church halls. These uses would not necessarily contribute to the mixture of uses required by policy in this location. It is therefore recommended that a planning condition be attached to any permission which restricts the use of the proposed space to B1 and/or an education training centre, so that the acceptability of any other uses can be assessed.

Displacement of existing businesses/uses

- 8.14 Policy DM15 of the Development Management DPD makes clear that development which is likely to displace an existing business must find suitable replacement accommodation within the borough unless it can be shown that the needs of the business are better met elsewhere.

- 8.15 The majority of the existing buildings on the site are vacant or used for 'dead storage'. The proposal would displace one permanent business; a small coffee grinding and distribution company that is currently based in the former barrel-washing shed (accessed from the yard). The applicant states that Zeloof intends to re-locate this business within the wider Brewery complex and it is recommended that a relocation strategy for this business is secured by way of a planning obligation.

**Loss of built fabric and trees in the Fournier Street and Brick Lane Conservation Area**

Loss of buildings, walls and courtyard

- 8.16 In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention shall also be paid to the desirability of preserving or enhancing the character and appearance of the designated conservation area. As a statutory requirement the desirability of preserving or enhancing the character and appearance of a conservation area is a consideration to which a decision maker should give considerable weight.

- 8.17 NPPF Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- 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 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.

- 8.18 NPPF Paragraph 132 notes 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. The more important the asset, the greater the weight should be.

- 8.19 Paragraph 133 advises that 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.

- 8.20 Policy SP10 in the Core Strategy seeks to protect and enhance heritage assets. Policy DM27 of the Development Management Document MDD sets out similar criteria - making clear that proposals for the demolition of a such assets will only be considered under exceptional circumstances where the public benefit of demolition outweighs the case for retention against the following criteria:
- a. the significance of the asset, architecturally, historically and contextually;
  - b. the condition of the asset and estimated costs of its repair and maintenance in relation to its significance and demolition, and to the value derived from its continued use;
  - c. the adequacy of efforts made to retain the asset in use; and
  - d. the merits of any alternative proposal for the site.
- 8.21 The principle of demolition/design was covered under the previous planning application (PA/12/0090). Comments were received from Historic England in regards to the loss of the existing warehouse buildings on site and their preference for it to be retained or at least their facades, retained and incorporated into the scheme. In this instance, the warehouses were not able to be retained and the wider merits of the proposed replacement building are discussed in further detail below (public realm improvements- includes a footpath). Notwithstanding the above, the existing warehouse bricks will be reclaimed and used throughout the proposal, which will seek to incorporate the warehouse/utilitarian feel into the proposal and therefore contribute to the existing merits of the Fournier Street and Brick Lane Conservation Area. This expanded on the paragraphs below:
- 8.22 The proposals would result in the loss of the former barrel-washing shed and electricity sub-station (which form part of the high brick wall that runs along this part of Buxton Street), a utilitarian two-storey flat-roofed brick workshop building dating from the 1950's or 60's on the Spital Street frontage and an industrial 'shed' probably dating from the 1970's. They would also result in the loss of a large part of the existing yard, which is surfaced in a mixture of cobbles, tarmac and stone paving slabs. The proposed demolition of the workshop building on Spital Street would also expose the northern wall of the existing Cooperage Building, which abuts the site to the south.
- 8.23 The former barrel-washing shed and northern wall is the oldest surviving structure on the site and probably dates from the mid-19<sup>th</sup> century. It is a substantial structure of brown brick built right up to the frontage of Buxton Street, leaving a very narrow footway. To the street, the building presents a rather forbidding boundary wall (5.5 to 6m high) incorporating three window openings. It includes a boundary marker which reads "Four feet six inches east is the boundary of St. M.B.G. WS Clark Church John Kelday Wardens 1815." The structure also includes an electricity sub-station at the western (Brick Lane) end. On the yard side, the central part of what was once an open structure has been bricked-up with Fletton brick work and is currently occupied by a small coffee grinding/distribution company.
- 8.24 The barrel-washing shed and boundary wall is of some historical and architectural interest and the previously proposed scheme did propose retaining the wall. However, this resulted in an inactive frontage to Buxton Street, which was one reason why the previous application was amended. Therefore the previous planning application PA/12/00090 and this proposal address this reason by proposing to demolish the existing walls and locating a building along the Buxton Street frontage. This enables an active frontage to be created along this stretch of Buxton Street and the creation of a 2m wide pavement area where none exists at present. The wider merits of the proposed replacement building are discussed further below, but it should be noted at this stage

that the existing boundary marker would be incorporated in to the northern elevation of the proposed building, at the same location as existing.

- 8.25 The 1950's/60's workshop building and wall that front Spital Street are of very little historical or architectural interest. However, the demolition of the building would expose the northern wall of the existing Cooperage Building and chimney stack, which abuts the site to the south. Whilst not listed, the Cooperage Building (built between 1876 and 1896) makes a positive contribution to the character and appearance of the Conservation Area. Given this, it is recommended that a condition be attached to any permission requiring the making good of the exposed brick wall of this building and stack.
- 8.26 The industrial 'shed' towards the centre of the site is unattractive and is considered to have a neutral/negative effect on the character and appearance of the area and there is no objection to its loss. The courtyard space is of some historic significance as a reminder of a past phase of commercial activity in the area. Nevertheless, the focus of brewery activity at least from the 1830's onwards was Brick Lane, with the Head Office and the main buildings that front it, and there are no known specific historic associations with particular events or individuals of note. However, it is recommended that a condition be attached to any permission requiring the reclamation of existing cobbles and stone paving slabs from the courtyard area for use on and off-site.
- 8.27 The buildings which make up the former Truman's Brewery site form an important part of the Fournier Street and Brick Lane Conservation Area. The character of the Area as a whole is outlined in the Council's Character Appraisal and Management Guidelines (November 2009) and the applicant has submitted a character appraisal for the Brewery complex. None of the buildings on site that would be demolished are identified in either of these documents as being particularly significant. Overall, taking account of the significance of the structures that would be lost and efforts to retain/incorporate them, the merits of the proposed development, discussed in detail below, are considered to outweigh any harm to the character and appearance of the Conservation Area caused by the proposed loss of built fabric. It should be noted that the reason for refusing the previous CAC application (PA/10/01958) related to the lack of an approved replacement scheme and the harm this would cause; not to the loss of the structures themselves..

#### Biodiversity

- 8.28 London Plan Policy 7.21 seeks to retain trees and the planting of replacement/new trees wherever possible. Local plan policy DM11 seeks living buildings and biodiversity enhancements.
- 8.29 Biodiversity issues relating to their proposed loss are addressed below. Three street trees along Spital Street would not be affected by the proposals. The proposed large green wall areas on the south (courtyard) elevation would provide replacement greenery. The application was consulted with LBTH's Tree Officer who has required that the tree report is brought in line with BS 5837 (2012) and Tree Protection Plan is provided for the three trees located in the public highway. This will be secured by condition.

#### **Scale, design, appearance and impact on heritage assets**

##### Scale, design and appearance

- 8.30 Policy SP10 of the Core Strategy seeks to ensure buildings are of a high quality design. Policy DM24 in Managing Development Document (2013) calls for place-sensitive design and requires new development to be high quality and responds positively to its

context and Policy DM26 seeks to ensure that taller buildings respond positively to their context and address various criteria. London Plan policies 7.5 and 7.6 call for new development to respect local character and be of the highest architectural quality.

8.31 The scale and design of the proposed development is identical to what was submitted and approved under the previous planning application (PA/12/00090). The design was subject of significant discussion under the previous applications and in 2010, (PA/10/01940) planning permission was refused partly on the grounds that the proposed bulk, height, footprint and elevational treatment was of poor design quality which would not preserve or enhance the character and appearance of the conservation area, failed to respect the local context and townscape and did not relate satisfactorily to Buxton Street, Spital Street or Allen Gardens. Therefore the scheme now before members has seen significant revisions since the first submission back in 2010 and as mentioned earlier is identical to that was approved under the 2012 planning consent. For clarity, the current proposals have sought to address the reasons of the 2010 refusal as follows:

- The proposed building has been set back approximately 2m from the Buxton Street frontage to allow for a pavement area to be created along the south side of the street and the introduction of an active frontage (discussed further below);
- The proposed main entrance of the building has been moved from the Buxton Street/Spital Street corner to Buxton Street;
- The overall height of proposed building has been reduced by approximately 2.7m (partly as a result of a basement level);
- The previously proposed stair core has been relocated further away from Buxton Street so as to reduce its impact;
- The mass of the proposed building would step back further from Spital Street; and
- The proposed elevational treatment of the building has been completely revised.

8.32 The proposed building would be approximately 65m long, as viewed from Buxton Street and approximately 30m along the Spital Street frontage. It would appear as a part three/part four storey brick building when viewed from these streets and Allen Gardens, with the Spital Street elevation being set behind a high brick wall. The building would have a two-storey lower section, a single storey upper section set back from the main facade line and a top storey set back still further (with this storey comprising a screen hiding rooftop plant). The main bulk of the building would rise to approximately 18.5m above ground level, although the proposed photovoltaic panels would rise to approximately 19m, the satellite dishes on the southern elevation (overlooking the courtyard) to about 19.5m and seven slim flues would rise to about 21.5m.

8.33 The proposed Buxton Street and Spital Street elevations are divided vertically into wide bays, with each bay separated by recessed columns containing rainwater pipes, and in each bay is a pair of sunken vertical panels with square heads. The panels would rise through two floors on the lower part of the front, with separate shorter panels on the upper part, within which are set the small-paned window openings these are required. The fenestration would not be regular because it reflects the internal functions of the proposed building and some of the panels would be completely 'blind'. Nevertheless, the front as a whole would be given a unity by the appearance of the sunken panels, which would be a strong motif. Towards the eastern end of Buxton Street (near Spital Street) there would be the main entrance, set in a single wider panel which would continue up the full height of the building in a triple tier of straight-headed window openings. The proposed elevations clearly take their inspiration from 19<sup>th</sup> and 20<sup>th</sup> century industrial buildings, including examples from within the former brewery site.

- 8.34 The proposed western elevation would not face a public street, but would face the listed Brickhouse, Engineer's House and Vat House on Brick Lane. The industrial aesthetic would be repeated here. The northern section would have four 'blind' sunken panels; whereas the larger southern section would have a row of seven tall square-headed openings with small-paned glazing rising up from first floor level upwards. The southern elevation would face the reduced courtyard space and would contain two large green wall panels and three satellite dishes at roof level.
- 8.35 The proposed siting and scale of the proposed building are considered acceptable from a design perspective. The proposed elevations are simple and straight forward and the quality of the proposed building would be heavily dependent on the quality of the detailing and materials. Given the importance of these details, officers have sought to ensure that external materials are, as much as reasonably possible, considered at this stage. The predominant material would be brick, with dark bronze metal window surrounds and plant screen at roof level and samples of these materials have been submitted for approval. In addition, 1:50 strip elevations /sections of the Buxton Street elevation have been submitted, showing the intended depth of window reveals and other recessed features. The proposed materials and building details are considered acceptable and, subject to a condition requiring further external material samples to be submitted and approved, should ensure that delivery of a building of acceptable quality. As such, the proposals are considered acceptable and accord with the policies referred to above.

#### Impact on setting of Listed Buildings

- 8.36 Core Strategy policy SP10 and Policy DM27 of the Managing Development Document requires development to protect and enhance the borough's heritage assets (including Listed Buildings), their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'. Similar policy objectives are included in London Plan policy 7.8.
- 8.37 The proposed building would be sited approximately 29m to the east of the rear of the Grade II Listed Brickhouse building, approximately 20m to the east of the rear of the Grade II Listed Engineer's House and approximately 17m north of the rear of the Grade II Listed Vat House. The proposed building would also sit across the street from the Grade II Listed former All Saint's Vicarage at 35 Buxton Street. Other listed buildings sit further away on the west side of Brick Lane. These include the Directors House (Grade II\*) and the Brewmaster's House at No. 95 Brick Lane (Grade II).
- 8.38 The relationship between the proposed building and the listed buildings immediately to the west of it is considered acceptable, and whilst the proposed building would be seen in context with the rear of the Brickhouse and the Engineer's House and Vat buildings, it is not considered that the setting of these buildings would be harmed. Perhaps more importantly, the proposed building would be seen in context with the existing Brickhouse building in views along Buxton Street and across Allen Gardens. However, it is not considered that the proposed building would harm the setting of this building. Likewise, the proposed building would be seen in context with the former All Saint's Vicarage building in views along Buxton Street and across Allen gardens, but again, it is not considered that the setting of this building would be harmed.
- 8.39 The narrow width of Brick Lane means that the proposed building would not be visible from the western footway of this street or from the courtyard to the main brewery building. Whilst it would be visible across the top of the Listed Brick House building from upper floors of buildings on the west side of Brick Lane, the planning system is primarily concerned with impacts on views from the public realm.

- 8.40 Subject to conditions requiring the submission of further external material samples, the proposed development is considered to preserve the setting of the nearby Listed Buildings and their special architectural and historic interest. As such, the proposals accord with the policies referred to above.

Impact on character and appearance of the Conservation Area

- 8.41 Core Strategy policy SP10 and policy DM27 of the Managing Development Document requires development to protect and enhance the borough's heritage assets (including Conservation Areas), their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'. Similar policy objectives are included in London Plan policy 7.8.
- 8.42 The acceptability of the proposed loss of existing built fabric and trees are discussed in detail above. The proposed building would undoubtedly change the character and appearance of this part of the Area when viewed from Woodseer Street to the south, Allen Gardens to the north and Buxton Street to the north and east. However, officers consider that, whilst the building would be relatively large and prominent, drawings and views submitted in support of the application demonstrate that the visual impact on the Area would be acceptable. Subject to conditions requiring the submission of further external material samples and details relating to the external treatment of the proposed paved area along Buxton Street and the treatment of the exposed wall of the Cooperage building, the proposed replacement development is considered to preserve and enhance the appearance of the Conservation Area. As such, the proposals accord with the policies referred to above.

Impact on archaeology

- 8.43 Core Strategy policy SP10 and policy DM27 of the Managing Development Document makes clear that the Council wishes to safeguard archaeological heritage and require an archaeological evaluation report for proposed development that lies in or adjacent to Archaeological Priority Areas.
- 8.44 Whilst the site is not in an Archaeological Priority Area, it is situated in an area where archaeological remains may be anticipated and the applicant has submitted an Archaeological Desk Based Assessment to support the application. The Assessment identifies a low potential for Prehistoric remains, but a moderate potential for Roman remains. In addition, historic map regression suggests a high potential of late 17<sup>th</sup> century and possibly 18<sup>th</sup> century housing, with the existing garden area in the north-east corner of the site holding the greatest potential. It was recommended on the previous application that sub-surface archaeological investigation and a programme of archaeological recording of the standing buildings (to be demolished) are carried forward and secured by planning condition. Officers agree and it is recommended that such conditions are attached to any planning approval.

**Buxton Street frontage and impact on Allen Gardens**

- 8.45 Policy SP01 in the Core Strategy states the uses within the THAA should be complementary to the City functions, they should also include a vibrant mix of uses. Policy DM23 in the Managing Development Document calls, amongst other things, for development to be well-connected with the surrounding area and inclusive for everyone and to improve safety and security without compromising design. London Plan policy 6.10 supports measures that encourage walking and policy 7.13 calls for development to minimise potential physical risks and include measures to design out crime and deter

terrorism.

- 8.46 The proposed siting of the building approximately 2m back from the line of the existing wall would enable the creation of a pavement area along this section of Buxton Street, where at present only a narrow 1 to 1.4m pavement exists for only part of the site frontage. The terms of proposed lease with the freeholder of the land means that applicant is unable to dedicate this land as public highway. The proposed pavement area would therefore remain as private land over which the public would have right of access and it is recommended that this is secured by way of a planning obligation (which both the leaseholder and freeholder would need to be party to). The applicant is concerned about the security of the proposed building and would ideally like to see vehicle impact resistant bollards provided on the edge of the private pavement area. However, officers raised concerns over the appearance of such bollards and their potential to act as obstacles to the convenient and comfortable movement along the pavement/adjoining public footway. As a result, these have been omitted from the proposals.
- 8.47 It is recommended that a planning obligation be used to secure public access and that the drainage, surfacing and lighting details of this area are reserved by condition. Subject to such an obligation and condition, the proposed pavement area would improve pedestrian facilities in accordance with Policies DM23 and London Plan policy 6.10 and is to be welcomed.
- 8.48 The incorporation of a Training and Enterprise Centre along the Buxton Street frontage would result in approximately 71% (44m of the 62m) of this ground floor frontage being in active use. Whilst most of the windows on the first and second floors fronting Buxton Street and Spital Street would serve relatively inactive space (including data halls, corridors and mechanical plant areas), some active use is proposed for the corner of the building and the windows serving inactive space would at least give the perception of overlooking. Officers consider that the revised proposals do enough to activate these frontages and are acceptable.
- 8.49 The setting back of the proposed building from Buxton Street and the reduction in overall height means that the proposed building would overshadow Allen Gardens less than the scheme that was refused planning permission (PA/10/0190). The Daylight, Sunlight and Overshadowing Assessment considers the likely overshadowing of Allen Gardens on 21 March (the Spring Equinox) at hourly intervals between 08.00 and 17.00 (10 separate calculations). This shows that the proposed building would result in some limited additional overshadowing of the southern edge of Allen Gardens. However, the area of the public open space that would be prevented from receiving direct sunlight for at least two hours on 21 March would be less than 5%. The level of overshadowing is therefore considered acceptable. The relevant BRE Guidelines allow up to 49% of a public space to be in permanent shadow on the 21 March before they consider there to be a significant impact.

## **Transport, Highways and Parking**

### Accessibility and trip generation

- 8.50 London Plan policies 6.9, 6.11 and 6.13 encourage cycling and walking and seek to manage the provision of car parking spaces. Core Strategy SP09 seeks to ensure new development has no adverse impact on the safety and capacity of the road network and promotes schemes that minimise on-site and off-site car parking provision, particularly in areas with good access to public transport. Policy DM20 in Managing Development Document makes clear that development needs to be located appropriately,

demonstrate that it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the network.

- 8.51 The site is well served by bus and rail connections and as a consequence has a PTAL of 6a (Excellent). Given likely trip generation and modal split assumptions based on a survey of staff working at existing data centres in the area and the proposed 2 car parking spaces, the submitted Transport Statement anticipates the number of trips to the data centre during peak periods (07.00 to 09.00 and 16.00 to 18.00) would be 64 arrivals and 57 departures, with only 2 car movements. The proposed Business Enterprise Space is not expected to add significantly to these peak period movements. This would represent a relatively low number of trips for such a well-connected part of the borough and officers do not anticipate any undue pressure on the surrounding streets.

#### Vehicular access and servicing

- 8.52 Vehicular access would be via the existing access on Spital Street and across the retained yard area to a loading entrance adjacent to the south side of the proposed building. The submitted Transport Statement estimates that day-to-day servicing requirements would be for approximately 10 trips in and out of a 7.5 tonne van and that a 10,000 litre tanker lorry would need to fill the proposed on-site fuel tanks with generator fuel around 3 times per year. There would also be occasional collection of commercial waste. Swept path analysis has been submitted that demonstrates that a large tanker (and refuse vehicle) could satisfactorily manoeuvre in the yard area and enter and leave the existing Spital Street entrance in forward gear.
- 8.53 The proposed rear servicing arrangements are acceptable.

#### Car parking

- 8.54 London Plan Policy 6.13 (Parking) sets out maximum car parking standards, requires at least one 'blue badge' parking space for workplaces and seeks to ensure that 1 in 5 spaces provide an electrical charging point to encourage the uptake of electric vehicles. Policy DM22 of the Managing Development Document requires development to comply with specific car parking standards and to prioritise spaces for car clubs/pool cars and electric charging points.
- 8.55 The proposals provide for one 'blue badge' parking space for a disabled employee/visitor (which would be served by an electric charging point) and one further electric charging parking space, for use by employees of the proposed scheme and by occupiers of other buildings served by the retained yard area. This proposed provision is welcome.

#### Cycle parking

- 8.56 Policy DM22 in the Managing Development Document MDD requires development to comply with minimum cycle parking requirements (minimum of 1 space per 120sqm B1 office and 1 space per 250sqm of space for B8).
- 8.57 The proposal incorporates the provision of 10 covered cycle parking spaces for employees and none for visitors. This is below the level required by the emerging standards and whilst it is appreciated that TFL have raised concerns regarding the number of spaces, given that the number of spaces have been based on existing trip patterns for the site, LBTH Highways are content with the methodology and the results and find the amount of cycle parking acceptable.

However, this should be placed under review with additional provision made should the 10 spaces become unable to meet demand. If the Committee is minded to approve the development, a condition appended to the consent will ensure that this requirement is adhered to

#### Construction

- 8.58 Policy DM 21 of the Managing Development Document seeks to mitigate impacts during the construction phase of developments and it is recommended that a Construction Management Plan be secured by way of planning condition.

#### **Impact on amenity**

##### Daylight and Sunlight

- 8.59 Policy SP10 and Policy DM25 of the Managing Development Document seek to protect and where possible enhance residential amenity (including not allowing an unacceptable material deterioration of the sunlighting and daylighting conditions). The previous proposal for the site (PA/10/0190) was refused permission partly on the grounds that insufficient information had been provided to fully assess the daylight/sunlight impact on homes in Shuttle House.
- 8.60 The previous report has addressed the impacts upon all neighbouring residential properties and the findings are stipulated below:  
The submitted Daylight, Sunlight and Overshadowing Assessment assesses the impact of the proposed building on the daylight received at homes on the ground and upper floors of Daniel Gilbert House (around 14m to the north west), 35 Buxton Street (around 27m to the north east) and Shuttle House and McGlashan House (about 19m and 42m to the west respectively). This found that all tested windows would receive at least 27% Vertical Sky Component (VSC) in all but one case. The exception is the ground floor window at 35 Buxton Street, where the VSC would be 25.7%. However, the proposed level of daylight here would be more than 80% of its existing value, meaning that the reduction in daylight is unlikely to be noticeable. As such, all tested windows would meet the relevant BRE Guidelines.
- 8.61 The Assessment also assesses the impact that the proposal would have on the sunlight received by homes on the ground and upper floors of Daniel Gilbert House and 35 Buxton Street, which sit to the north of the proposed building. The assessment of Annual Probable Sunlight Hours (APSHs) finds that all tested windows would continue to receive levels of sunlight that are above the minimum recommended levels for both the full year and for winter time (when the sun is lower in the sky).
- 8.62 Given the above, officers consider that the proposal would not give rise to any unduly detrimental impacts in terms of daylight or sunlight. Overshadowing of Allen Gardens is addressed under the Buxton Street frontage and impact on Allen Gardens above.

##### Noise

- 8.63 Core Strategy policy SP10 and policy DM25 of the Managing Development Document seek to protect and where possible enhance residential amenity (including not allowing unacceptable levels of noise during construction or operation). London Plan policy 7.15 seeks to minimise potential adverse noise impacts arising from new development.
- 8.64 The proposals incorporate a large amount of plant located primarily at roof level, using



most of the space available for 27 dry-air coolers for the proposed data halls and generators below. In addition, 7 generators would be located at ground floor on the western (Brick Lane) side of the building (although it expected that no more than 6 would operate at any one time). A chiller plant room would also be located at ground floor level on the east (Spital Street) side of the building, although this would not include any significant outlets to the outside.

- 8.65 To mitigate potential noise impacts, the proposed building incorporates a 1.5m high upstand at plant deck level and set back from this would be 4.1m high acoustic louvered screen, which would rise to the top of the dry-air coolers. The submitted Noise Assessment sets out the findings of a 24 hour noise survey on site and at Code Street and Spital Street. This indicated a minimum night-time noise level of 40dB LA90 between approximately 2 to 3AM. The Council require cumulative plant noise to be 10dB below this noise level, therefore setting a noise limit of 30 dBA Leq. The Assessment predicts that, with the proposed acoustic screen and other proposed attenuation measures in place, noise levels would be 28.7 dBA at the flats at Spital Street/Woodseer Street, 29.5 dBA at the flats on the 7<sup>th</sup> floor of Stuttle House (the worst affected level) and 30.4 dBA at the homes on the 4<sup>th</sup> floor of in Daniel Gilbert House (the worst affected level). The Acoustic Assessment Addendum Report confirms these predictions.
- 8.66 The Assessment predicts noise levels just below and, in the case of Daniel Gilbert House, just above the 30 dBA level normally required. Environmental Health officers accept that the predictions are reasonable, but recommend that should permission be granted, a planning condition ensures that there is post-completion testing of the noise impacts of the development before the plant is first brought into use. It is therefore recommended that a condition requires that before an approved data centre is first brought into use, detailed results of a noise survey measuring the operation of the plant working at full capacity are approved in writing by the Council. It is also recommended that a condition requires the installation and retention of the proposed acoustic screen. Subject to these conditions, the likely noise impacts of the proposed development are considered acceptable. If measures taken don't bring noise below this level further mitigation would be required

#### TV and radio reception

- 8.67 Policy DM26 of the Managing Development Document requires proposed tall buildings not to interfere, to an unacceptable degree, with telecommunication, television and radio transmission networks.
- 8.68 The planning application is supported by a report into a desktop study and field survey to assess possible effects and impacts from the proposed development on the reception of broadcast services. This concludes that the proposals are not expected to have an effect upon the reception of Digital Terrestrial TV (DTT), digital satellite TV services such as Freesat and Sky or on VHF (FM) radio and that, therefore, no mitigation is necessary. Officers accept the findings of this report.

#### Air Quality

- 8.69 Core Strategy policy SP10 and policy DM25 of the Managing Development Document seek to protect and where possible enhance residential amenity (including not allowing unacceptable levels of odour or fumes). London Plan policy 7.14 calls for development to ensure that it does not lead to further deterioration of existing poor air quality in Air Quality Management Areas.
- 8.70 As discussed in section 4 of this report and below, data centres use a lot of energy and the applicant needs to ensure continuity of power supply for commercial reasons. The

proposed generators are part of ensuring this continuity. If electricity supply fails, batteries would automatically kick in for 15-30 minutes to provide power and the generators would then come on line to provide power until electricity supply from the national grid is restored. Consequently, other than testing, the generators would not be in use as a matter of course and would constitute emergency back-up. They should not, therefore, give rise to any significant impacts with regards to air quality.

### **Energy Efficiency and Sustainability Policy Requirements**

8.71 At a national level, the National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The NPPF also notes that planning supports the delivery of renewable and low carbon energy and associated infrastructure. At a strategic level, the climate change policies as set out in Chapter 5 of the London Plan 2016 (as amended since 2011), London Borough of Tower Hamlets Core Strategy (SO24 and SP11) and the Managing Development Document Policy DM29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.

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

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

8.73 The Managing Development Document Policy DM29 includes the target to achieve a minimum 50% reduction in CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy. From April 2014 the London Borough of Tower Hamlets have applied a 45 per cent carbon reduction target beyond Part L 2013 of the Building Regulations, as this is deemed to be broadly equivalent to the 50 per cent target beyond Part L 2010 of the Building Regulations.

#### *Policy DM29 - Proposed Carbon Emission Reductions*

8.74 The submitted Energy Statement (June 2016) has followed the principles of the Mayor's energy hierarchy, and seeks to focus on reducing energy demand and integration of renewable energy technologies to minimise CO2 emissions. As with the nature of the development (Data Centre) the primary loads are electrical for power and cooling. The energy efficiency measures are anticipated to reduce CO2 emissions by 42.7% and the proposed PV array (131m<sup>2</sup>) will take the cumulative reduction up to 43% which is in accordance with policy London Plan requirements at 37%. However, the proposals fall short of the LBTH policy requirements to achieve a 45% reduction in CO2 emissions.

8.75 The CO2 emissions are:

- Baseline – 2,548 Tonnes/CO2/yr
- Proposed design – 1,451 Tonnes/CO2/yr
- LBTH policy requirement – 1,401 Tonnes/CO2/yr
- Annual Shortfall – 50 Tonnes/CO2/yr

#### *Carbon Offsetting*

8.76 As noted previously, the current proposals fall short of the LBTH policy requirements to achieve a 45% reduction in CO2 emissions.

8.77

In order for the scheme to be supported by the sustainable development it is recommended that the shortfall in CO2 emission reduction is met through a carbon offsetting payment. The planning obligations SPD contains the mechanism for any shortfall to be met through a carbon offsetting contribution, in the absence of the CO2 emission reduction not being delivered on site. In addition, the council has an adopted carbon offsetting solutions study (adopted at Cabinet in January 2016) to enable the delivery of carbon offsetting projects. Based on the current energy strategy a carbon offsetting contribution of **£90,000** would be appropriate for carbon offset projects. The calculation for this figure is as follows:

8.78 Shortfall to meet DM29 requirements = 50 tonnes/CO2 x £1,800 = **£90,000** offset payment to meet current policy requirements.

In order to support the proposed scheme carbon reduction proposals, appropriately worded Conditions and a S106 agreement for **£90,000** to be payable prior to commencement of development, should be incorporated to deliver carbon savings off-site.

#### *Sustainability*

8.79 Policy DM 29 also requires sustainable design assessment tools to be used to ensure the development has maximised use of climate change mitigation measures. At present the current interpretation of this policy is to require all non-residential uses to achieve BREEAM Excellent. The applicant has submitted a BREEAM pre-assessment which shows the scheme is designed to achieve a BREEAM Excellent rating with a score of 74.56%. The delivery of BREEAM excellent should be secured via Condition to ensure the scheme is compliant with Policy DM29.

#### Biodiversity and Proposed Green wall

8.80 London Plan policy 5.10 (Urban greening) encourages the incorporation of green walls into proposed buildings. Policy DM11 in the Managing Development Document requires developments to provide elements of 'living buildings'. It also states that existing elements of biodiversity value should be protected or replaced within the development and additional habitat provision made to increase biodiversity value.

8.81 The existing site contains a small garden with 3 trees which provides some habitat for common birds and other wildlife. The submitted Ecological Scoping Phase 1 Habitat Survey Report notes that the loss of this would have a very small negative impact on biodiversity and officers agree. However, it is recommended that an informative be included as part of any planning permission stating that these trees should be felled outside of the bird breeding season (March to August).

8.82 The proposals incorporate two separate but adjacent green walls on the southern (courtyard) elevation of the building, both measuring approximately 7.8m x 10.4m (about 162sqm in total). The proposed substantial areas of green wall could help to mitigate the small loss of existing habitat. To maximise biodiversity benefits, plants used in green walls should provide nectar for bees and other insects and/or berries or seeds for birds. There is a lack of detail of the green wall areas in the application and it is recommended that the details (including planting) are reserved by condition for subsequent approval.

#### Water usage

- 8.83 London Plan policy 5.13 (sustainable drainage) encourages Sustainable Urban Drainage Systems (SUDS) that store rainwater for later use and policy 5.15 (Water use and supplies) promotes the use of rainwater harvesting. Policy DM13 of the Managing Development Document makes clear that development will be required to show how it reduces the amount of water usage, runoff and discharge from the site, through the use of appropriate water reuse and SUDS techniques.
- 8.84 Achieving a BREEAM 'Excellent' rating would require the use of water efficient appliances. It is also proposed to incorporate a rainwater harvesting scheme to gather and store rainwater from the roof areas to be used the water the green wall areas. Provision has been made in the basement for grey water storage and pumping area and it is expected that the system would be powered by the proposed PVs at roof level. However, there is a lack of detail and it is recommended that the details are reserved by condition for subsequent approval.

#### Contamination

- 8.85 Policy DM30 of the Managing Development Document makes clear that where development is proposed on contaminated land or potentially contaminated land, a site investigation will be required and remediation proposals agreed to deal with any contamination before planning permission is granted.
- 8.86 The submitted Site Investigation Report concludes that in view of the proposed commercial (non-residential) use, contamination results indicate that the site can be considered uncontaminated with regard to human health. Having said this, it considers that excess material generated during site preparation works should be considered contaminated with regard to disposal. The report goes on to note that the elevated levels of metals and fuels encountered within the leachable soil and groundwater may present a risk to Controlled Waters and recommends borehole testing and further quantitative risk assessment. It is recommended that conditions are included as part of any planning approval to ensure that suitable further investigation is carried out prior to works commencing on the site.

#### Waste

- 8.87 Policy DM14 of the Managing Development Document (2013) makes clear that development should demonstrate how it will provide appropriate storage facilities for residual waste and recycling.
- 8.88 The proposals incorporate waste and recycling area of approximately 6.5 x 4.5m (29sqm) to the rear of the proposed building, in the retained courtyard area, with suitable vehicular access. This is considered acceptable.

#### **Planning Obligations**

- 8.89 Regulation 122 of the Community Infrastructure Levy Regulations 2010, brings into law policy tests for planning obligations which can only constitute a reason for granting planning permission where they meet the following tests:
- (a) The obligation is necessary to make the development acceptable in planning terms;
  - (b) The obligation is directly related to the development; and
  - (c) The obligation is fairly and reasonably related in scale and kind to the

development.

- 8.90 Policy SP13 of the adopted Core Strategy say that the Council will seek to enter into planning obligations with developers where appropriate and where necessary for a development to proceed.
- 8.91 The amounts have been negotiated taking account of the planning obligations SPD and heads of terms are set out below.

#### Non-financial Contributions and Obligations

- 8.92 Officers have negotiated the following non-financial contributions and obligations:
- Delivery of a Training and Enterprise Centre summarised in paras. 8.9 and 8.10 of this report and the implementation of a Training and Enterprise Centre Management Plan (to be approved in writing by the Council prior to first occupation of the data centre).
  - Access to employment initiatives for construction through 20% of non-technical total construction jobs to be advertised through the Council's job brokerage service.
  - A target of 20% of total value of contracts which procure goods and services are to be achieved using firms located within the borough.
  - Relocation strategy for existing business to be submitted to and approved in writing by the Council before commencement of development
  - Public access to be provided over the private pavement area along the Buxton Street frontage
  - Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal.

#### Employment and skills training

- 8.93 Core Strategy Policy SP07 seeks, amongst other things, to support developments that promote local enterprise and the employment and skills training of local residents. The applicant has identified the following employment estimates:
- 83 Full Time Equivalent (FTE) construction jobs during 12-18 month period;
  - 29 FTE full-time jobs across a range of skills and qualifications (technical and operational, sales and marketing and security);
  - An additional 11 FTE full-time jobs from the proposed Business Enterprise Space.
- 8.94 The Council's Planning Obligations SPD includes employment densities for IT/Data centres and 'business park' light industrial space of 1 job per 47sqm (NIA/GIA). Using these employment densities suggests that up to 223 FTE full-time jobs could be created from the development. Based on this higher potential figure and the formula set out in the SPD, it is recommended that a financial contribution of **£60,675** is secured to help train and develop unemployed residents in Tower Hamlets.
- 8.95 Based on the provisions of the Planning Obligations SPD, it is recommended that a financial contribution of **£41,640** be secured to help support and provide training for local residents in accessing job opportunities during the construction phase.
- 8.96 In accordance with CS Policy SP07 and the Planning Obligations SPD, it is recommended that planning obligations secure the use of best endeavours to ensure that 20% of the construction phase workforce are Tower Hamlets residents and that a target of 20% of goods and services procured during the construction phase are from businesses within the borough (noting that this may prove difficult to achieve for such a specialist building).
- 8.97 In order to support the proposed scheme carbon reduction proposals, appropriately

worded Conditions and a S106 agreement for **£90,000** to be payable prior to commencement of development, should be incorporated to deliver carbon savings off-site. The calculation for this figure is as follows:

Shortfall to meet DM29 requirements = 50 tonnes/CO<sub>2</sub> x £1,800 = **£90,000** offset payment to meet current policy requirements.

- 8.98 Officers consider that the proposed overall package of non-financial and financial contributions outlined above would satisfactorily mitigate likely adverse impacts associated with the proposals and help to secure the Council's policy objectives. Given this, the lack of financial contributions towards leisure facilities is considered acceptable in this case.

Monitoring fee

- 8.99 A monitoring fee of **£500** per head of term.

## 9.0 HUMAN RIGHTS CONSIDERATIONS

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:

- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

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

The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

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

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

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

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

## 10.0 EQUALITIES ACT CONSIDERATIONS

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

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

## 11.0 FINANCIAL CONSIDERATION

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

11.1 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the 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.

11.2 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.

11.3 In this context “grants” might include New Homes Bonus. This is not applicable to this application.

11.4 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012

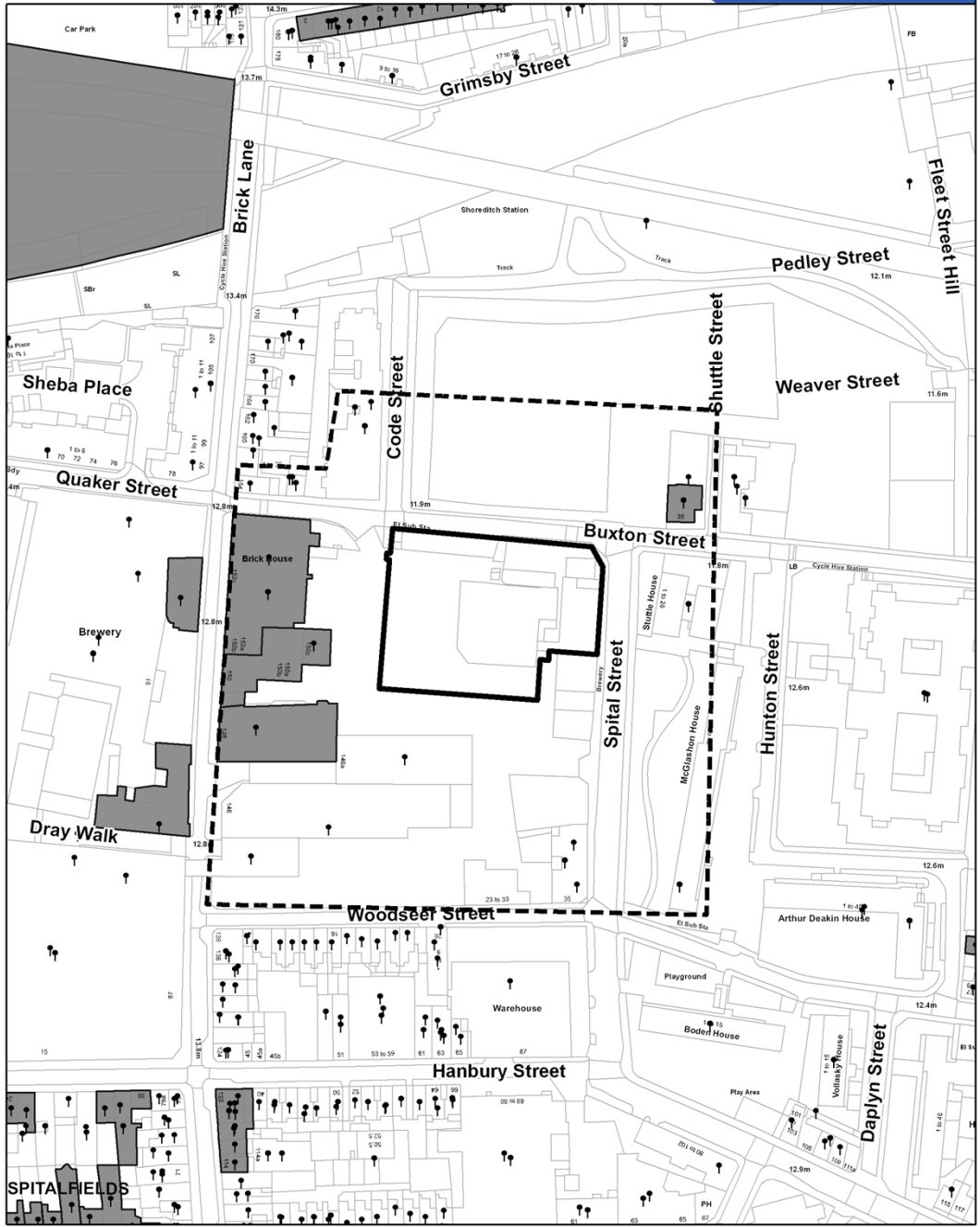
- 11.5 The Borough's Community Infrastructure Levy came into force from 1st April 2015.
- 11.6 When dealing with data centres, Officers take the view that if the floorspace of the 'plant / data storage component' areas of a building exceed 50% of the total floorspace of that building, then we are happy to discount this floorspace from the CIL calculation
- 11.7 With this in mind, and based on the floorspace information above, the CIL chargeable floorspace would be 235sqm for a B1 use (we always take the higher use rate if shared, hence the shared D1 is not included here). If the applicant can show that the existing floorspace has been used for 6 months within the last 36 months of when the new planning permission is granted, then the existing 800sqm can be netted off. On this basis then, the net CIL charge would be zero regardless of the introduction of the Local CIL since the granting of the original permission.
- 11.8 The CIL Rate Per sqm (GIA) of development is £90.

## 12.0 **Conclusions**

- 12.1 Subject to the recommended planning obligations and conditions, officers consider that the proposal would meet policy objectives and satisfactorily mitigate any adverse impacts, as outlined in detail in this report.
- 12.2 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the EXECUTIVE SUMMARY and the details of the decision as set out in the RECOMMENDATION at the beginning of this report.



# Planning Application Site Map



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	 0 15 m  1:1,750
Consultation Area	Statutory Listed Buildings		

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.  
 © Crown copyright and database rights 2012 Ordnance Survey, London Borough of Tower Hamlets 100019288

This page is intentionally left blank

# Agenda Item 5.2

<b>Committee:</b> Development Committee	<b>Date:</b> 23 November 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
---	----------------------------------	--	----------------------------

<b>Report of:</b> Corporate Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Adam Hussain	<b>Ref No:</b> PA/15/02774
	<b>Ward:</b> Whitechapel

## 1. APPLICATION DETAILS

**Location:** Site at South East Junction of Whitechapel Road and New Road, Whitechapel Road (Royal London Hospital)

**Existing Use:** Temporary Car Park (Use Class: Sui Generis)

**Proposal:** Application for variation of condition no. 1 (temporary time period) of planning permission dated 16/11/2012, ref: PA/12/01817 for the retention of a temporary car park until 31st December 2017.

**Drawing and documents:** Drawing ref. RLH-L52-TPExt-002-DWG-001; Site Location Plan. AE/LN/00/00/07.

Letter titled 'Decant Strategy' - dated 26<sup>th</sup> September 2016.

**Applicant:** Barts NHS Health Trust

**Ownership:** Barts NHS Health Trust

**Historic Building:** Grade II Listed Terrace adjoins to South

**Conservation Area:** London Hospital

## 2. EXECUTIVE SUMMARY

2.1 The officers have considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Core Strategy (2010), Tower Hamlets Managing Development Document (2013) the London Plan (2015) and National Planning Policy Framework (2012) and has found that:

2.2 The proposal for an extension of time of the temporary car park raises concerns. This is in the context of the number of extensions of time that have been sought previously. It is also in the context of the impacts of the proposal on the provision of open space and on the character, setting and appearance of the identified heritage assets.

- 2.3 During the life of the application the applicants have responded to these concerns in writing. The applicants have acknowledged that the use has been in place far longer than originally anticipated. The applicants have stated that this is the final time they intend to seek an extension of the approved time for this use. The applicants have submitted a timetable for decant of the site and restoration to green landscaped public realm
- 2.4 In the context of this response Officers consider the applicants are now fully aware of the planning policy assessment of the continued use of the car park. In the context of the intentions for decant set out by the Trust and the reinstatement of the site to public realm, Officers consider the proposal for an extension of time until 31<sup>st</sup> December 2017 is acceptable.

### 3. RECOMMENDATION

- 3.1 That the Committee resolves to **APPROVE the grant of planning permission for the** variation of condition no. 1 (temporary time period) to read as follows:

1. The use hereby permitted shall be retained for a temporary period only until 31<sup>st</sup> December 2017 on or before which date the use shall be discontinued.

Reason: The car park is detrimental to the character and appearance of the London Hospital Estate Conservation Area, and to the provision of public open space, and is unacceptable other than for this period.

- 3.2 The following existing conditions shall continue to apply to any consent:

2. For the duration of the use of the land as a car park, a temporary traffic barrier shall be maintained across Mount Terrace for the use of residents and the utility and emergency services and to prevent other vehicles from using Mount Terrace other than at the entrance to the car park.

Reason: In the interests of security and to protect the amenity of residents in Mount Terrace in accordance with policy SP10 (4) of the Tower Hamlets Core Strategy 2010, policy DM25 of the Tower Hamlets Managing Development Document (2013).

3. For the duration of the use of the land as a car park, a traffic barrier shall be maintained across the entrance to the car park and operated in accordance with the BARTS Health NHS Trust parking permit process.

Reason: In the interests of security and to protect the amenity of residents in Mount Terrace in accordance with policy SP10 (4) of the Tower Hamlets Core Strategy 2010, policy DM25 of the Tower Hamlets Managing Development Document (2013).

4. On the discontinuance of the use, the site shall be landscaped in accordance with the details approved by the council on 13 June 2008 under Ref. PA/08/771 pursuant to Condition 14 of Planning Permission PA/04/00363 or any alternative details that may be approved by the local planning authority. The landscaping shall be completed by the end of the first planting season following the cessation of the use. Any trees or plants which within a period of 5 years from the completion of the approved landscaping scheme die, are removed, or become seriously damaged or diseased shall be replaced in the

next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure the reinstatement and satisfactory appearance of the grounds of the Royal London Hospital is acceptable in accordance with the requirements of policy SP04 of the Tower Hamlets Core Strategy 2010.

5. CCTV camera surveillance of the car park and its entrance together with the lighting bollards shown on the plan hereby approved shall be maintained for the duration of the use.

Reason: In the interests of security and to protect the amenity of residents in Mount Terrace in accordance with policy SP10 (4) of the Tower Hamlets Core Strategy 2010, policy DM25 of the Tower Hamlets Managing Development Document (2013).

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

##### **Proposal**

- 4.1 The continued use of the existing temporary car park up until 31<sup>st</sup> December 2017. The car park consists of 34 spaces for staff of the hospital. The car park is hard landscaped at ground level.



Fig.1: Application site.

##### **Site and Surroundings**

- 4.2 The application site is a car park roughly rectangular in shape with an area of approximately 0.097ha. The car park is located immediately to the east of the junction of Whitechapel Road and New Road. It is accessed from New Road, via the western end of Mount Terrace.

- 4.3 The car park is located adjacent to 22-34 Mount Terrace, to the south. This is a terrace of Grade II listed late 18<sup>th</sup> century/early 19<sup>th</sup> century three-storey residential properties. The application site is located within the London Hospital conservation area.
- 4.4 Prior to the implementation of the temporary car park the application site was a green open space with mature trees, although it is understood it was not open to the public. The 2005 redevelopment consent for the Royal London Hospital includes this as a green landscaped space. The application subject of this report was first approved in 2005 to provide temporary facilities on this site during the hospital construction works. The temporary consent includes a condition to secure the reinstatement of the site as a green landscaped space following the cessation of the temporary use.



Fig. 2: Hospital Redevelopment Consent: Application site outlined in red.

### Background

- 4.5 The application seeks to vary condition 1 of the planning permission PA/12/01817. This condition controls the period in which the temporary use can be in place. The use was first approved in 2005. This consisted of a temporary restaurant and car park and was permitted until November 2010. A subsequent application for extension of this use until November 2012 was approved. After this the restaurant element was no longer needed. An application for extension of the car park use until December 2015 was approved. The application subject of this report seeks to extend the car park use until December 2017.



- 4.6 The original application was approved subject to a number of conditions. Condition 14 requires submission and approval of details of the reinstatement scheme for the site. Details pursuant to this condition were submitted by the Barts NHS Trust in 2008 and subsequently approved. The approved treatment is a green landscaped space with a number of new trees. The condition requires the approved reinstatement treatment to be implemented by the end of the first planting season following the cessation of the use.
- 4.7 The redevelopment consent for the hospital includes permission for a permanent solution to car parking. The consent provides for a purpose-built multi-storey car park to accommodate 322 spaces, to be built on the corner of New Road and Stepney Way. The previous extensions of time for the temporary car park have been considered on the premise of the multi-storey car park being built. The current application was also accompanied by a planning statement that referred to this being a temporary extension until the permanent parking solution was implemented. The Trust have now acknowledged that they no longer intend to build the multi-storey and are looking at redevelopment options for the wider site.

## **5 Relevant Planning History**

- 5.1 PA/04/00363: Erection of a temporary restaurant (with 200 covers, ancillary kitchens and preparation areas) with car park and service access, together with the removal from site of any hazardous material that may be identified. Approved: 31<sup>st</sup> March 2005.

This was a temporary permission until 1<sup>st</sup> November 2010.

- 5.3 PA/08/00771: Reinstatement of front lawn upon cessation of use of temporary staff restaurant and car park pursuant to condition 14 of planning permission dated 31<sup>st</sup> March 2005, reference PA/04/00363. Approved: 13<sup>th</sup> June 2008.

This application is for approval of details of how the application site will be reinstated after the temporary use has vacated.

- 5.4 PA/09/02608: Variation of condition 2 of Council's planning permission dated 31<sup>st</sup> March 2005, reference PA/04/363 to permit temporary restaurant and car park to remain until 1<sup>st</sup> November 2012. Approved: 26<sup>th</sup> January 2010.

This was a temporary permission until 1<sup>st</sup> November 2012.

- 5.5 PA/12/01817: Variation of condition 1 of planning permission granted on 26<sup>th</sup> January 2010, reference PA/09/2608 to enable the retention of a temporary car park for a further limited period until 31<sup>st</sup> December 2015. Approved: 16<sup>th</sup> November 2012.

This was a temporary permission until 31<sup>st</sup> December 2015.

Tree Works and Applications for approval of details related to the Temporary use

- 5.6 PA/04/00366: Tree works comprising removal of 10 trees, in connection with works to construct a temporary restaurant, together with car park and service access. Approved 15<sup>th</sup> June 2004.

- 5.7 PA/05/00104: Tree works to London Plane (situated at the end of Mount Terrace, near No. 34) consisting of crown reduction by 30%, crown lift to 5m and prune roots to allow for new access road, in connection with temporary restaurant. Approved 18<sup>th</sup> April 2005.
- 5.8 PA/05/00850: Approval of details pursuant to Conditions 5a (materials), d (tree protection), e (walls, fences and railings), f (storage and collection of rubbish), g (noise mitigation), h (external lighting), i (signage), 7 (archaeological investigation), 8 (land contamination) & 12 (disabled access). of Planning Permission ref. PA/04/00363 dated 31st March 2005 for a temporary restaurant and car park. 29<sup>th</sup> June 2005.
- 5.9 PA/05/01000: Approval of details pursuant to Condition 5b (details of vehicular access and gates), c (temporary landscaping) and 11 (details of CCTV) of Planning Permission PA/04/363 dated 31st March 2005. Approved 26<sup>th</sup> July 2005.
- 5.10 PA/05/02143: Submission of details for the temporary restaurant pursuant to condition 5a (materials) of planning permission dated 31st March 2005, reference PA/04/363. Approved: 25<sup>th</sup> January 2006.
- 5.11 PA/08/00771: Approval of details pursuant to condition 14 (scheme for reinstatement of site) of planning permission dated 31/03/05, reference PA/04/00363. Approved: 13<sup>th</sup> June 2008.
- 5.12 PA/08/02073: Approval of details pursuant to condition 5a (external materials) of planning permission dated 31st March 2005, reference PA/04/363. Approved: 23<sup>rd</sup> February 2009.

#### Main Hospital Redevelopment Consent

- 5.13 PA/04/0611: Redevelopment and refurbishment of the Royal London Hospital.  
Approved: 31st March 2005.

## **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**

National Planning Policy Framework (NPPF) 2012  
National Planning Policy Guidance (NPPG) 2013

### **6.3 London Plan (Minor Alterations 2016)**

- 7.18 Protecting Open Space and Addressing Deficiency
- 7.19 Biodiversity and access to nature
- 7.8 Heritage assets and Archaeology

### **6.4 Tower Hamlets Core Strategy 2010**

SP04 - Creating a Green and Blue Grid



SP10 - Creating Distinct and Durable Places  
SP12 - Delivering placemaking

#### 6.5 **Managing Development Document 2013**

DM10 - Delivering open space  
DM23 - Streets and the public realm  
DM24 - Place-sensitive design  
DM25 - Amenity  
DM27 - Heritage and the historic environment

#### 6.6 **Whitechapel Vision Masterplan SPD (2013)**

Key Place transformation 4: Med City Campus

### 7. **CONSULTATION**

The statutory consultation period was commenced on 19/10/15. A second consultation period was commenced on 14/10/16. The second consultation took place following the receipt of an additional letter by the applicant's agent regarding the proposed decant strategy for the site.

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

Transport for London

- 7.2 First and Second Consultations: No objection.

Tower Hamlets Highways and Transportation

- 7.3 First Consultation – The proposal is for a further extension to the temporary planning permission allowing an at grade car park for staff whilst the permitted multi-storey car park is built. However, many years have passed since the original application and work hasn't begun on the multi-storey car park. If this is unlikely to be built then the applicant should, in the view of Highways and Transportation, be applying for full-planning permission rather than continuing to apply for extensions to the temporary use.

Second Consultation – The applicant states that this extension will be the last application for such use. There is no objection to one further extension.

### 8. **LOCAL CONSULTATION.**

- 8.1 The two consultation periods each involved a total of 50 planning notification letters sent to nearby properties as detailed on the attached site plan. A site notice was displayed and a press notice was advertised.

In respect of the **first** consultation 3 letters of representation and a petition with 28 signatures have been received in objection.

A summary of the comments received are as follows:

- This development was intended to enable the works on the new buildings for the Royal London Hospital to be carried out. These works have been completed.
- The original planning application in 2005 was only for 6 years until 2011 and included a condition that it would be turned back to green space at the end of this period. Object to the disregard of this agreement.
- Multiple applications have been made to extend its use. Have been without the green space for 10 years.
- The applications have been granted despite the fact that many of the original conditions have not been complied with.

In respect of the **second** consultation 3 letters of representation have been received in objection.

A summary of the comments are as follows:

- Object to the way the NHS Trust are maintaining the temporary car park and the spirit in which the Trust are extending the 'temporary' car park's use.
- The original application includes a commitment to provide a barrier to the temporary car park (Condition 5b) to "control access, and avoid disturbance to adjoining residents". The gates to the temporary car park are broken and have been in a state of disrepair for a number of years.
- Experience late night noise and disturbance from cars in the car park by people who argue, occasionally fight and drive around. This might not be a problem if the gates to the car park were maintained.
- Flooding and litter on the access road to the temporary car park currently causes an unsightly environment. There is a drainage problem that has been neglected by the Trust.
- The applicant's letter is open about the continual applications for extension of use over the past 13 years. We request that the extending of the temporary car park land use is now given a definitive deadline at which point the agreed reinstatement is enforced by the planning department.

## **9. MATERIAL PLANNING CONSIDERATIONS**

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

- Principle of extension of time
- Visual Amenity and Heritage Impacts
- Compliance with Conditions
- Highways Impacts

### **Principle of extension of time**

- 9.2 Core Strategy (2010) policy SP03 seeks to deliver healthy and liveable neighbourhoods that promote active and healthy lifestyles and enhances people's wider health and well-being. This includes providing a hierarchy of accessible, high-quality health facilities, services and premises to meet the needs of the existing and future population.
- 9.3 Core Strategy (2010) policy SP04 (Creating a green and blue grid) sets out the Council's objective of creating a high-quality, well-connected and sustainable natural environment of green and blue spaces. This includes protecting and safeguarding existing open space and promoting publically accessible open spaces as multi-functional spaces that cater for a range of activities, lifestyles ages and needs.
- 9.4 The application for the temporary use in this location involved the loss of the previously existing green space. This was considered acceptable on a temporary basis, in part because the site is not designated as open space reflecting the fact it had not historically been accessible to the public. Notwithstanding this the biodiversity and visual amenity impacts of the proposal were noted including the loss of 6 mature trees. In this context the permission is subject to a condition to return the site to a green landscaped space for cessation of the temporary use. Officers are cognisant that it is approximately 11 years since the permission for the temporary use was first granted. In this context Officers consider the representations by local residents stating objection to a further extension of time as reasonable.
- 9.5 The length of time the temporary use has been in place and absence of any meaningful progress on implementing the approved permanent parking solution raise substantial concerns. As part of the discussions during the life of this application these concerns have been expressed to the Trust in particular Officers' considered view that the proposal appears to depart from the understanding for the first application of a use that is temporary in nature.
- 9.6 Following submission of the application subject of this report the Trust acknowledge the concerns raised regarding the number of applications there have now been. The Trust have stated this is to be the final application of an extension of time for this site, irrespective of the progress or otherwise of permanent parking solutions for the hospital estate.
- 9.7 A letter has been provided by the Trust's agents dated 26<sup>th</sup> September 2016. The letter states that "*it is acknowledged that the temporary use has been on site far longer than originally anticipated*". It states that "*the applicant confirms that this will be the final temporary use extension application on the Front Green*". The letter then sets out a Decant Strategy with specific dates for specific actions. The key dates are Oct 2017 – Commence decant of Front Green Park, Dec 2017 – Temporary use removed and discontinued, March 2018 – Approved Front Green Landscaping (PA/08/00771) complete. The letter concludes:

*"I trust this letter and decant strategy provides the Council enough confidence that they can support application PA/15/02774 and confidence that this will be the final application to extend the temporary use of the Front Green site".*

- 9.8 The letter has been subject of a fresh public consultation with local residents given the opportunity to review the decant strategy set out. The Barts Trust clearly plays a substantial role in respect of the Royal London Hospital and the health and community functions it serves. Notwithstanding this, as one of the largest landowners in the local area the management of its estate has the potential for impacts.
- 9.9 Officers consider the letter provided by the Trust avoids further doubt about the acknowledged intentions of the future of the temporary car park. Subject to the approval of the current application the Trust commits to decanting the site by December 2017 and implementing the approved reinstatement treatment by March 2018. The Council cannot prevent a further application for extension of time being submitted. If such a use were to continue this would be a matter for the Council's planning enforcement team to consider.

### **Visual Amenity and Heritage Impacts**

- 9.10 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in respect of Listed buildings, in considering whether to grant planning permission there shall be 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.
- 9.11 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in respect to any buildings or other land in a conservation area, in considering whether to grant planning permission 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.
- 9.12 Managing Development Document policy DM27 (Heritage and the Historic Environment) states that 'development will be required to protect and enhance the borough's heritage assets, their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places''.
- 9.13 The application site has an immediate adjacent relationship with the Grade II Listed properties to the south 'Mount Terrace'. The application site forms part of the London Hospital Conservation Area. The original application involved the loss of a number of previously existing trees and the green landscaped nature of the space. The replacement of this with a temporary restaurant and car park is considered to cause harm to the setting of the adjacent listed buildings and to the character and appearance of the conservation area. The restaurant element has gone. The retention of the hard landscaped car park is considered detrimental to the setting and character and appearance of the heritage assets.
- 9.14 In accordance with the original consent the identified harm is considered acceptable. This is in the context of the public benefit of ensuring the Hospital can maintain its functions during the implementation of the estate wide redevelopment consent. This is also in the context of this being for a temporary period, and subject to a planning control to reinstate the site. Officers consider in respect of impact on visual amenity and heritage assets the continued use of the site until December 2017 should be acceptable. Officers consider a further use beyond this time would be contrary to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policy DM27 to an extent that would not be justified.

### **Compliance with Conditions**

- 9.15 Representations in response to the public consultation allege that condition 3 to the existing consent has not been complied with. Condition 3 states that *“For the duration of the use of the land as a car park, a traffic barrier shall be maintained across the entrance to the car park and operated in accordance with BARTS Health NHS Trust parking permit process”*.
- 9.16 The representations from residents state that the barrier to the car park is broken and that this is allowing use of the car park by people not associated with the hospital, causing noise and disturbance. The barrier is in place, however, for each site visit by officers it has been open and not appearing to be operational.

This issue was also raised in respect of the 2012 application for an extension of time. The Development Committee report in respect of that application states:

*“Residents have complained that the BARTS Health NHS Trust has failed to maintain the traffic barrier across Mount Terrace, the subject of the legal agreement with the council in 2005. Since the car park use commenced, Skanska have provided two types of system following consultation with the neighbours (initially a hydraulic barrier, followed a swing barrier). Barriers have been vandalised and a third was installed in September 2012 and appears to be operating satisfactorily. “*

- 9.17 The Council received further complaints on this matter shortly after the 2012 consent. Correspondence with the Trust was sent in January and February 2013. The requirement for a barrier to be maintained across the entrance to the car park is condition of the previous consent and would not change under the current application. This matter can be dealt with again through the Council’s planning enforcement team.

### **Highways Impacts**

- 9.18 Notwithstanding the above issues in respect of compliance with condition 3 the continued use of the site until December 2017 as a temporary car park is unlikely to generate additional impacts on the public highway.

## **10. Human Rights Considerations**

- 10.1 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application, the following are particularly highlighted to Members:-
- 10.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights (“ECHR”). Certain parts of the “Convention” here meaning the ECHR, are incorporated into English Law under the Human Rights Act 1998. Various Conventions rights are likely to be relevant to the development proposal 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"

- 10.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 10.4 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.
- 10.5 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.
- 10.6 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 10.7 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.
- 10.8 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.

## **11. Equalities**

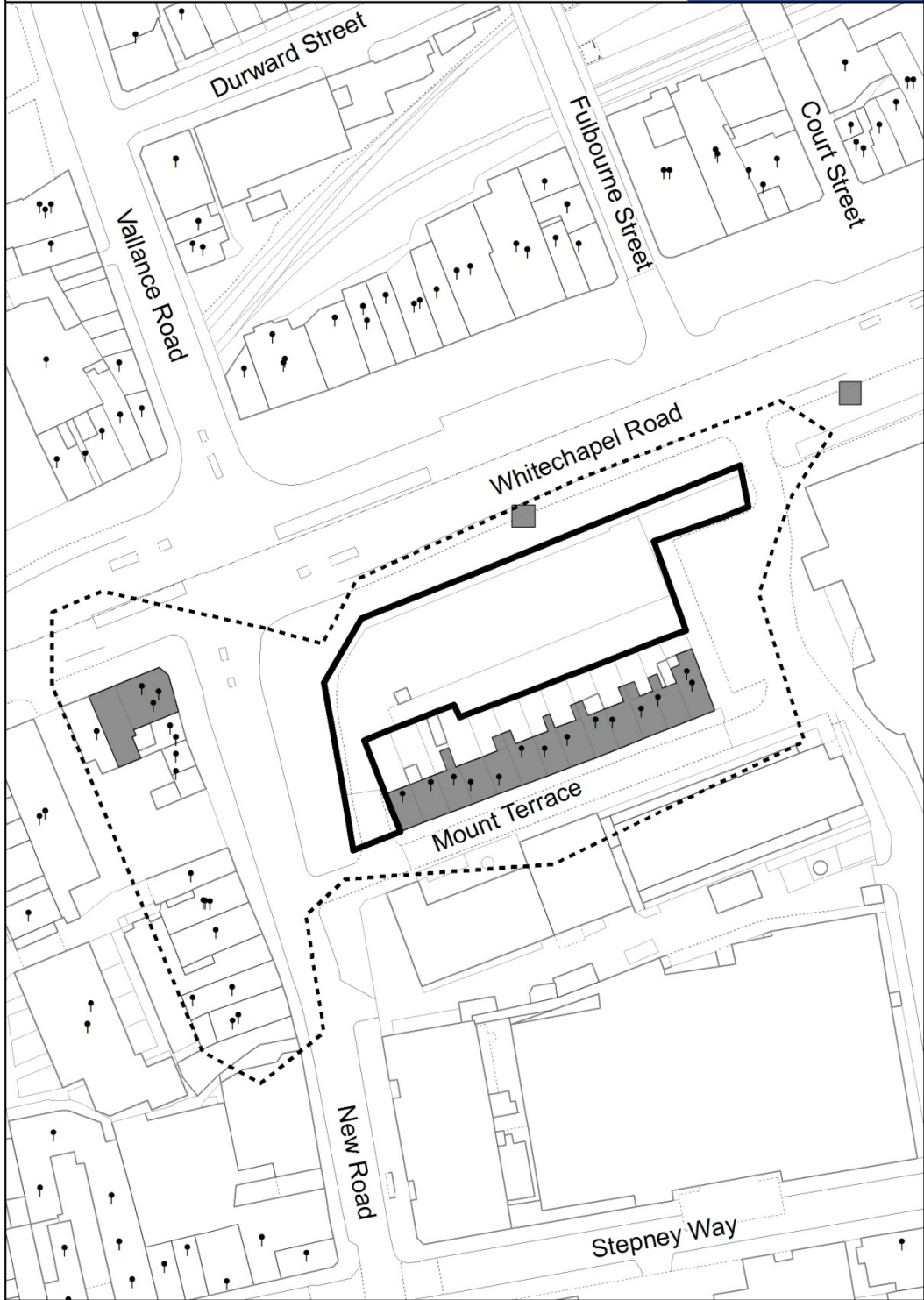
- 11.1 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- a) eliminate discrimination, harassment, victimisation 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.
- 11.2 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







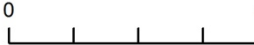
others, but that this does not permit conduct that would otherwise be prohibited under the Act.

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

## **12. CONCLUSION**

- 12.1 All other relevant policies and considerations have been taken into account. Variation of Condition 1 should be GRANTED for the reasons set out in the EXECUTIVE SUMMARY and MATERIAL PLANNING CONSIDERATIONS sections as set out in the RECOMMENDATION at the beginning of this report.



 Planning Application Site Boundary	 Locally Listed Buildings	 Land Parcel Address	
 Consultation Area	 Statutory Listed Buildings	0  40 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.  
© Crown copyright and database rights 2016 Ordnance Survey, London Borough of Tower Hamlets 100019288