

DEVELOPMENT COMMITTEE

Wednesday, 14 June 2017 at 5.30 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 Asma Begum, Councillor John Pierce, Councillor Helal Uddin, Councillor Suluk Ahmed, Councillor Chris Chapman and Councillor Andrew Cregan

Substitutes:

Councillor Danny Hassell, Councillor Ayas Miah, Councillor Clare Harrisson, Councillor Harun Miah, Councillor Mahbub Alam, Councillor Gulam Kibria Choudhury, Councillor Peter Golds and Councillor Julia Dockerill

[The quorum for this body is 3 Members]

Public Information.

The deadline for registering to speak is **4pm Monday, 12 June 2017**

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

The deadline for submitting material for the update report is **Noon Tuesday, 13 June 2017**

Contact for further enquiries:

Zoe Folley, Democratic Services,
1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG
Tel: 020 7364 4877

E-mail: zoe.folley@towerhamlets.gov.uk

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

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)

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 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. ELECTION OF VICE-CHAIR FOR THE COMMITTEE FOR 2017/18

To elect a Vice-Chair for the Committee for 2017/18 Municipal year.

2. 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.

3. MINUTES OF THE PREVIOUS MEETING(S) (Pages 5 - 16)

To confirm as a correct record the minutes of the meeting of the Development Committee held on 10th May 2017

4. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE (Pages 17 - 18)

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 Place 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 Place 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.

5. DEVELOPMENT COMMITTEE TERMS OF REFERENCE, QUORUM, MEMBERSHIP AND DATES OF MEETINGS (Pages 19 - 28)

The Committee is recommended to:

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

	PAGE NUMBER	WARD(S) AFFECTED
6. DEFERRED ITEMS	29 - 30	
6 .1 106 Commercial Street (PA/16/03535)	31 - 64	Spitalfields & Banglatown
<p>Proposal:</p> <p>Conversion of building (class B1/B8) to fine dining food market (Class A3).</p> <p>Recommendation:</p> <p>That the Committee resolve to APPROVE planning permission subject to Conditions.</p>		
6 .2 Millwall Outer Dock, London, E14 9RP (PA/16/01798)	65 - 94	Canary Wharf
<p>Proposal:</p> <p>Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.</p> <p>Recommendation:</p> <p>That the Committee resolve to GRANT planning permission, subject to conditions.</p>		
7. PLANNING APPLICATIONS FOR DECISION	95 - 96	
7 .1 87 Turner Street, Good Samaritan Public House (PA/16/00988)	97 - 116	Whitechapel
<p>Proposal:</p> <p>Refurbishment of existing public house (A4) along with 3 storey extension to the west elevation to allow for the use of the upper stories as residential (C3) and associated works</p> <p>Recommendation:</p> <p>That the Committee resolve to APPROVE planning permission subject to conditions and informatives</p>		

**7 .2 Royal Duchess Public House, 543 Commercial Road,
London E1PA/16/03300**

117 - 168

**Stepney
Green**

Proposal:

Erection of a part 6, part 7 and part 8 storey building comprising 30 residential units (use class C3) and 70sqm of flexible floor space (Use Classes A1/A2/A3/B1/D1) together with associated access, cycle parking and landscaping

Recommendation:

That the Development Committee REFUSES planning permission, subject to any direction by the London Mayor, for the reasons in the Committee report.

8. OTHER PLANNING MATTERS

None.

Next Meeting of the Development Committee

Wednesday, 12 July 2017 at 7.00 p.m. to be held in the Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

This page is intentionally left blank

Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER

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

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

Interests and Disclosable Pecuniary Interests (DPIs)

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

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

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

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

Effect of a Disclosable Pecuniary Interest on participation at meetings

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

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

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

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

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

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

Further advice

For further advice please contact:-

Graham White, Acting Corporate Director of Law Probit 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 7.05 P.M. ON WEDNESDAY, 10 MAY 2017

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

Members Present:

Councillor Marc Francis (Chair)

Councillor Sabina Akhtar
Councillor John Pierce
Councillor Danny Hassell
Councillor Andrew Cregan
Councillor Suluk Ahmed
Councillor Chris Chapman (Items 5.1-6.1)
Councillor Julia Dockerill (Items 1-4.1)

Other Councillors Present:

Councillor Dave Chesterton

Apologies:

Officers Present:

Paul Buckenham	(Development Control Manager, Planning Services, Place)
Fleur Francis	(Team Leader - Planning, Directorate Governance)
Jane Jin	(Team Leader, Planning Services, Place)
Jennifer Chivers	(Planning Officer, Place)
Paul Greeno	(Senior Corporate and Governance Lawyer, Legal Services)
Tim Ross	(Team Leader, Planning Services Place)
Zoe Folley	(Committee Officer, Governance)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of disclosable pecuniary interests were made

2. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 8 February 2017 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, Place 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, Place 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 Balmoral House, 12 Lanark Square, London E14 9QD (PA/16/1081)

Update report tabled.

Paul Buckenham introduced the application for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision

It was noted that at the 8th February meeting of the Committee, the Committee voted not to accept the application due to concerns over:

- Overlooking from the proposal to neighbouring properties and the failure to mitigate this
- The approach to incremental development across the site in terms of affordable housing, communal amenity space and child play space.
- Density of the proposal

- Adverse impact on residential amenity during the construction phase

Jane Jin (Planning Services) reminded the Committee of the site location and the application. She then addressed each of the proposed reasons for refusal.

In relation to the first reason, it was considered that the scheme had been designed to prevent overlooking. However there would still be some loss of privacy. Therefore, Officers considered that a reason on this ground could form a basis for refusal.

In relation to incremental development, there was no policy basis for seeking amenity space or affordable housing for the development, given the number of proposed units and that the existing units in the building were considered under a different part of legislation and different set of policies, as other consented residential units within this building was done through prior approval process and planning approval in 1996 . The applicant had explored whether some play space and communal space could be provided on site but found that due to the freeholder issues, this was not practical. Therefore, Officers considered that this reason could not be defended on appeal.

In terms of the density of the application, this fell within the recommended range for a scheme of this size with a PTAL rating of 4 in the London Plan. Therefore, Officers did not consider that a refusal of the scheme on the grounds of excessive density could be justified.

Regarding the construction impact, the applicant had submitted a construction management plan to mitigate the impact. The design of the building also included measures to minimise the construction impact. However, Officers were also mindful of the precedence set by a recent appeal case at 37 Millharbour in relation to the difficulties in overcoming noise disturbance during the construction phase. On balance Officers considered that despite the submission of the plans, there was still some uncertainty about how the construction impact would be mitigated. Therefore it was considered reasonable to refuse the planning permission on the basis of noise and disturbance during the construction phase.

Whilst Officers remained of the view that the application should be granted, they had drafted two suggested reasons for refusal for consideration by the Committee. If the Committee were minded to refuse the application, they were invited to base their decision on these reasons.

Members asked questions about the planning history and the quantum of amenity and child play space that could have been requested if the units in the development had come forward as one application. It was reported that this would have depended on the number of units provided and child yield. It was noted that the various application for the wider site all came forward at different times by different applicants under different planning policy. So there was no policy basis for requiring infrastructure. Members also asked about the freeholder issues (noting that the applicant did not own the freehold) and Officers explained in further detail how this had impacted on the plans.

On a vote of 0 in favour of the Officer recommendation to grant planning permission, 5 against and 0 abstentions, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be refused for the reasons set out in the Committee report dated 10 May 2017 and on a vote of 5 in favour, 0 against and 0 abstentions, the Committee **RESOLVED:**

That planning permission be **REFUSED** at Balmoral House, 12 Lanark Square, London E14 9QD for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision(PA/16/1081) for the following reasons as set out in the Committee report, dated 10 May 2017:

1. The proposed development will result in unacceptable level of overlooking to the habitable rooms on the northern elevation of Aegon House, due to the proximity of the blocks. The proposal will therefore be contrary to policy SP10 of Tower Hamlets Core Strategy (2010) and Policy DM25 of the Managing Development Document 2013.

2. The proposal extension of the building would have detrimental impact in terms of noise and nuisance from the construction noise to the existing residents within the building and nearby, and therefore the proposal would fail to safeguard existing residential amenity, contrary to Policy DM25 of the Managing Development Document 2013.

5. PLANNING APPLICATIONS FOR DECISION

5.1 106 Commercial Street, (PA/16/03535)

Update report tabled.

Paul Buckenham introduced the application for the conversion of building (class B1/B8) to fine dining food market (Class A3).

The Chair invited registered speakers to address the Committee.

Rupert Wheeler (The Spitalfields Society) and Susan Kay (local resident) spoke in objection to the application. They felt that the plans would result in more crime and ASB in the area and result in noise nuisance in an area already blighted by such issues. This would spoil residential amenity. The results of the acoustics testing were inaccurate and should be repeated. It was completed at a time when the background noise levels in the area were at exceptionally high levels which were in no way the norm. The benefits for small and medium sized business would be negligible given that the market would be managed by one single operator. The application conflicted with the Brick Lane Town Centre Manager's advice on these matters. The alterations

to the roof would harm the appearance of the building, and spoil the setting of the surrounding listed buildings. They also expressed concern about the capacity of the smoking area for a business of this size, the proximity of the onsite cycling space to restaurant tables and the accessibility of the accessible first floor toilet. Concern was also expressed about the access arrangements for customers and servicing vehicles and the impact of customer's queuing outside the premises as a result of the issues.

In response to Members questions, they clarified their concerns about the size of the smoking area (compared to the provisions at nearby premises). It could restrict access to the building. They also further discussed their concerns about the servicing plans. It was proposed that the deliveries and servicing would take place through the customer entrance during the daytime along busy unsuitable routes. This could potentially involve many different suppliers and would result in significant congestion and highways issues. They also clarified their concerns about dispersal from the premises given the capacity of the premises. There would be hundreds of customers leaving the premises at any one time, spilling out onto a narrow pavement- potentially into other public houses. It was questioned how this would be managed. They also further explained their concerns about the premises ultimately becoming a drinking establishment and the impact of this, the issues with the background noise survey and the assessable toilet. They also spoke about the applicant's consultation.

Rupert Warren (Applicant's representative) spoke in support of the application. He spoke about the merits of the application. It would fit in with existing uses and create employment. The Council's Conservation Officer was satisfied with the application. There would be stringent conditions regulating activity including, measures to control noise, odour, the operation of the smoking area, a dispersal policy and a servicing plan. He noted that a change from use class A3 to A4 without permission would be a breach of planning control. He also noted that the application did not make provision for a takeaway service, that no drinks were to be sold without food and that there would be no vertical drinking. Further issues around fire risk, access and the accessibility of toilets had been considered under building regulations.

In response to Members questions, he provided reassurances about the noise testing. All three of the acoustics reports completed were independently reviewed and came back with the same results. He also provided further reassurances about the dispersal policy, the monitoring of the smoking area, and the servicing arrangements. He also responded to questions about the access arrangements, the toilets facilities and the need for the plans to comply with buildings regulations that would provide additional safeguards. In response to questions about the licensing application, he made it clear to members that these were two separate regimes with different policy tests.

He also advised that there had been continuous engagement with the community throughout the planning process. Each of the 17 restaurants would have its own staff and would generate local employment and generally benefit the local economy. He was mindful of the concerns about the on site cycle spaces, but felt that there would be sufficient space between the cycle stands

and the restaurant tables to allow for a 'fine dining experience'. He did not consider that the proposal would increase ASB given the nature of the use.

Jennifer Chivers (Planning Services) gave a presentation on the application describing the site and surrounds and the key features including the internal layout, the proposed plant and equipment, the changes to the roof and light wells to accommodate the sound proofing. She also explained the opening hours and that that the business would accommodate up to 650 people at any one time. Consultation had been carried out. The application had received 63 representations in objection, 27 in support and a 147 signature petition. Turning to the assessment, the application would bring the site back into active use and would generate employment. The site use complied with policy.

TfL and Highways had considered the plans and were of the view that the servicing plans were acceptable subject to the conditions. The noise assessment had been independently reviewed for the Council. The review concurred with the method used. Environmental Health were satisfied that the proposal would meet the necessary requirements in terms of noise levels and there would be conditions to secure this. There would be measures to prevent ASB from the business. However, if Members were minded to approve the application, they might wish to stagger the leaving times of customers or vary the opening hours. This could be secure by condition. Officers also considered that the alterations to the roof slates would preserve the original form of the building and the setting of the Conservation Area. There were S106 employment and enterprise covenants and financial contribution of the additional crossrail contribution of £166,500. Overall, Officers were recommending that the application be granted planning permission.

The Committee asked about the measures for managing visitors to and from the premises and ASB from the proposal. In response, Officers outlined some of the measures in the dispersal policy for ensuring this. It was also explained that it was expected that most of the visitors would travel to the venue on foot or public transport. In addition, Officers have requested that the business monitor visitor numbers to identify any issues. It was not expected that plans would increase ASB given that the premises would predominantly provide a restaurant service and it would not be a late night establishment. The Metropolitan Police Crime and Prevention Officer had been consulted and had not expressed concerns about the proposal.

In response to further questions about noise activity, it was confirmed that the Council's acoustics expert had assessed the applicant's noise report. He was satisfied that the findings in terms of the background noise levels were accurate (given the urban environment). There would be measures to minimise any noise disturbance to noise sensitive properties including those at Puma Court and to minimise any noise nuisance from servicing and deliveries. It was required that there would be post noise completion testing. This would be secured by condition.

In response to questions about the previous office use, it was reported that no marketing evidence had been submitted in relation to such a use.

Consideration had been given to alternative uses, but Officers considered that the proposed use was acceptable given the site's central location and the merits of the plans. It was also noted that Officers were unaware of any fire safety issues, but this would be dealt with through building regulations.

Members asked about the measures to minimise the consumption of alcohol without the purchase of food. It was noted that the opportunities for this would be very limited. The sale of alcohol would be part of the restaurant use. Furthermore, there would be restrictions on the permission to prevent the introduction of an 'A4' drinking establishment use. Should the business wish to introduce such a use, they would be required to submit a further planning application for such a change of use. Should this generate enough representations, it would have to be determined by the Development Committee.

Officers also answered questions about the internal cycle rack and the need for this to be provided to satisfy policy.

In conclusion, whilst noting the economic benefits of the application, Members expressed concerns about the plans. They felt it was just too large for the local area given its confined nature and would have a significant impact on the local community, the surrounding streets and the Conservation Area.

On a vote of 0 in favour of the Officer recommendation to grant planning permission and 7 against, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the officer recommendation to grant planning permission be not accepted (for the reasons set out below) and on a vote of 7 in favour and 0 against, the Committee **RESOLVED**:

That the Officer recommendation to grant planning permission at 106 Commercial Street, be **NOT ACCEPTED** for the conversion of building (class B1/B8) to fine dining food market (Class A3) (PA/16/03535).

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

- Impact from the use itself.
- Impact on the setting of the Conservation Area
- Impact on the external appearance of the building, particularly the roof.
- The access arrangements given the level of anti-social behaviour in the area
- Overcrowding in the area and safety implications of this
- Noise disturbance.
- Increased congestion in Commercial Street
- The servicing arrangements.

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.

5.2 Millwall Outer Dock Moorings, Selsdon Way, London (PA/16/01798)

Update Report tabled.

Paul Buckenham introduced the application for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

The Chair invited registered speakers to address the Committee.

Philip Style and Councillor Dave Chesterton spoke in objection to the proposal. The speakers expressed doubt about the suitability of the location for the proposal given its proximity to a 24 hour commercial premises at Greenwich view place. It would cause a conflict between these uses. The premises would receive constant noise complaints, as it was doubtful if the moorings would have adequate insulation to minimise the noise disturbance. Concern was also expressed about the right of access over third party land to service the development.

Furthermore, there would also be no affordable housing or play space, but high end canal boats and so it would effectively privatise the open water space. It would also adversely affect the sailing activities on the dock, particularly the ability of novice sailors and children to practice their sailing skills given the risk of collision with moored boats. The plans should be developed in accordance with emerging water space strategies. In response to questions, Councillor Chesterton stated that he was not speaking on behalf of the Docklands Sailing and Watersports Centre. He reiterated that the plans would particularly affect inexperienced sailors, especially children. The comments in the report about the preservation of the navigation lane were irrelevant, as the sailors would require the whole dock. In fact, the need to protect the water space was all the more important now in light of the pressure that the Westferry Printworks scheme would place on the dock.

Richard Newton (Canal and Rivers Trust) spoke in support in support of the proposal. He talked about the pressing need for new housing and residential moorings in London. The plans complied with the London Plan that promoted the establishment of moorings in sites such as this. It would occupy a very small part of the water space (1.9% of the water space) and be set back from the navigation channels as stated in the report. He noted that the sailing club did not have an exclusive right to use the dock. The scheme had been amended to respond favourably to the setting of the dock. There would be conditions to safeguard amenity and a management plan to control activity. He was happy to build in to these plans measures to address the liability issues.

In response to Members, he explained that the proposal would be car free and there would be relatively little servicing. He also clarified the servicing arrangements and proposed route. In the event that the dispute with the third

party over site access could not be resolved, an alternative route had been identified as set out in the Committee report and update. He did not consider that the plans would affect sailing activities. The applicant had engaged with the DSWC. They would work with the club to address any liability issues.

Jane Jin (Planning Services) presented the application describing the planning history and the key features of the plans. Consultation had been carried out and the results were noted. The proposal sought to provide permanent residential moorings. The plans would only occupy 1.9% of the water space and would preserve the open character of the water space and would have no harmful impacts. There would be a range of safeguards to ensure this. Consequently, the loss of the water space could be considered acceptable. In terms of the servicing plans, Officers were aware of the issues raised by the objector about access over the Greenwich View Place. Legal advice on this matter had been sought as set out in the update report. In view of the issues, the applicant had identified an alternative route for refuse collection that would enable the servicing to be carried out without the need to rely on the third party land.

Given the merits of the application, Officers recommended that it was granted planning permission.

Members asked about the servicing and delivery route, and the contingencies plans in view of the legal issues. Some concern was expressed about the merits of the alternative route involving the unlocking/locking of a trade link. It was felt that it could further increase vehicle congestion in that area and impede pedestrian access. In response, Officers outlined the nature of the legal issues. They also provided reassurances on the operation of the alternative route. Overall, it was considered that the impact on the highway would be minimal given the size of the scheme and that there would be adequate space for pedestrians to pass the vehicles.

The Committee also asked about the impact on the water space and the objections about the impact on sailing activities. They also asked if the plans would contribute to the Borough's housing targets.

It was noted the proposal did not count towards the housing targets as the moorings did not fall within a specific use class. As a result, no contributions for infrastructure could be secured. It was reiterated that each application should be considered on its own merits. Whilst the loss of water space was generally not supported, the policy supports proposals which were water related, that did not affect amenity and preserved the navigability of the dock. Due to the size and location of the proposals, the plans did.

The Committee sought clarity on the quantum of water space that would be lost as a result of the development. It was questioned whether the measurement quoted in the presentation related to only the platform itself. In response, officers clarified the total surface area of the application.

The Committee also asked questions about the design of a nearby development.

On a vote of 0 in favour of the Officer recommendation to grant planning permission and 7 against, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the officers recommendation to grant planning permission be not accepted (for the reasons set out below) and on a vote of 7 in favour and 0 against, the Committee **RESOLVED**:

That the Officer recommendation to grant planning permission at Millwall Outer Dock Moorings, Selsdon Way, London be **NOT ACCEPTED** for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure(PA/16/01798).

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

- Loss of open water space
- Impact on the sailing activities in the Millwall Outer Dock given the risk of collisions with moored vessels.
- Vehicle access arrangements.

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.

6. OTHER PLANNING MATTERS

6.1 Proposed Revised Planning Code of Conduct

The Committee were invited to submit comments on the revised Code of Conduct either at the meeting or afterwards so that these comments could be reflected prior to the revised Code being put forward for adoption. In response, it was requested that the revised code should include a section on the need for imagery in Committee reports.

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

1. That the revised Planning Code of Conduct in Appendix 1 of the report be noted;
2. That it be noted that pursuant to Part 1 Paragraph 4.02 of the Constitution the adoption and amendment of the revised Planning Code of Conduct is a matter for Council; and
3. That's the Committee comments on the revised code of conduct be reflected prior to the revised Code being put forward for adoption.

The meeting ended at 9.50 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"> • Three minutes for one objector speaking. • Six minutes for two objectors speaking. • Additional three minutes for any Committee and non Committee Councillor speaking in objection.
Members of the public in support	It shall be at the discretion of the applicant to allocate these supporting time slots.

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

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

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

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

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

What can be circulated?

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

How will the applications be considered?

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



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


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

How can I find out about a decision?

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

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

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

Non-Executive Report of the: Development Committee 14 th June 2017	 TOWER HAMLETS
Report of: Democratic Services	Classification: [Unrestricted]
Development Committee Terms of Reference, Quorum, Membership and Dates of Meetings	

Originating Officer(s)	
Wards affected	[All wards]

Summary

This report sets out the Terms of Reference, Quorum, Membership and Dates of meetings of the Development Committee for the Municipal Year 2017/18 for the information of members of the Committee.

Recommendations:

The Committee is recommended to:

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

1. REASONS FOR THE DECISIONS

- 1.1 This report is for the information of the Committee and no specific decisions are required

2. ALTERNATIVE OPTIONS

- 2.1 Not applicable to noting reports.

3. DETAILS OF REPORT

- 3.1 It is traditional that following the Annual General Meeting of the Council at the start of the Municipal Year, at which various committees are established, that those committees note their Terms of Reference, Quorum and Membership for the forthcoming Municipal Year. These are set out in Appendix 1 and 2 to the report respectively.

3.2 The Committee's meetings for the year are set out in Appendix 3 to this report as agreed at the Council meeting on 17 May 2017.

3.4 In accordance with the programme, meetings are scheduled to take place at 7.00pm with the exception of the meeting in June which will start at 5.30pm to accommodate Members who may be participating in Ramadan.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 There are no specific comments arising from the recommendations in the report. The information provided for the Committee to note is in line with the Council's Constitution and the resolutions made by Full Council on 17 May 2017.

5. LEGAL COMMENTS

The information provided for the Committee to note is in line with the Council's Constitution and the resolutions made by Council on 17 May 2017

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 When drawing up the schedule of dates, consideration was given to avoiding schools holiday dates and known dates of religious holidays and other important dates where at all possible.

7. BEST VALUE (BV) IMPLICATIONS

7.1 There are no specific Best Value implications arising from this noting report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no specific SAGE implications arising from the recommendations in the report.

9. RISK MANAGEMENT IMPLICATIONS

9.1 The Council needs to have a programme of meetings in place to ensure effective and efficient decision making arrangements.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10. There are no Crime and Disorder Reduction implications arising from the recommendations in the report.

Linked Reports, Appendices and Background Documents

Linked Reports

None.

Appendices

Appendix 1 - Development Committee Terms of Reference and Quorum

Appendix 2 - Development Committee Membership 2017/2018

Appendix 3 - Development Committee Meeting Dates 2017/2018

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

None.

Officer contact details for documents:

- [N/A]

This page is intentionally left blank

3.3.7 Development Committee

<p>Membership: Seven (7) Councillors (each political group may appoint up to three (3) substitutes).</p>	
Functions	Delegation of Functions
<p>1. Planning Applications</p> <p>(a) To consider and determine recommendations from the Corporate Director, Development and Renewal to grant planning permission for applications made under the Town and Country Planning Act 1990 to grant listed building consent or conservation area consent for applications made under the Planning (Listed Buildings and Conservation Areas) Act 1990 and to grant hazardous substances consent for applications made under the Planning (Hazardous Substances) Act 1990, including similar applications delegated to the Council to determine by other bodies (such as the Olympic Delivery Authority under the London Olympic Games and Paralympic Games Act 2006) that meet any one of the following criteria</p> <p>(i) Proposals involving the erection, alteration or change of use of buildings, structures or land with more than 35 residential or live-work units.</p> <p>(ii) Proposals involving the erection, alteration or change of use of buildings, structures or land with a gross floor space exceeding 10,000 square metres</p> <p>(iii) Retail development with a gross floor space exceeding 5,000 square metres</p> <p>(iv) If in response to the publicity of an application the Council receives (in writing or by email) either more than 20 individual representations or a petition (received from residents of the borough whose names appear in the Register of Electors or by a Councillor and containing signatures from at least 20 persons with residential or business addresses in the borough) raising material planning objections to the development, and the Corporate Director, Place considers that these objections cannot be addressed by amending the development, by imposing conditions and/or</p>	<p>The Corporate Director, Place (or any officer authorised by her/him) has the authority to make decisions on planning matters with the exception of those specifically reserved to the Development Committee, unless:-</p> <p>(i) these are expressly delegated to her/him; or</p> <p>(ii) where it is referred to the Committee in accordance with Development Procedure Rule No 15</p>

<p>by completing a legal agreement</p> <p>(b) To consider and determine recommendations from the Corporate Director, Place to refuse planning permission for applications made under the Acts referred to in (a) above, where in response to the publicity of an application the Council has received (in writing or by email) more than 20 individual representations supporting the development or a petition in the form detailed in (a) (iv) supporting the development</p> <p>(c) To consider and determine recommendations from the Corporate Director, Place for listed building or conservation area consent applications made by or on sites/buildings owned by the Council. (Representations either individual letters or petitions received after the close of the consultation period will be counted at the discretion of the Corporate Director, Place)</p>	
<p>2. Observations</p> <p>(a) To respond to requests for observations on planning applications referred to the Council by other local authorities Government departments statutory undertakers and similar organisations where the response would be contrary to policies in the adopted development plan or raise especially significant borough-wide issues</p>	None
<p>3. General</p> <p>(a) To consider any application or other planning matter referred to the Committee by the Corporate Director, Place where she/he considers it appropriate to do so (for example, if especially significant borough-wide issues are raised)</p>	None
<p><i>It shall be for the Corporate Director, Place to determine whether a matter meets any of the above criteria</i></p>	
<p>Quorum: Three (3) Members of the Committee</p>	

DEVELOPMENT COMMITTEE
(Seven members of the Council)

<i>Labour Group (4)</i>	<i>Independent Group (1)</i>	<i>Conservative Group (1)</i>	<i>People's Alliance of Tower Hamlets (0)</i>	<i>Ungrouped (1)</i>
Cllr Marc Francis Cllr Asma Begum Cllr John Pierce Cllr Helal Uddin Substitutes:- <i>Cllr Danny Hassell</i> <i>Cllr Ayas Miah</i> <i>Cllr Clare Harrisson</i>	Cllr Suluk Ahmed Substitutes:- <i>Cllr Harun Miah</i> <i>Cllr Mahbub Alam</i> <i>Cllr Gulam Kibria Choudhury</i>	Cllr Chris Chapman Substitutes:- <i>Cllr Peter Golds</i> <i>Cllr Julia Dockerill</i>	N/A	Cllr Andrew Cregan <i>(Substitutes not applicable)</i>

This page is intentionally left blank

APPENDIX 3

SCHEDULE OF DATES 2017/18

DEVELOPMENT COMMITTEE

- Wednesday, 14 June, 2017 (5.30pm)
 - Wednesday, 12 July, 2017
 - Wednesday, 9 August, 2017
- Wednesday, 6 September, 2017
- Wednesday, 11 October, 2017
- Wednesday, 8 November, 2017
- Wednesday, 6 December, 2017
 - Monday, 8 January, 2018
 - Wednesday, 7 February, 2018
 - Wednesday, 7 March, 2018
 - Wednesday, 28 March, 2018
 - Wednesday, 18 April, 2018

Meetings are scheduled to take place at 7.00pm with the exception of the meeting on 14 June which will start at 5.30pm to accommodate Members who may be participating in Ramadan.

It may be necessary to convene additional meetings of the Committee should urgent business arise. Officers will keep the position under review and consult with the Chair and other Members as appropriate.

This page is intentionally left blank

Agenda Item 6

Committee: Development	Date: 14 June 2017	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Place		Title: Deferred Items	
Originating Officer:		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

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

2. DEFERRED ITEMS

- 2.1 The following items are in this category:

Date deferred	Reference number	Location	Development	Reason for deferral
10 May 2017	PA/16/03535	106 Commercial Street	Conversion of building (class B1/B8) to fine dining food market (Class A3).	<p>Members were minded to REFUSE planning permission on the following grounds:</p> <p>Impact from the use.</p> <p>Impact on the setting of the Conservation Area.</p> <p>Impact of the proposal on the external appearance of the building particularly the roof.</p> <p>The access arrangements given the level of anti-social behaviour in the area.</p> <p>Overcrowding in the area and the safety implications of this. Noise disturbance.</p> <p>Increased congestion in Commercial Street.</p> <p>Servicing arrangements.</p>

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

Brief Description of background papers:
See Individual reports

Tick if copy supplied for register:
✓

Name and telephone no. of holder:
See Individual reports

10 May 2017	PA/16/01798	Millwall Dock, E14 9RP	Outer London,	Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.	Loss of open water space Impact on the sailing activities in the Millwall Outer Dock given the risk of collisions with moored vessels. Vehicle access arrangements.
-------------	-------------	------------------------	---------------	--	---

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.

- 106 Commercial Street, PA/16/03535
- Millwall Outer Dock, London, E14 9RP PA/16/01798

3.2 Deferred applications may also be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.

4. PUBLIC SPEAKING

4.1 As public speaking has already occurred when the Committee first considered these deferred items, the Council's Constitution does not allow a further opportunity for public speaking. The only exception to this is where a fresh report has been prepared and presented in the "Planning Applications for Decision" part of the agenda. This is generally where substantial new material is being reported to Committee and the recommendation is significantly altered.

5. RECOMMENDATION

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

Agenda Item 6.1

Committee: Development Committee	Date: 14 th June 2017	Classification: Unrestricted	Agenda Item Number:
---	--	--	----------------------------

Report of: Director of Place Case Officer: Jennifer Chivers	Title: Application for Planning Permission Ref No: PA/16/03535 Ward: Spitalfields and Banglatown
--	---

1. APPLICATION DETAILS

- Location:** 106 Commercial Street,
- Existing Use:** B1/B8
- Proposal:** Conversion of building (class B1/B8) to fine dining food market (Class A3).

2. **BACKGROUND**

- 2.1 This application for planning permission was considered by the Development Committee on 10th May 2017. A copy of the original report is appended.
- 2.2 Members were minded to REFUSE planning permission on the following grounds:
- Impact from the use
 - Impact on the setting of the Conservation Area
 - Impact of the proposal on the external appearance of the building particularly the roof
 - The access arrangements given the level of anti-social behaviour in the area;
 - Overcrowding in the area and the safety implications of this
 - Noise disturbance
 - Increased congestion in Commercial Street
 - Servicing arrangements.

Land Use

- 2.3 The proposed restaurant use (use class A3) would incorporate 17 permanent kitchens and a demonstration kitchen, with seating for 435 people and 200 permanent staff in an internal site area of 1,800sqm.
- 2.4 The application site is located within the Tower Hamlets Activity Area and the city fringe activity area, a transitional area between the Central Activity Zone (adjacent side of Commercial Street) and the Brick Lane District centre, and the residential areas of Shoreditch, Whitechapel and Bethnal Green.

- 2.5 Policy DM1 of the Managing Development Document directs evening economy uses to town centres, provided that they do not result in overconcentration, supporting a mix of uses specifically within the Tower Hamlets Activity Areas. Development in these areas should provide a transition between the scale, activity and character of the Central Activity Zone and their surrounding places. DM1 (4) states to further support the vitality and viability of town centres, restaurants, public houses and hot food takeaways (Use Class A2, A4, A5 will be directed to the Central Activity Zone, Tower Hamlets Activity Area and town centres provided that they do not result in an overconcentration of such uses and in all town centres there are at least two no A3, A4 and A5 units between every new A3, A4, A5 unit.
- 2.6 The Core Strategy (Policy LAP 1 & 2) identifies the Spitalfield's area for a vibrant mixed use area particularly to be characterised by its specialist offer in fashion arts and restaurants. The policy recognises the opportunities that the accessible location means that the focus will be on growth in the commercial sector centring on employment, retail and hospitality.
- 2.7 As such, Officer's recommended that the site could be appropriate for the proposed use given planning policies direct these uses to this central location.
- 2.8 However, the operation of the internal use of the proposed development could have the potential to adversely affect the wider environment, given the scale and intensity of the proposal and the site configuration.
- 2.9 Members were concerned that the configuration of the ground floor entry way (breakfast kitchens) would give rise to conflict between seated customers and those moving into the site. The proposed entry on Commercial Street is 3.5 metres wide with the internal area at 3 metres at the narrowest point. This conflict could be anticipated to push visitors onto the surrounding streets. In light of these concerns, Officers consider that the applicant has provided insufficient information on how these numbers of visitors to the site would be accommodated within the site.
- 2.10 The submitted transport statement provides information surrounding the number of expected visitors to the site. During weekdays it was predicted that there would be 5,040 trips generated, being 2,500 persons attending the site (approximately). During the weekend it was anticipated that there would be 7,050 trips generated being 5,325 persons. The weekend values were provided by applying 40% uplift in visitor numbers from the weekday values, however there was no justification as to how this 40% assumption was derived.
- 2.11 In contrast to a large A3 use (restaurant) where it would be anticipated that one type of food offering might be available, the proposed food market would offer 17 different types of food where seating would be restricted given the space provided for kitchens. This has the implications of providing 17 small A3 units and a highly intensive use of the internal space with a large volume of people circulating internally within the space as well as arriving into the site.
- 2.12 It is not considered that it has been sufficiently demonstrated that the predicted visitor numbers can be entirely incorporated within the site, which would therefore give rise to the potential for overspill into the public realm.
- 2.13 As such, it is open to members to conclude that the proposed development by reason of its configuration of internal uses and space would impede the ability to safely

access and exit the site and move within and around the building combined with the inability to control visitor numbers to the site would result in an over intensification of the site.

External Appearance and Impact on Fournier Street/ Brick Lane Conservation Area

- 2.14 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.
- 2.15 The existing warehouse lies within the Fournier Street/ Brick Lane Conservation area and is surrounded on all sides by existing buildings and visibility is limited. The existing building preserves much of its original features and internal appearance and has a positive contribution to the character and appearance of the Conservation Area.
- 2.16 As officers previously discussed the roof is only visible from the rear upper floors of those residential properties on Wilkes Street. It should be brought to Member's attention that the existing roof is not original as light wells have been inserted and the current slate tiles were installed in 2012. However it is acknowledged that a slate roof is typical of a Victorian warehouse building, and indeed the character of the Fournier Street/ Brick Lane Conservation Area. Conversely the proposal introduces a aluminium roof material that is not original to the Conservation Area.
- 2.17 The interiors of the building area not listed, and therefore the Council has no recourse to require the retention of internal features, therefore on balance, the loss to the exterior of the building would not preserve or enhance the conservation area.
- 2.18 Officer's considered that the proposal have been sensitively designed within the context of the historic built form and visibility from the public realm and would preserve the character and appearance of the Fourier Street/ Brick Lane 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). Further the Council has a duty under Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990) to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 2.19 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 pursuant to 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) conservation areas and their settings when carrying out that balancing exercise.

- 2.20 It is understood that the Committee consider that the loss of the existing slate roof on site and the proposed replacement aluminium roof would cause harm to a designated heritage asset, namely the Fournier Street/ Brick Lane Conservation Area.
- 2.21 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. Officers 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, 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 redevelopment of a brownfield site, the renovation and securing a viable ongoing use of a Victorian warehouse building which makes a positive contribution to the Conservation Area, and the provision of additional jobs and apprenticeships.
- 2.22 The Committee's justification for the harm caused to the significance (NPPF paragraph 132) of the Fournier Street/ Brick Lane Conservation Area is understood to include:
- a. The loss of the existing slate roof; and
 - b. the inappropriate design and materials proposed for the replacement aluminium roof

Access arrangements given the level of anti-social behaviour in the area

- 2.23 Policy 7.3 of the London Plan 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.
- 2.24 Residents stated that the vibrant night-time economy in close proximity to the host site is considered to exacerbate problems of crime and anti-social behaviour. This included human waste being left around the site, rubbish, drugs and disturbances throughout the night.
- 2.25 The Metropolitan Police consultee has not objected to the proposal and does note there is a high level of anti-social behaviour around the site.
- 2.26 The Tower Hamlets Brick Lane Town Centre manager considers that the increase in people to the area would increase anti-social behaviour in the area. The current policing in the area is ineffectual and this could potentially increase the perception of crime in the area.
- 2.27 Officers maintain that while there is evidence of a level of criminal activity recorded in and around the host property, in light of the inner city location, a high number of visitors to the area it cannot be considered that the anti-social behaviour is exceptional given its context, and therefore officers consider that there is insufficient evidence provided by residents to sustain this as a reason for refusal.

Overcrowding and pedestrian and vehicular safety

- 2.28 As noted above, insufficient justification has been provided to demonstrate that the proposal will not have a detrimental impact upon the safety and free-flow of pedestrian and vehicle traffic in the surrounding street network due to the volume of visitors 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.

Noise disturbance

- 2.29 The 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.
- 2.30 In terms of breakout noise, the acoustic reports confirmed that this would be adequately dealt with, without any conflicting information from experts, officers consider it would be difficult to justify this as a reason for refusal.
- 2.31 However, the proposal has the potential to create noise disturbance. The proposal recommended several strategies for dispersal of customers upon closing. However, once patrons leave the site it is out of the control of the applicant to monitor or supervise.
- 2.32 Given the expected numbers of visitors to the site and the site capacity, a large number of visitors would be leaving the site up until 11.30pm during the week and it is reasonable for members to conclude that this could give rise to unacceptable noise and disturbance to neighbouring residents throughout the later evening that cannot be controlled through conditions or through the management of the site.

Increased congestion in Commercial Street and servicing arrangements

- 2.33 Core Strategy policies SP08, SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment
- 2.34 Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network.
- 2.31 The subject site gains access from Commercial Street which is controlled and managed by Transport for London, with the servicing proposed to take place on Commercial Street in the loading bays on both sides of the street. Transport for London have not objected to the proposal or the impact on the street.
- 2.32 As the highways authority have not objected to the potential for congestion on Commercial Street or the proposed servicing arrangements it is considered that this reason could not be sustained as a reason for refusal.

Conclusion

- 2.33.1 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.

Financial implications - award of costs

- 3.4 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.
- 3.5 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.
- 3.6 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.

4. RECOMMENDATION

- 4.1 Officers' original recommendation as set out in the officers' report for Development Committee on 10th May 2017 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:

Land use/ road safety

1. *The proposed development by reason of its configuration of internal uses and space would result in an over intensification of use which would restrict to the ability of customers to safely access and exit the site, the ability to move within and around the building, the inability to control the number of visitors in the site and to ensure that new development does not have an adverse impact upon the safety and capacity of the street network. The proposal is therefore inappropriate development and contrary to policy 7.3 and 7.4 of the London Plan (2016),*

policies SP01 and SP09 of the Tower Hamlets Core Strategy (2010), and policies DM20 DM23 and DM25 of the Tower Hamlets Managing Development Document (2013).

Impact on the conservation area

- 2. The proposed development by virtue of the impact to the external appearance of the roof and the loss of the slate roof, and proposed acoustic roof would cause less than substantial harm to the character and appearance of the Brick Lane and Fournier Street Conservation Area and would fail to preserve or enhance the character of this heritage asset. The harm identified to the designated heritage asset is not outweighed by the public benefits of the scheme. The scheme would therefore be contrary to paragraph 134 of the National Planning Policy Framework, and policies SP10 of the Core Strategy (2010) and policies DM24 and DM27 in the Managing Development Document (2013).*

Noise

- 3. The proposed development would cause harm to the amenity and living conditions of occupiers of adjoining residential properties through the overbearing impact of noise and disturbance generated as large numbers of customers enter and exit the development. The development would therefore be contrary to policies SP10 of the Core Strategy (2010) and DM25 of the Managing Development Document (2013) which seek to protect amenity for future and existing residents.*

This page is intentionally left blank

Committee: Development	Date: 10 May 2017	Classification: Unrestricted	Agenda Item Number:
----------------------------------	-----------------------------	--	----------------------------

Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Jennifer Chivers	Ref No: PA/16/03535
	Ward: Spitalfields and Banglatown

1.0 APPLICATION DETAILS

Location: 106 Commercial Street,

Existing Use: Office (B1) and Storage (B8)

Proposal: PA/16/03535

Conversion of building (class B1/B8) to fine dining food market (Class A3).

Drawings and documents: LB Tower Hamlets Review of Environmental Noise Reports prepared by Three Spires Limited dated 03/03/2017 refer CH/EN/2017/01 Rev2; Timeout market – operational management statement October 2016; Planning Statement prepared by ISA dated November 2016. Environmental Noise Survey 30 August 2016 prepared by Paragon Acoustic Consultants; RBA Acoustics – Plant Noise Assessment Rev 3 reference 7780/PNA – dated 28 February 2017; RBA Acoustics – Acoustic Assessment Rev 2 reference 7780/AAR dated 15 February 2017; 1635 (EX) 001Rev B; 1635 (EX) 002 Rev B; 1635 (EX) 003 Rev B; 1635 (EX) 004 Rev B; 1635(EX)005 rev B 1635 (EX) 010; 1635 (EX) 011; 1635 (EX) 012; 1635 (EX) 013 1635 (PL) 001 Rev A; 1635 (PL) 002B;1635 (PL) 003; 1635 (PL) 004; 1635 (PL) 0051635 (PL) 010; 1635 (PL) 015; 1635 (PL) 016; 1635 (PL) 017; 1635 (PL) 018; 1635 (SK) 400

Applicant: Time Out Markets Ltd

Ownership: Truman Estates Ltd

Historic Building: The host property is not listed. Adjacent to Golden Heart Public House (Grade II), Spitalfields Market (Grade II), 13-25 Wilkes Street (Grade II) 4-7 Puma Court (Grade II).

Conservation Area: Fournier Street Conservation Area.

2.0 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 (2013) in addition to the London Plan (2016) as well as the National Planning Policy Framework 2012 and all other material considerations.
- 2.2 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 2.3 The main material planning considerations for Members to consider are whether the use would have an acceptable impact on the neighbouring amenities of residents and an acceptable impact on the surrounding highway network;
- 2.4 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels within the surrounding area and the resultant increase that is perceived by the application, but are satisfied that subject to conditions the impact upon local residents can be suitably mitigated
- 2.5 In conclusion, officers consider that the benefits of the proposal, including the uplift in employment and its role in supporting the wider economy would outweigh any harm identified

3.0 RECOMMENDATION

That the Committee resolve to APPROVE planning permission subject to Conditions.

- a) That the Corporate Director of Place is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters

Conditions

1. Three year time limit
2. Compliance with approved plans and documents
3. Hours of operation
4. Delivery and Service Management Plan
5. Scheme of Highway Improvement Works
6. Details of all Secure by Design measures
7. Waste management
8. Restriction on A4 use class
9. Restriction on off site distribution
10. Cycle parking
11. Installation in accordance with the mechanical services plan
12. Acoustic compliance assessment
13. Vibration installation compliance
14. Sound limiting device
15. Management Plan
16. No external music
17. Dispersal policy

18. Maintenance schedule for extract equipment
19. Post completion noise testing

Pre-Commencement Conditions

20. Samples and details of all facing materials (gate)
21. Construction management plan

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

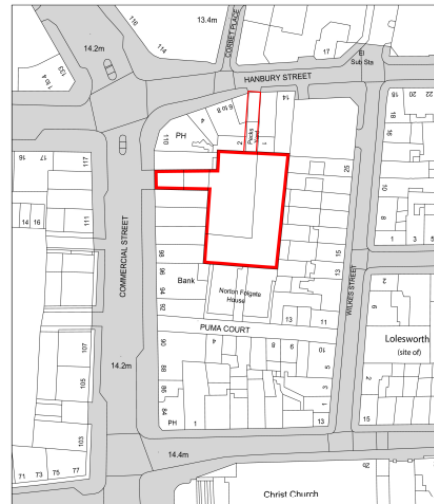
- 4.1 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 4.2 The building is laid out with a large open space in the middle which would house the main seating area. Around this space is an L shape warehouse which contains three levels, being lower ground/basement, upper ground and first floor.
- 4.3 The main open ground floor space would contain the majority of the seating area, two dessert bars and two breakfast kitchens and the visitor cycle spaces.
- 4.4 The basement level would contain the dish washing areas, storage for the kitchens, the customer toilets and separate staff toilets. The upper ground level would contain 8 kitchen spaces with seated areas overlooking the ground level dining space. The first floor level would contain 7 kitchen spaces and one large open kitchen for lessons and demonstrations and a private dining space.
- 4.5 An internal lift and two internal stairwells would be installed to ensure access to all levels. In addition to two internal enclosed staircases will be installed as fire escapes at the northern and southern ends of the building.
- 4.6 The hours of operation for the proposed market are:

08:00 – 23:30 Monday to Friday;
08:00 – 23:30 Saturday;
10:00 – 22:30 Sunday and Bank Holidays;
- 4.7 It is anticipated that the food market would accommodate 200 permanent staff including kitchen, concierge, cleaners and maintenance and up to 435 seated customers and 30 standing customers. This would accommodate up to 650 people on site at any time.
- 4.8 It is proposed to install an additional acoustic layer which would sit on top of the existing roof, and remove a number of the existing lightwells. The new roof would cover the existing roof with an insulated layer.
- 4.9 The proposed plant and equipment would be installed on a section of flat roof located at the northern end of the site adjacent to Pecks Yard. The plant will be enclosed by powder coated aluminium acoustic louvre screens which will rise to 3 metres in height at second floor level and 1.5 metres in height at third floor level. In addition, the extraction flues would also run the length of the building within the valleys of the two buildings roof.

- 4.10 The waste and recycling would be collected from the Pecks Yard laneway and the majority of servicing and deliveries would take place on Commercial Street from the existing on street loading bays.

Site and Surroundings

- 4.11 The application site is a former Victorian warehouse that is three storeys in height and is largely set back from the public highway, situated behind buildings fronting onto Commercial Street and Hanbury Street, although the site includes direct and indirect access from both these streets.
- 4.12 The site is landlocked and located in the centre of an urban block and is bounded by Hanbury Street to the north, by the rear of the Grade II listed Victorian terrace at 13-25 Wilkes Street (odd) to the east, by the rear of the block of flats at Norton Folgate House to the south, and by the rear of the buildings at 98-108 Commercial Street (even) to the west.





- 4.13 The surrounding area is home to a mix of uses, with Spitalfields Market located immediately to the west of the site, whilst frontages along Commercial Street typically include a mix of retail and business uses, often with residential or offices on the upper floors of the buildings. The site is also located a short distance to the west of the Brick Lane District Centre, which is focused around Brick Lane and includes a large number of retail shops, cafes, restaurants, bars and hot food takeaways along the ground floor frontages.
- 4.14 The application site lies within the City Fringe Activity Area, as designated in the Council's adopted Managing Development Document (2013) and within the City Fringe Opportunity Area, as designated in the London Plan (2016). The site is also situated adjacent to, although outside of, the eastern boundary of the Central Activities Zone, as designated in the London Plan (2016) and outside of the western boundary of the Brick Lane District Centre, as designated in the Managing Development Document (2013).
- 4.15 The site lies within the Brick Lane and Fournier Street Conservation Area, which was designated in July 1969 as 'Fournier Street' and then extended in 1978 and again in 1998, when its name was changed to reflect Brick Lane's contribution to the character of the area. It is one of the largest in Tower Hamlets, running along Brick Lane from Bethnal Green Road in the north down to Whitechapel in the south. The adjacent three storey Victorian terrace at 13-25 Wilkes Street (odd) is Grade II listed as is the Golden Heart public house on corner of Hanbury and Commercial street and Spitalfields Market.

Planning History

106 Commercial Street

- 4.16 PA/81/00110
Extension at first floor level for use for storage purposes. Permit 15 January 1982
- 4.17 PA/06/00377

Change of use from warehouse to museum and exhibition halls. Withdrawn 10 March 2006

- 4.18 PA/13/00859
Change of use of ground and first floor levels from warehouse (Use Class B8) to retail (Use Class A1). Permit 31 May 2013
- 4.19 PA/13/02336
Retention of high level profiled metal cladding to the north elevation and the erection of a mono-pitch profiled metal sheet roof to the northernmost section of the building. Permit 19 November 2013
- 4.20 PA/14/01133
Installation of replacement roller shutter to the north elevation. Permit 24 June 2014
- 4.21 PA/15/00403
Change of use of the rear ground floor of 14 Hanbury Street from 'unknown' to B1 (office) and of the basement, lower ground, ground, upper ground and first floor levels at 106 Commercial Street from A1 (retail) and B8 (warehouse) to B1a (office). Permit 15 April 2015.
- 4.22 PA/15/00597
Glazing and entrance alterations to 106 commercial street and 16 Hanbury street. Minor demolition is proposed for the removal of the corrugated facade to Pecks Yard and to form new openings at roof level for the creation of additional skylights. Permit 5 June 15
- 4.23 PA/15/00589 - Installation of roof level air handling equipment and acoustic screening. Permit 23 Jun 2015

London Fruit and Wool Exchange

- 4.24 PA/11/02220/A1
Demolition of Whites Row Multi-Storey Car Park, 99-101 Commercial Street (The Bank), 54 Brushfield Street (The Gun Public House), and partial demolition of the London Fruit & Wool Exchange behind the retained Brushfield Street facade and the erection of a six storey building with a basement, for business, employment and retail use (Use Classes B1/A1/A2/A3 & A4) with landscaping and associated works, together with a new pavilion building for retail accommodation (Use Class A1). Approved 28/03/2013.

5.0 POLICY FRAMEWORK

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of planning 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:

5.2 **Government Planning Policy**

National Planning Policy Framework 2012
National Planning Practice Guidance

5.3 **London Plan 2016**

2.10 Central Activities Zone – strategic priorities
2.11 Central Activities Zone – strategic functions
2.12 Central Activities Zone – predominantly local activities
2.13 Opportunity Areas and Intensification Areas
3.16 Protection and enhancement of social infrastructures
4.1 Developing London's economy
4.4 Managing industrial land and premises
4.6 Support for and enhancement of arts, culture, sport and entertainment
4.7 Retail and town centre development
4.8 Supporting a successful and diverse retail sector
5.17 Waste capacity
6.3 Assessing effects of development on transport capacity
6.9 Cycling
6.10 Walking
7.1 Building London's neighbourhoods and communities
7.15 Reducing noise and enhancing soundscapes
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

5.4 **Tower Hamlets Core Strategy 2010**

SPO1 Refocusing on our town centres
SP02 Urban living for everyone
SP03 Creating healthy and liveable neighbourhoods
SP05 Dealing with waste
SP06 Delivering successful employment hubs
SP09 - Creating attractive and safe streets and spaces
SP10 - Creating Distinct and Durable Places
SP12 - Delivering placemaking

LAP 1&2 – Spitalfields

5.5 **Managing Development Document 2013**

DM1 – Development within the town centre hierarchy
DM2 - Local shops
DM14 – Managing Waste
DM15 - Local job creation and investment
DM16 – Office Locations
DM20 – Supporting a sustainable transport network
DM22 - Parking
DM23 - Streets and the public realm
DM24 - Place-sensitive design

DM25 - Amenity
DM27 - Heritage and the historic environment

5.6 **Supplementary Planning Documents**

Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines, LBTH (2009)
City Fringe Opportunity Area Planning Framework, GLA (Adopted December 2015)

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:

Internal Consultees

LBTH Transportation & Highways

6.3 The applicant has now provided additional onsite cycle parking spaces. Transport have no objections subject to conditions to provide 10 off site cycle spaces and provision.

LBTH Conservation and Design Officer

6.4 The Council's Design officer raised no objection to the application. However considers the installation of roof level changes to be appropriate as internal features will be preserved. The details of materials and design of entry door should be conditioned.

LBTH Waste Officer

6.5 There are concerns relating to the large numbers of refuse collections particularly during peak times. These will need to be closely organised and further details should be secured and monitored as a condition.

LBTH Policy officer

6.6 No objections to the use which would appear as a large scale A3 use. This is an area where Policy promotes mixed use and it is complementary to other uses within the area.

LBTH Environmental Health Consultant (Noise and vibration, smell and pollution)

6.7 From a noise and odour control perspective the development will comply with local and national requirements and that consent can be suitably controlled by way of condition

Transport for London

6.8 TfL is concerned with the level of proposed cycle parking by the applicant. The applicant should adhere to London Plan (2015) standards which is 59 cycle parking spaces on site (11 long stay and 48 short stay). The cycle parking should also adhere to London Cycle Design Standards (LCDS 2014) and should be demonstrated in the proposed plans. All of this should be secured by condition.

TfL welcomes the provision of a dispersal policy within the application material but would welcome clarification on how visitors would access taxis. The policy states that there would be a taxi booking system and taxi marshals, however further clarification is needed. Also TfL require clarification of where people who want to smoke would be directed to in order to assess its potential implications.

Subject to the above conditions being met, the proposal as it stands would not result in an unacceptable impact to the Transport for London Road Network (TLRN).

Further comments received confirmed with the additional cycle parks and dispersal policy TfL were satisfied with the proposal. Details of where people will stand for smoking outside the premises will also be sought through the management plan. There will need to be a limit placed on the number of patrons that can utilise the smoking area at any one time to ensure the footway is not unduly blocked.

Met Police - Crime Prevention Officer

- 6.9 It is recommended that secure by design accreditation is sought given the number of incidences of crime in the area.

External Consultees

Spitalfields Community Association

Object for following reasons:

- Increase in antisocial behaviour
- Noise pollution and odour
- No provision for smokers
- Ability to be utilised as a large A4 use.

Spitalfields Joint Planning Group

No comments received

Spitalfields Neighbourhood Planning Forum

No comments received

The Spitalfields Historic Buildings Trust

No response received

The Spitalfields Society

Object for the following reasons:

- Overdevelopment which is inadequately accommodated
- Noise from external plant
- Odour from kitchen extract
- Inadequate design of external plant
- Noise from operations
- Removal of traditional roof form and finishes
- Inadequate sanitary facilities
- Threat to public safety
- Inadequate means of escape
- Inadequate smoking provision
- Deliveries provision
- Contrary to the cumulative impact zone

St George's Residents Association

Object

- Potential noise nuisance
- Anti social behaviour
- Increased deliveries
- Waste deliveries spilling into residential streets near by
- Potential risk to pedestrians

Woodseer and Hanbury Residents Association.

No comments received

7.0 LOCAL REPRESENTATION

7.1 A total of 54 neighbours letters were sent to neighbours and interested parties. a site notice was displayed from 21 December 2016 at both the Commercial Street entrance and Pecks yard entrance 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: 57 letters of representation
	14 in support
	43 in objection

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

- There is already a significant number of food outlets in the Spitalfields area;
- In summer, these streets are already full of people spilling out of the two pubs at either end of Commercial Street and this application will increase the numbers and cannot be accommodated;
- The addition of 2000 visitors per day cannot be accommodated within this area which is already busy and overcrowded;
- A former stable block is an inappropriate space for a dining establishment of this density whereas a more permeable site would allow quick evacuation should an emergency occur.
- A drinking and dining venue on this scale should not be situated so close to so many residential properties and in an area that is already saturated with bars and restaurants.
- The application is misleading and is not for an A3 use and it will create a new large bar and drinking establishment.
- Take away food could be taken from the premises and eaten off site resulting in large numbers of people out on the streets.
- Commercial street cannot accommodate a concentrated and intensive use for food and drink with thousands of extra visitors per day;
- There is no booking system proposed and as such this will result large crowds. This may result in public and pedestrian safety issues with large numbers of people on the footpath on Commercial Street in conflict with the heavy traffic of Commercial Street.
- Control of the dispersal of visitors
- The scheme is too large for an overburdened areas
- Insufficient onsite facilities for the number of visitors to the site;
- Very large and unprecedented operation;
- Incompatible with surrounding uses;
- Insufficient emergency exits;

- Access to the building is too small to support the number of diners and drinkers which the application implies will be needed to make the development commercial viable.
- Brick Lane and Spitalfields has been designated a Cumulative Impact Zone.

Transport

- The loading bays are used by many other traders and the traffic on Commercial Street is heavy and often jammed, the applicant cannot possibly safely service this operation in timed 15 minutes slots;
- The waste is proposed to leave through Pecks Yard on Hanbury Street, this is already utilised by a large number of larger vehicles and will make traffic management impossible and be hugely disruptive;
- The procedures and routes the applicants propose to conduct deliveries to and waste from an establishment are unrealistic and impractical.

Amenity

- The site is immediately surrounded by residential properties with numerous residential properties located throughout the surrounding streets. Existing residents already suffer from anti-social behaviour because of the existing over-saturation of the area in terms of alcoholic venues.
- The noise generated from the bar and restaurant use and the numbers of visitors will be impossible to acoustically seal from the residential homes which abut on the premises.
- The amount of noise from the extractors which are required for the large number of kitchens in use.
- The extract systems even if they confirm will result in huge smells and will be unbearable and does not work in a dense residential space.
- Previously experienced noise carrying from the host property into the neighbouring properties;
- Noise breakouts;
- Unpleasant odours already exist.
- The amount of air conditioning on the roof will be a constant source of noise pollution as will the noise emanating from the kitchens and the diners/drinkers inside the building.
- The kitchen smells being discharged will affect properties in the near vicinity.

Design

- The historic former stables building by replacing the current slate roof is unacceptable;

Anti-Social Behaviour

- Existing waste already left on streets from customers who leave premises;
- There are existing examples of antisocial behaviour suffered everyday by residents including defecation, verbal and physical abuse, excessive noise and public indecency.
- The high level of expected visitors to this site will vastly increase the levels of anti-social behaviour and increase crime, disorder, public safety and public nuisance which the operator cannot control outside the premises.
- There is no obvious location for smokers, this means they will be pushed out onto the residential streets and the operator cannot control people after they have left the premises.

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

- There are currently three public houses in close proximity which do not offer food, it would seem appropriate that more food of high quality should be on offer in the area;
- The application would benefit the building in both appearance and use.
- The building is classed as a 24 hour warehouse which is not complimentary to the current neighbouring use and the proposed use is more in keeping;
- The site is currently used as a flea market (temporary) and usually has loud uncontrolled music blaring, therefore the timeout food market would be an improvement;
- The proposal will be an asset to the local area;
- The proposal is a very fitting food and drink offering for Spitalfields;

8.0 MATERIAL PLANNING CONSIDERATIONS

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

1. Land Use
2. Design
3. Amenity
4. Transportation
5. Conclusion

8.1 Land Use

Loss of B8/B1 use and proposed A3 use.

8.1.1 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives, introducing a presumption in favour of sustainable development. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role – contributing to the economy through ensuring sufficient supply of land and infrastructure; a social role – supporting local communities by providing a high quality built environment, adequate housing and local services; and an environmental role – protecting and enhancing the natural, built and historic environment.

8.1.2 These economic, social and environmental goals should be sought jointly and simultaneously. The framework 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.

8.1.3 In line with the National Planning Policy Framework, the London Plan policies 2.15 and 4.7 require new uses in town centres to support the vitality and viability of the centre; Accommodate economic growth through intensification and selective expansion in appropriate locations; Support and enhance the competitiveness, quality and diversity of town centres retail, leisure, arts and culture, other consumer and public services; Be of a scale related to the size, role and function of the centre, and be easily accessible to public transport.

- 8.1.4 Policy SP01 of the Core Strategy, with related objectives SO4 and SO5, seeks to ensure that the scale and type of development is proportionate to the town centre hierarchy and to promote mixed use at the edge of town centres and along main streets. The policy also seeks to ensure that town centres are active, well-used and safe during day and night and to encourage evening and night time economy uses. Evening and night time uses should not be over-concentrated where undue detrimental impact on amenity would result, of a balanced provision and complementary to the adjoining uses and activities.
- 8.1.5 Further guidance is provided by policy DM1 of the MDD directs evening economy uses to town centres, provided that they do not result in overconcentration, supporting a mix of uses specifically within the Tower Hamlets Activity Areas. Development in these areas should provide a transition between the scale, activity and character of the Central Activity Zone and their surrounding places. DM1 (4) states to further support the vitality and viability of town centres, restaurants, public houses and hot food takeaways (Use Class A2, A4, A5 will be directed to the Central Activity Zone, Tower Hamlets Activity Area and town centres provided that they do not result in an overconcentration of such uses and in all town centres there are at least two no A3, A4 and A5 units between every new A3, A4, A5 unit.
- 8.1.6 Policy DM15 of the MDD concerns Local Job creation and Investment. DM 15(1) states 'upgrading and redevelopment of employment sites outside of spatial policy area will be supported. Development should not result in the loss of active and viable employment uses, unless it can be shown that the site has been actively marketed or that the site is unsuitable for continue employment use due to its location, viability, accessibility and condition.
- 8.1.7 The application site is located within the Tower Hamlets Activity Area and the city fringe activity area, a transitional area between the Central Activity Zone (adjacent side of Commercial Street) and the Brick Lane District centre, and the residential areas of Shoreditch, Whitechapel and Bethnal Green.
- 8.1.8 The site has previously been in employment use with B8 (light industrial) and ancillary office use; however, the 1- 3 storey building which occupies the entire site has a restrictive internal layout, with an L-shape warehouse with three internal levels, around a wide open ground floor level.
- 8.1.9 The site has an existing floor area of 1800m². The site has not been actively use for B8 operation for at least 5 years. B8 employment uses are characterised by a low employment, typically 70m per FTE: amounting to 26 FTE on a site of this size. Given (a) the lack of an active employment on the site, (b) the prospective of a greater employment density being associated with the proposed new land uses and (c) the overall pattern of emerging land uses occurring in the neighbourhood (that does not lend the site well to have a viable use as a B8 warehouse space in the future) the change of use does not raise planning policy concerns in respect of DM15.
- 8.1.10 Implementation of the proposed scheme would bring the site back into active employment use and support the growth of small enterprises in the area. Furthermore it would fulfil these positive employment outcomes in a manner that is compatible with securing the long term future of the building. The building, as set out elsewhere in this report, contributes positively to the character of the conservation area. The scheme and land uses as detailed in the application have the benefit of retaining internal building features of merit



- 8.1.11 The application site is in very close proximity to the Central Activity Zone and Preferred Office Location; however it does not form part of these spatial designations. The fact that the site is not located within the Preferred Office Location makes it suitable for a wider variety of uses including retail, restaurants and entertainment. In terms of character, it is clear that the site does not form part of the core office cluster of Aldgate or City of London and that instead it is more closely related to the evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).
- 8.1.12 Residents have argued that site is more suitable for a B1 office use. The potential for provision for an office on site provides a similar quantum of employment space for the site as an A3 use with 1 employee per 12m² for office and 1 per 15m² for A3. The office accommodation could have up to approximately 150 full time equivalent jobs. The proposed development will provide an equivalent of approximately 200 full time jobs which is higher than the office equivalent for office use.
- 8.1.13 The quality of the office accommodation provided would be poor in comparison to that offered in the surrounding areas of Spitalfields and Aldgate, given the overall size, lack of natural light and configuration of the layout. In addition, the site has been excluded from the preferred office location and the local office location, indicates a larger variety of uses are appropriate for the location.
- 8.1.14 In addition, the approved planning permission PA/15/00403, permitted April 2015, for the change of use of part of the site to B1 (office) has never been implemented. Officers noted in both the 2013 and 2015 planning permissions that the site has been vacant prior to granting and has remained essentially vacant until present time. Therefore given this permission has never been implemented, there is no actual loss of this B1 use on site.

- 8.1.15 As such, the site is considered to be generally underutilised in land use terms, making a limited contribution to the local area in a highly accessible location.
- 8.1.16 The provision of a food market would be considered similar in size, scale and effect to a large A3 unit. The proposed use is considered to be complimentary to the adjoining uses in the Central Activity Zone and Spitalfields. The proposal would provide a complementary function which involves the beneficial use of developed land within an urban area which already has a high level of surrounding retail provision.
- 8.1.17 An important component of the Core Strategy vision for the area component of the Core Strategy vision for the area expressed through policy LAP 1&2 – Spitalfields is to ensure a vibrant, diverse and mixed use area with the aim for Spitalfields to continue to be characterised by its diverse ethnic communities and its specialist offer in fashion, arts and restaurants. The policy recognises the opportunities that the accessible location means that the focus will be on growth in the commercial sector centring on employment, retail and hospitality. It would also provide a use which supports the neighbouring POL's and helps to make these more successful and attractive to new office tenants.
- 8.1.18 The provision of a food market is a specialist offer within the borough, especially given the temporary nature of the nearby permitted Boxpark, which will be removed upon redevelopment of Bishopsgate Goods yard, therefore it is unlikely to operate in competition with this site.
- 8.1.19 The site occupies a town centre location, characterised by dynamic commercial activity where it can be expected that noise and disturbance will be experienced. This is evidenced within the acoustic report which has acknowledged the high level of background noise experienced. Subject to conditions this can be further managed and mitigated.
- 8.1.20 Offices acknowledge the site occupies an already busy location within a busy commercial area, however consider the use on site to be suitable and reasonably controlled by conditions.
- 8.1.21 Concerned residents have noted that within the 17 proposed kitchens any number of them could be utilised for an A4 use. The sale of alcohol is part of an A3 use and if the site use alters to become used predominantly as a drinking establishment this would be a matter for the Council to enforce and would represent a change of use away from A3.
- 8.1.22 In addition, officers are concerned about the impact that the potential to operate as an A5 unit with offsite orders and deliveries taken from site (for example deliveroo operation, uber eats). Officers consider this could result in adverse effects on the highway network which have not been assessed as part of this application and as such a condition will be attached restricting any vehicular distribution of sales from the site.
- 8.1.23 While there is a loss within the B (employment) use class, the change of use is considered acceptable in land use terms given the highly accessible underutilised site, which would not result in the loss of an active and viable employment use. The proposed use would also be complementary to the role of the adjoining Spitalfields, central activity area and is outside of the preferred office location but would help to support this use. The use sits well within the adjacent evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).

8.2 Design

- 8.2.1 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.
- 8.2.2 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.
- 8.2.3 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.
- 8.2.4 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.
- 8.2.5 The existing warehouse lies within the Fournier Street Conservation area and is surrounded on all sides by existing buildings and visibility is limited. The existing building preserves much of its original features and internal appearance and has a positive contribution to the character and appearance of the Fournier Street Conservation area.
- 8.2.6 The internal refurbishment intends to retain much of the original fabric of the warehouse. The acoustic roof will sit on top of the existing roof and therefore will maintain the internal features.
- 8.2.7 Given the minimal external and internal changes, the proposal is considered to preserve the existing building and the wider Fournier Street Conservation Area.

8.3 Amenity

- 8.3.1 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.
- 8.3.2 Policy 7.14 of the London Plan states that local planning authorities should put in place strategies to achieve reductions in pollutant emissions and minimise public exposure to pollution.
- 8.3.3 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.
- 8.3.4 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 during the life and construction of the development.

- 8.3.5 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.

Noise

- 8.3.6 Paragraph 123 of the NPPF states that planning policies and decisions should aim to avoid noise that gives rise to significant adverse impacts on health and quality of life as a result of new development. They should seek to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. It is recognised that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

- 8.3.7 The Council's policy seeks to ensure that noise from plant should be 10dB below background noise levels when measured 1m from the nearest noise sensitive facades. The applicants have submitted three separate noise assessments which assess the existing and proposed background acoustic levels, plus noise and vibration from mechanical plant and extraction units. These acoustic reports have been independently reviewed for the Council by a noise consultant. The Council's consultant has no issue with the methodology set out in the acoustic reports of the noise surveys undertaken in respect of assessing background noise levels to neighbours.

Operational and Activity noise

- 8.3.8 The scheme has the potential to create breakout noise over and above that which is already received within the surrounding environment. Given this possibility, the applicant has set out a series of mitigation measures to control and limit the noise breakout to within acceptable background acoustic levels.

- 8.3.9 The background noise survey has indicated that typical noise levels do not fall below 70dB(A) on Commercial Street, primarily due to traffic noise as well as contribution from existing mechanical service and pedestrian noise. Within Puma Court the noise survey indicate existing noise levels are lower than Commercial street but do not fall below 58dB(A), even at night.

- 8.3.10 The acoustic reports demonstrate that noise levels breaking out from the operation can be maintained with implementation of control measures below existing ambient noise levels in the vicinity of the site. The Council's consultants consider the mitigation measures are fit for purpose, subject to a post-completion acoustic assessment to confirm the mitigation methods are acting as predicated. Should the post-completion assessment record exceedances the controls and mitigation measures would be adjusted to bring the break out levels within acceptable noise levels. The mitigation measures and post-completion acoustic assessment would be secured by planning condition.

- 8.3.11 The hours of operation of the scheme will be managed by planning condition. The applicant will also be required to prepare an operational management plan that will include setting out how the operator will manage the site including managing customer behaviour as they leave the site. The management plan will be subject to condition and will contain preparation of an update monitoring report to highlight any issues for the LPA to review 12 months after the development is fully operational. The scheme will involve no live music and this stipulation will be secured by planning condition.
- 8.3.12 With respect to noise associated with waste collection and servicing this will be dealt with by preparation of delivery and service management plan and the waste management strategy and secured by planning condition which will include control over delivery times and frequency of deliveries.

Extraction noise

- 8.3.13 The hours of use proposed are from 7am until 11:30pm, which mean that the plant could also potentially operate between these times with the addition of condensing units which may operate at any time. As such, the assessment has been undertaken against the lowest background level at night.
- 8.3.14 The predicted plant noise emissions at the nearest noise sensitive windows have been reviewed by the Council's noise consultants and are acceptable given the precautionary approach of the assessment applied using the lowest background noise level and the context of the acoustic environment.

Overview

- 8.3.16 In summary, in respect of noise and general disturbance subject to the above matters being dealt with by planning condition, it is considered that the proposed development would adequately protect neighbouring residents from undue noise and disturbance, in accordance with Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

Odour

- 8.3.17 Given the scale of the proposal, in accordance with the DEFRA Odour risk assessment a very high level of odour control is required. The configuration of the extraction system is a highly specialist system which will only discharge after significant filtering processes in line with the recommended level of odour control. The environmental health officer is satisfied that the extraction equipment is suitably designed to cater for the number of units and will meet with DEFRA guidelines. However in order to ensure the system operates in the manner detailed and will continue to meet the guidelines a condition is attached to provide the maintenance schedules for the systems.

Anti-social behaviour

- 8.3.18 Policy 7.3 of the London Plan (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.
- 8.3.19 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.

- 8.3.20 The Metropolitan Police's Crime Prevention Officer who has provided comments in relation to the proposal. The crime prevention officer has not raised concerns in relation to the proposal and the increase in anti-social behaviour. The Crime prevention officer did note that the area does already experience a high level of crime and as such has recommended that secured by design accreditation is sought. This is conditioned accordingly.
- 8.3.21 Objectors have commented that there is a high level of anti-social behaviour occurring around the site. A number of objectors have attached photographs of the neighbouring streets and residents which are a result of the existing anti-social behaviour problems.
- 8.3.22 Officers do observe that there is evidence of a level of criminal activity recorded in and around the host property, in light of the inner city location, a high number of visitors to the area it cannot be considered that the antisocial behaviour 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.
- 8.3.22 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, the applicant has outlined steps that could be undertaken on site to manage the visitors to and from the site. It is also considered that a condition should be attached requiring a visitor management strategy which would include details of door supervision to manage any queues along the public footpath, limiting the site capacity, proposals for management of the smoking area, patrol personnel and managing visitor egress from the site by ensuring staggered stall closing times.
- 8.3.24 It should also be noted that the closure time of the venue is 11:30pm so this is not proposed as a late night venue, and the focus is on the consumption of food rather than alcohol. The measures that the applicant is proposing will assist in minimising any anti-social behaviour that might occur as a result of this proposal and in light of this, and the conditions proposed, it is considered that the use would not add significantly to the existing anti-social behaviour issues which occur in the locality.

8.4 Highways and Transportation

- 8.4.1 The NPPF and Policy 6.1 of the London Plan seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 of the London Plan requires transport demand generated by new development to be within the relative capacity of the existing highway network. London Plan Policy 6.13 states that developments need to take into account business delivery and servicing. This is also reiterated in MDD Policy DM20 which requires Transport Assessments submitted with a development scheme to assess adequate regard has been made for servicing and for safe vehicular movements associated with this.
- 8.4.2 Core Strategy policies SP08, SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.4.3 The applicant has submitted a Transport Statement that contains details of servicing, waste collection and cycle parking

Access

- 8.4.5 The primary access for customers is from the existing access on Commercial Street. The entrance is 4.7 m wide and with a gentle gradient rise into the main open area in the centre of the building.
- 8.4.6 There are two proposed fire exits on each end of the building and two sets of stairs to the top floors. A customer lift is also proposed which will give level access to each floor.

Servicing and Delivery

- 8.4.7 Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network. Concerns have been raised that this proposal would result in an increase in road traffic due to taxi pickups and set downs. However the site has excellent accessibility to public transport (PTAL 6b) and it is considered that many of the users of the site would travel to and from the site via public transport; particularly with the opening of the night tube and the closure of the market prior to midnight. Due to the scale of the operation it is not considered that the volume of those who might use taxis would result in a significant impact on the capacity of Commercial Street and Transport for London are satisfied with the dispersal policy proposed.
- 8.4.8 On both sides of Commercial Street two loading bays are provided. There are double yellow lines on Hanbury Street, which allow loading and unloading, which could accommodate a delivery should the Commercial Street loading bays be unavailable. However the applicants transport assessment has indicated that between the four loading bays there is general availability to accommodate these deliveries. Given the high number of differing vendors within the site the applicant is proposing to limit the number of deliveries and consolidate these.
- 8.4.9 A condition requiring details of servicing and deliveries would be requested prior to the commencement of the use; this would include details of the frequency of the deliveries, consolidation of those deliveries, management of distribution of goods within the site and routing of vehicles.

Cycle Parking

- 8.4.10 The NPPF and Policies 6.1 and 6.9 of the London Plan (2016), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.4.11 The Parking Addendum to chapter 6 of the London Plan (2016) sets minimum cycle parking provision standards. For A3 (restaurant over 100sqm) use 1 cycle space per 175sqm for long stay and 1 space per 40sqm per short stay. The scheme now proposes 18 short stay spaces within the ground level of the site and 11 long stay within the lower ground floor space.
- 8.4.12 The cycle parking in the area is heavily parked and it is considered particularly important that the site be able to provide the appropriate level of cycle parking within the site and area. The provision and details will be secured via condition and retained thereafter.

Waste and Refuse

- 8.4.13 The existing on site waste collection requires vehicles to park along the kerb on Hanbury Street and collect refuse from inside the site, accessing it through Pecks Yard.
- 8.4.14 The proposed bin stores will include the following Food Waste 4 x 120Ltr bin General waste 1 x 1110 ltr bin Dry Mixed recycling 2 x 1000 Glass – 4 x 240 ltr bin
- 8.4.15 It is anticipated that there will be 11 refuse collections during the week, with 7 for food and dry mixed recycling, 3 for glass and 1 for general waste. These collections will be undertaken from Hanbury Street from Pecks yard. The waste can be accommodated within Peck's yard which the applicant has a easement over which allows them to use the space. The waste can be accommodated within 10 metre drag distance to Hanbury street.
- 8.4.16 The collections will need to be closely managed. The transport assessment states that with a maximum of 2 refuse collections a day will be timed to ensure they do not conflict with each other or with peak hours of the network. A waste strategy will be conditioned to ensure that the Council agrees with the proposed hours of collection to minimise impacts on the highways network.
- 8.4.17 In addition to this, a collection for oil will need to be organised and this could be separately organised through the waste management strategy. The Council's waste officer has confirmed that based on the supplied information this is acceptable.
- 8.4.18 There is ability for waste vehicles to utilise Corbet Place in order to leave the site and not utilise Brick Lane which is often closed during weekends. Further details of the directions of travel will be conditioned as part of the waste management strategy.

8.5 Other

8.5.1 Cumulative Impact Zone

- 8.5.2 Concerned residents have stated that the site falls within a cumulative impact zone. This impact zone affects the licencing of a premises for alcohol and is not related to planning policy. The Cumulative Impact Zone is in place in the Brick Lane / Spitalfields area and means that there is a presumption against the granting of a licence, unless the applicant can demonstrate that they will suitably manage their premises in accordance with the licensing objectives. This is different to the regular licence applications, which are deemed granted unless objections are received. The designation of the Cumulative Impact Zone does highlight an issue in terms of anti-social behaviour in this location, however it does not affect planning policy and for the aforementioned reasons, it is considered that this proposal is acceptable and due to the nature of the use and measures out in place by the applicant it would not have a significantly negative impact on the area with regards to anti-social behaviour.

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:
- 9.12 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".

9.13 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.

9.14 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.

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

9.16 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.

- 10.12 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.
- 10.13 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation it is identified that level access is provided into all parts of the building thus promoting equality with regards to disability. There are no other identified equality considerations.

11.0 CONCLUSION

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

12.0 SITE MAP



Agenda Item no	Reference no	Location	Proposal / Title
5.1	PA/16/03535	106 Commercial Street, E1 1JZ	Conversion of warehouse building (use class B1/B8) to fine dining food market (restaurant: use class A3).

1.0 CONSULTATION UPDATE

1.1 Since the publication of the committee report, the Council has received further representations, and as of midday today the Council has received a total of:

63 objections
27 letters of support
147 signature petition

1.2 It is noted that some of the signatories of the petition have also made individual objections. No additional matters have been raised that have not already been considered within the report to the committee.

2.0 FURTHER INFORMATION AND CLARIFICATION

Design and Conservation

2.1 Residents raised concerns with the removal of the original slate roof materials.

2.2 For clarity, the proposal includes the removal of the roof slates and waterproof layer, with the addition of insulation layers and a metal roof which sits on top of this original roof. The proposal will maintain the original roof form and shape, and is considered to be a reversible intervention which could be removed should the proposal cease to operate.

2.3 On balance, the proposal is considered to preserve the character and appearance of the Brick Lane and Fournler Street Conservation area pursuant of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

2.4 In this case, the amendments to the roof are not considered to cause harm to the conservation area. The conservation benefits of the proposal are considered to be restoration, and bringing back in to viable use, a building which makes a positive contribution to the conservation area. Furthermore, the proposal includes the retention of original internal features, which would be open to the public to view allowing a greater appreciation of borough's heritage in this area. Primarily the dis-benefit, in conservation terms, is the replacement of slate with aluminium at roof level however, it is noted that, this roof is seldom visible from the public realm and only from some upper windows within the land-locked urban block the application site sits within.

Brick Lane Town Centre

2.5 Officers liaised with the LBTH Brick Lane Town Centre Manager (Place Directorate) regarding potential impact of the proposed development on the Brick Lane town centre and the following issues were raised:

- The proposal will compete with Brick Lane and Hanbury Street;
- The night time economy is unsuccessfully managed at the moment;
- Increase in people to the area will result in more ASB in the area which is already a hotspot;
- The high streets team are looking to make changes to the public realm and reduce the number of deliveries to tight roads in the area;

- Risk of noise pollution;
 - Proposing to develop the night time economy for a wider use including leisure and away from solely food and drink to attract a wider demographic of visitor to the area;
 - Risk of overcrowding to Spitalfields area;
- 2.6 Most of the planning considerations arising from these issues are considered within the Officer report but further detail is provided below.

2.7 Measures to prevent anti-social behaviour (as agreed by the applicant),

- limiting site capacity;
- patrol personal and security staff;
- dispersal policy including staggering closings of stalls;
- noise controls noise from within the building;
- non-disposable cutlery or crockery to reduce the potential for littering; and
- last service at 11pm, and venue closes at 11:30pm. No late night operations proposed.

2.8 In light of the above measures, while there is evidence of anti-social behaviour surrounding the site, it is not anticipated that this application would exacerbate the issues given the measures put in place by the applicant and conditioned as part of the permission. On balance, the proposed development is still considered to comply with London Plan (2016) policy 7.3 and local plan policy DM23.

3.0 **RECOMMENDATION**

3.1 Officer's recommendation is changed to GRANT planning permission subject to the prior completion of a legal agreement and conditions and informatives.

3.2 The prior completion of a S106 legal agreement to secure the following planning obligations:

Financial Obligations:

- (a) Contribution of £166,500 towards Crossrail (Mayor of London 'Crossrail Funding SPG' 2016)

Non-Financial Obligations:

- (a) A minimum of 6 apprenticeships to be delivered during the operational phase of the development.
- (b) Secure a minimum of 20% of the operation phase workforce who are local residents of Tower Hamlets utilising LBTH workplace initiatives.

3.3 That the Corporate Director of Place is the delegated power to negotiate the legal agreement indicated above acting within normal delegated authority, and if within three months of the resolution the legal agreement has not been completed, the Corporate Director is delegated power to refuse planning permission.

Agenda Item 6.2

Committee: Development Committee	Date: 14 th June 2017	Classification: Unrestricted	Agenda Item Number:
---	--	--	----------------------------

Report of: Director of Place Case Officer: Chris Stacey-Kinchin	Title: Application for Planning Permission Ref No: PA/16/01798 Ward: Canary Wharf
--	--

1. APPLICATION DETAILS

Location: Millwall Outer Dock, London, E14 9RP

Existing Use: Water space (sui generis)

Proposal: Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

2. **BACKGROUND**

2.1 This application for planning permission was considered by the Development Committee on 10th May 2017. A copy of the original report is appended.

2.2 Members were minded to REFUSE planning permission on the following grounds:

- The loss of open water space as a result of the proposal.
- Adverse impact on waterborne recreation and navigability within Millwall Outer Dock as a result of permanently moored vessels.
- The proposed servicing strategy (via Muirfield Crescent) would conflict with the free flow of pedestrians and cyclists and as such would represent a safety hazard.

2.3 In accordance with Development Committee Procedural Rules, the application was DEFERRED to enable officers to prepare a supplementary report with appropriate wording for reasons for refusal and the implications of the decision.

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.

Financial implications - award of costs

- 3.4 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.
- 3.5 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.
- 3.6 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. A further 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.

4. COMMITTEE REASONS FOR REFUSAL

- 4.1 With respect to the Committee's reason for refusal 1 – the loss of open water space, it should be noted that London Plan policies allow for development within areas of open water space where they serve a water related purpose and do not adversely impact upon then open character of the Blue Ribbon Network. Given that in this instance the proposed development does serve a water-related purpose and is considered to protect the open character of the Blue Ribbon Network officers do not consider that the proposal discords with policy. Given the above and the fact that the quantum of water space taken up by the proposal is minimal (the red line boundary of the site represents 1.9% of the total area of Millwall Inner and Millwall Outer Docks combined) officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.
- 2.1 The Committee's reason for refusal 2 cites that the proposed development would have an adverse impact upon waterborne recreation and navigability within Millwall Outer Dock. The application site is located in a recessed corner of the dock surrounded by structures on three of its sides, and is also located outside of the navigation channel which runs through the centre of Millwall Outer Dock. Given both the site's positioning and its scale officers do not consider that it will result in either an adverse impact upon the navigability of Millwall Outer Dock nor will it have an adverse impact upon the ability of Millwall Outer Dock to continue to be used for waterborne recreation. As such officers do not consider that the proposal discords with relevant planning policy and as such officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.
- 2.2 The Committee's reason for refusal 3 concerns the proposed servicing strategy (via Muirfield Crescent) would conflict with the free flow of pedestrians and cyclists and as such would represent a safety hazard. Given the level of servicing likely to be required for the proposed development, which is understood to principally comprise of two refuse collections per week, and the fact that the area that the vehicles would access is also currently used by other vehicles at present (those servicing the Pepper St Ontiod public house and those accessing the residential properties on the west side of the Glengall Bridge), officers do not consider that the proposed servicing strategy would represent a safety hazard. As such officers do not consider that this

element of the proposal discords with relevant planning policy and as such officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.

5. RECOMMENDATION

- 5.1 Officers' original recommendation as set out in the officers' report for Development Committee on 10th May 2017 to **GRANT** planning permission for the proposal remains unchanged.
- 5.2 However, if Members are minded to refuse planning permission for this scheme, then the proposed refusal reasons are as follows:

Reasons for Refusal:

Loss of Open Water Space

1. The proposed development by reason of its resultant loss of open water space and its failure to protect the open character of the Blue Ribbon Network would not improve the quality of the water space and is therefore inappropriate development. The development is therefore contrary to policy 7.28 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010), and policy DM12 of the Tower Hamlets Managing Development Document (2013).

Impact Upon Waterborne Recreation and Navigability

2. The proposed development by reasons of its siting and scale would adversely impact upon the ability of Millwall Outer Dock to be used for waterborne recreation and would also negatively impact upon the navigability of Millwall Outer Dock. The development is therefore contrary to policies 7.27 and 7.30 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010), and policy DM12 of the Tower Hamlets Managing Development Document (2013).

Servicing Arrangements

3. The proposed servicing strategy by reasons of its conflict with the free flow of pedestrians and cyclists would adversely impact the safety of the transport network. As a result the proposal is contrary to policies 6.3, 6.9 and 6.10 of the London Plan (2016), policy SP09 of the Tower Hamlets Core Strategy (2010), and policy DM20 of the Tower Hamlets Managing Development Document (2013).

This page is intentionally left blank

Committee: Development	Date: 10 th May 2017	Classification: Unrestricted	Agenda Item Number:
----------------------------------	---	--	----------------------------

Report of: Director of Place	Title: Application for Planning Permission
Case Officer: Chris Stacey-Kinchin	Ref No: PA/16/01798
	Ward: Canary Wharf

1.0 APPLICATION DETAILS

Location: Millwall Outer Dock Moorings, Selsdon Way, London

Existing Use: Water space (sui generis)

Proposal: Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

Drawings and documents: Location Plan, Rev B
Option N, SOL-3182-SC23-003
Option N Overview, SOL-3182-SC24-003
Option N Overview, SOL-3182-SC25-003
Option N Storage Area, SOL-3182-SC26-003
Typical Sections, SOL-3182-SK01-000
Typical Sections, SOL-3182-SK02-000
Storage Boxes, 106, P4
Primary Access Gate, 108, P3
Access & Servicing Arrangements, Dated March 2017
CGI Views of Proposal
Design & Access Statement
Ecological Assessment, Dated April 2016
Flood Risk Assessment
Millwall Docks Waterspace and Moorings Plan
Planning Statement with Design & Access Details
Servicing the Proposed Residential Mooring Scheme on Millwall Outer Dock
Statement of Community Involvement
Supporting Information Statement

Applicant: Canal and River Trust

Ownership: Canal and River Trust

Historic Building: N/A

Conservation Area: N/A

2.0 EXECUTIVE SUMMARY

- 2.1 This application is reported to the Development Committee as the proposal has attracted 5 letters in objection along with a petition in objection containing 36 signatories 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 planning application is for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.
- 2.4 The loss of existing open water space, and the provision of residential moorings can be considered to be acceptable in this instance as the proposed development meets the relevant exceptions in policy for developing within water space, does not adversely impact upon the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, and also provides additional residential accommodation within the Borough.
- 2.5 The proposed design of the scheme is acceptable in terms of its layout, scale and appearance, as the proposal does not significantly impact upon the open character of Millwall Outer Dock, features a high quality material palette, and also has been designed in accordance with Secure by Design principles.
- 2.6 The proposal would not adversely impact the amenity of surrounding neighbouring residents and building occupiers, and would also afford future occupiers a suitable level of amenity in accordance with policy SP10 (4) of the Core Strategy (2010) and policy DM25 of the Managing Development Document (2013) and is thus acceptable in amenity terms.
- 2.7 The proposal would not have an adverse impact upon the local highway network, would provide appropriate cycle parking arrangements, and would be serviced in an appropriate manner, as such the proposal is acceptable in transport and highways terms.
- 2.8 The proposed refuse strategy for the site is acceptable as the refuse store is located in a suitable location, is of a suitable size and it has been designed with the Council's waste management hierarchy of reduce, reuse and recycle in mind, in accordance with policy SP05 (1) of the Core Strategy (2010) and policy DM14 (2) of the Managing Development Document (2013).
- 2.9 The proposal is acceptable in air quality, biodiversity and flood risk terms and thus it is in accordance with the relevant policies of the London Plan, Core Strategy (2010) and Managing Development Document (2013) as set out within the policy context section of this chapter.

3.0 RECOMMENDATION

- 3.1 That the Committee resolve to:

GRANT planning permission, subject to:

- a) The Corporate Director of Place's delegated authority to recommend the following conditions and informatives in relation to the following matters:

3.2 Conditions on planning permission

1. Time limit (*compliance*)
2. Development to be built in accordance with the approved plans (*compliance*)
3. Further details of the entrance gate, storage boxes and refuse enclosure, including full details and samples of proposed materials (*pre-commencement*)
4. Construction environmental management plan (*pre-commencement*)
5. Full details of biodiversity enhancements (*pre-commencement*)
6. Secure by design details (*pre-commencement*)
7. Feasibility of transporting goods by water (*pre-commencement*)
8. Site management plan (*pre-occupation*)
9. Details of proposed lighting (*pre-occupation*)
10. Further details of cycle storage (*pre-occupation*)
11. Permit free agreement (*pre-occupation*)
12. Refuse storage (*compliance*)
13. Size and number of boats (*compliance*)

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The proposed development involves the erection of a 16 berth mooring for narrow boats and other similarly sized vessels, including the installation of an access bridge and deck, 8 finger mooring pontoons which are to be perpendicular to the access deck and dock edge, and associated infrastructure, such as cycle, refuse and general storage to support the proposed moorings.
- 4.2 The proposed mooring facility measures 62m in length and 18.28m in width at its widest point (inclusive of the finger pontoons, but exclusive of the access bridge) and features a clear zone of around 10m in width in the centre of the facility where no boats will be allowed to moor. The main access deck is offset from the existing dockside edge by approximately 6.5m.
- 4.3 Floating planters on the west side of the proposal in between the mooring structure and the dock edge, and on the southern side of the proposal adjacent to 3 Greenwich View Place are also proposed.

Site and Surroundings

- 4.4 The site has an area of approximately 0.23ha and is an unoccupied portion of water space situated within the North West corner of Millwall Outer Dock. The site is broadly rectangular in shape and is bordered to the north by the Glengall Bridge, bounded to the south by 3 Greenwich View Place, and bounded to the west by 1 & 2 Greenwich View Place. The site is located 'off-line' from the main navigation channel through the dock, by virtue of its location tucked away between existing buildings.
- 4.5 The western edge of the application site directly abuts the dock edge wall which provides a robust interface between the land and water featuring large coping stones and metal railings atop. Behind this is a 5 metre deep public walkway which runs past

the site, along with 3 large former crane structures which serve as a reminder of the former use of Millwall Outer Dock and are a positive feature of the area.

- 4.6 Millwall Outer Dock is a large expanse of water which is connected to both Millwall Inner Dock and South Dock, of which the latter has access to the River Thames via a lock adjacent to the Blue Bridge on the east side of the Isle of Dogs. Millwall Outer Dock also falls within the Millwall and West India Docks Site of Importance for Nature Conservation (SINC). The eastern side of Millwall Outer Dock (opposite to the application site) features a number of informal leisure moorings and the remainder of the dock is open and used by leisure craft, predominantly from the Docklands Sailing and Water sports Centre (DSWC).
- 4.7 The surrounding buildings are predominantly in use for either residential or office purposes, however the construction of a large data centre to the west of the site (in place of no's. 1, 2 and 4 Greenwich View Place) is currently in progress, and there is also a well-used public house (the Pepper St Ontiod) to the North West of the application site. The buildings which surround the site and Millwall Outer Dock range in size and character and range from 2/3 storey buildings through to high rise residential buildings (such as the Baltimore Tower).
- 4.8 The application site does not fall within a designated conservation area, and there are no statutory or locally listed buildings within the immediate context of the site. It should also be noted that the application site falls within flood zone 3.

Relevant Planning History

Application Site

- 4.9 None.

1 Greenwich View Place

- 4.10 PA/11/01481 – Upgrading of existing data centre building including alterations to existing louvres, installation of additional louvres, addition of doors, cladding of existing exit door, demolition of existing substation and re-construction to current EDF standards; new 2.5m high palisade boundary fence to rear. (Permission granted 03/08/2011)
- 4.11 PA/16/01026 – Demolition of existing data centre buildings and the erection of a single 3 storey data centre building landscaping, roof level plant and associated works; erection of an enclosed elevated pedestrian link. (Permission granted 31/10/2016)

2-4 Greenwich View Place

- 4.12 PA/12/02055 - Demolition of existing office buildings (B1) and the erection of a three storey data centre building (Class B8), landscaping roof level plant and associated works; erection of an enclosed elevated pedestrian link and retention of office building (Unit 3). (Permission granted 14/03/2013)
- 4.13 PA/16/00027 - Application for variation of condition 2 (compliance with plans) of planning application dated 07/10/2013, ref: PA/12/02055. (Permission granted 07/03/2016)

49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street

- 4.14 PA/16/03518 - Demolition of existing buildings at 49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street and the comprehensive mixed use redevelopment including two buildings ranging from 25 storeys (85.5m AOD) to 30 storeys (100.8m AOD) in height, comprising 316 residential units (Class C3), 1,778sqm (GIA) of flexible non-residential floor space (Classes A1, A3, A4 and D1), private and communal open spaces, car and cycle parking and associated landscaping and public realm works. The application is accompanied by an Environmental Statement. (Application currently under determination)

5.0 POLICY FRAMEWORK

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of this application 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:

5.3 Government Planning Policy

National Planning Policy Framework 2012
National Planning Practice Guidance

5.4 London Plan 2016

2.18 – Green infrastructure: the multi-functional network of green and open spaces
3.3 – Increasing housing supply
5.12 – Flood risk management
5.17 – Waste capacity
6.3 – Assessing effects of development on transport capacity
6.9 – Cycling
6.13 – Parking
6.14 – Freight
7.1 – Lifetime neighbourhoods
7.2 – An inclusive environment
7.3 – Designing out crime
7.4 – Local character
7.5 – Public realm
7.6 – Architecture
7.14 – Improving air quality
7.15 – Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
7.18 – Protecting open space and addressing deficiency
7.19 – Biodiversity and access to nature
7.24 – Blue ribbon network
7.26 – Increasing the use of the blue ribbon network for freight transport
7.27 – Blue ribbon network: supporting infrastructure and recreational use
7.28 – Restoration of the blue ribbon network
7.30 – London’s canals and other rivers and waterspaces

5.5 Core Strategy 2010

- SP02 – Urban living for everyone
- SP03 – Creating healthy and liveable neighbourhoods
- SP04 – Creating a green and blue grid
- SP05 – Dealing with waste
- SP08 – Making connected places
- SP09 – Creating attractive and safe streets and spaces
- SP10 – Creating distinct and durable places
- SP12 – Delivering placemaking

5.6 **Managing Development Document 2013**

- DM3 – Delivering homes
- DM9 – Improving air quality
- DM10 – Delivering open space
- DM11 – Living buildings & biodiversity
- DM12 – Water spaces
- DM14 – Managing waste
- DM20 – Supporting a sustainable transport network
- DM21 – Sustainable transportation of freight
- DM22 – Parking
- DM23 – Streets and the public realm
- DM24 – Place-sensitive design
- DM25 – Amenity

5.7 **Supplementary Planning Documents**

None

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 Biodiversity Officer

6.3 The application site is within the Millwall & West India Docks Site of Importance for Nature Conservation (SINC), and whilst the proposal would have an adverse impact upon the SINC, this could be more than offset by the proposed habitat enhancements (as part of this application) which include floating reed beds between the pontoon and dock wall and fish refuges beneath the pontoons. In the event that planning permission is granted such enhancements should be secured by condition.

Canal and River Trust

6.4 No comment.

Crime Prevention Officer

6.5 No objection subject to a pre-commencement 'Secure by Design' condition being imposed.

LBTH Design Officer

6.6 The proposal is broadly considered acceptable subject to further details being provided, including a less visually intrusive entrance gate.

Environment Agency

6.7 No objection.

LBTH Environmental Health – Contaminated Land

6.8 No objection.

Isle of Dogs Neighbourhood Planning Forum

6.9 No comments received.

LBTH SUDS Team

6.10 No objection.

Thames Water Authority

6.11 No comments received.

Transport for London

6.12 TFL request further details regarding the quantum of cycle parking spaces and details of how the site will be serviced.

LBTH Transport and Highways

6.13 The applicant is required to provide dedicated cycle parking for the proposal separate to the refuse store. A permit free agreement should be secured by condition and a condition requiring the applicant to explore the feasibility of using the waterways for transporting goods during the construction phase should also be secured.

LBTH Waste Policy and Development

6.14 No comments received.

7.0 LOCAL REPRESENTATION

7.1 A total of 93 letters were sent to neighbours and interested parties and a site notice was also displayed on site.

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

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

No of petition responses:	Objecting: 1 containing 36 signatories Supporting: 0
---------------------------	---

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

- The proposal will restrict the ability to hold sailing activities in this part of Millwall Outer Dock and thus does not accord with relevant planning policy.
- The introduction of further permanently moored vessels could also increase the likelihood of accidental collisions between DSWC users and moored vessels within Millwall Outer Dock.
- The applicant's statement of community involvement is factually incorrect as objections to this proposal have previously been raised.
- The proposal is an over-development of the site and given the confined nature of the site there is the possibility that vessels manoeuvring in and out of the proposed moorings could collide with either other vessels entering the dock (via the Glengall Bridge) or the adjacent 3 Greenwich View Place building.
- There is a lack of information regarding refuse and recycling storage on site and how the proposed moorings would be serviced. The applicant does not have rights to service the development from the adjacent Greenwich View Place estate. It is also not considered acceptable that the proposed refuse store is to be sited in close proximity to the adjacent 3 Greenwich View Place building.
- The proposed permanent residential moorings would be incompatible with the 24 hour, 365 day a year commercial use of the adjacent properties at Greenwich View Place, and the presence of permanent residential moorings in this location could prejudice the operation of the adjacent commercial use.
- The design of the proposals have quite an industrial feel and is inappropriate in urban design terms and also undermines both the setting of the 3 adjacent cranes and the historic nature of the dock.
- The area of water between the proposed moorings and the dock wall could give potential for debris to collect which would have a detrimental impact on visual amenity and could cause odour.

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. Design
3. Amenity
4. Highways and Transportation
5. Refuse
6. Environmental Considerations
7. Conclusion

Land Use

Policy Context

8.2 Policy 3.3 of the London Plan (2016) sets out the borough's housing targets until 2025, and states that Tower Hamlets is required to deliver a minimum of 3,931 new homes per year. Policy 7.18 states that *"the loss of protected open spaces must be resisted unless equivalent or better quality provision is made within the local*

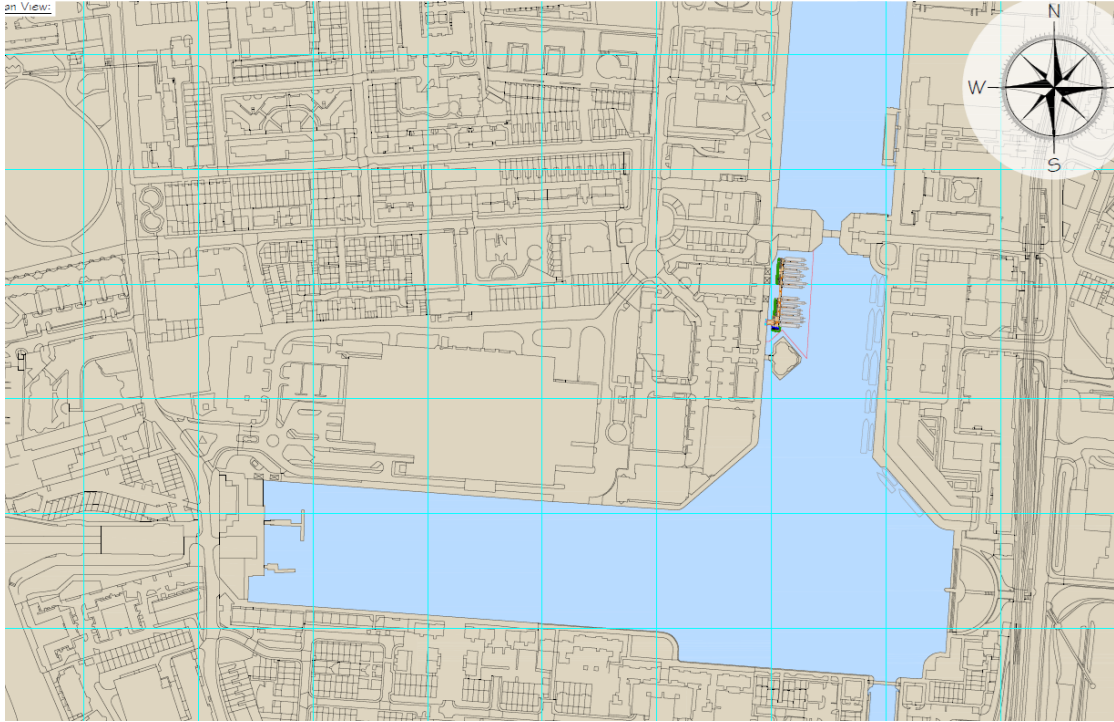
catchment area". Policy 7.27 states that "development proposals should enhance the use of the Blue Ribbon Network" and that "new mooring facilities should normally be off line from main navigation routes, i.e. in basins or docks". Policy 7.28 states that "development proposals should restore and enhance the Blue Ribbon Network by preventing development and structures into the water space unless it serves a water related purpose". Finally policy 7.30 states that "development within or alongside London's docks should protect and promote the vitality, attractiveness and historical interest of London's remaining dock areas by promoting their use for mooring visiting cruise ships and other vessels and promoting their use for water recreation".

- 8.3 The Council's Core Strategy Policy SP02 "seeks to deliver 43,275 new homes from 2010 to 2025 in line with housing targets set out in the London Plan" and "ensure new housing assists in the creation of sustainable places". Policy SP04 seeks to "deliver a network of high quality, usable and accessible water spaces, through: protecting and safeguarding all existing water spaces from inappropriate development [and] ensuring residential and commercial moorings are in locations that do not negatively impact on waterspaces or navigation".
- 8.4 The Council's Managing Development Document policy DM3 states that "development should provide a balance of housing types". Policy DM10 states that "development on areas of open space will only be allowed in exceptional circumstances where it provides essential facilities to ensure the function, use and enjoyment of the open space". Policy DM12 states that "development within or adjacent to the Blue Ribbon Network will be required to demonstrate that there is no adverse impact on the Blue Ribbon Network [and] will need to identify how it will improve the quality of the water space and provide increased opportunities for access, public use and interaction with the water space".

Loss of Existing Open Water Space

- 8.5 The application site is an area of water space sited within the North West corner of Millwall Outer Dock which is classed as a sui generis use as it does not fall within any specific use class.
- 8.6 Whilst London Plan, Core Strategy and Managing Development Document policies generally seek to protect water spaces from development, said policies do allow for the creation of development and structures within water spaces where they serve a water related purpose, do not adversely impact upon navigability, and promote the vitality and attractiveness of London's remaining dock areas and increase opportunities for interaction with the water space.
- 8.7 Officers consider that the proposed residential moorings do serve a water related purpose, i.e. they will moor water based vessels, and are also content that the proposal does not adversely impact upon the navigability of the dock due to the fact that the proposed moorings are located 'off line', i.e. outside of the main navigation channel which runs through the centre of Millwall Outer Dock. It is also considered that the proposed residential moorings will contribute towards to the diversity and vibrancy of Millwall Outer Dock and will also increase opportunities for interaction with the water space.
- 8.8 Millwall Outer Dock is currently used by a number of users for a variety of waterborne sport and leisure activities, and in order for the loss of existing open water space to be acceptable in this instance the proposed development should not adversely impact upon the ability for Millwall Outer Dock to continue to be used for waterborne sport and leisure activities. Given that the total surface area of the application site makes

up a very small percentage (1.9%) of the available water space across both Millwall Inner and Millwall Outer Docks, officers are content that the proposed development will not affect the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, as the significant quantum of remaining open water space within Millwall Outer Dock will still provide opportunities for such activities.



The proposed mooring facility shown within the context of Millwall Outer Dock

Principle of Residential Moorings

- 8.9 The proposed development would result in the creation of 16 residential moorings which are intended to be long term moorings to be used as the occupant's sole or primary residence. Residential moorings do not fall within use class C3 (like other traditional residential properties) and instead are classed as a sui generis use as they do not fall within any specific use class.
- 8.10 As residential moorings do not fall within use class C3, the creation of new residential moorings cannot be counted towards the Borough's housing delivery targets, and affordable housing provision cannot be secured on such developments. In spite of the above however, the provision of such development does in reality meet a need and provides additional residential accommodation within the Borough and is thus in principle supported by officers.

Conclusion

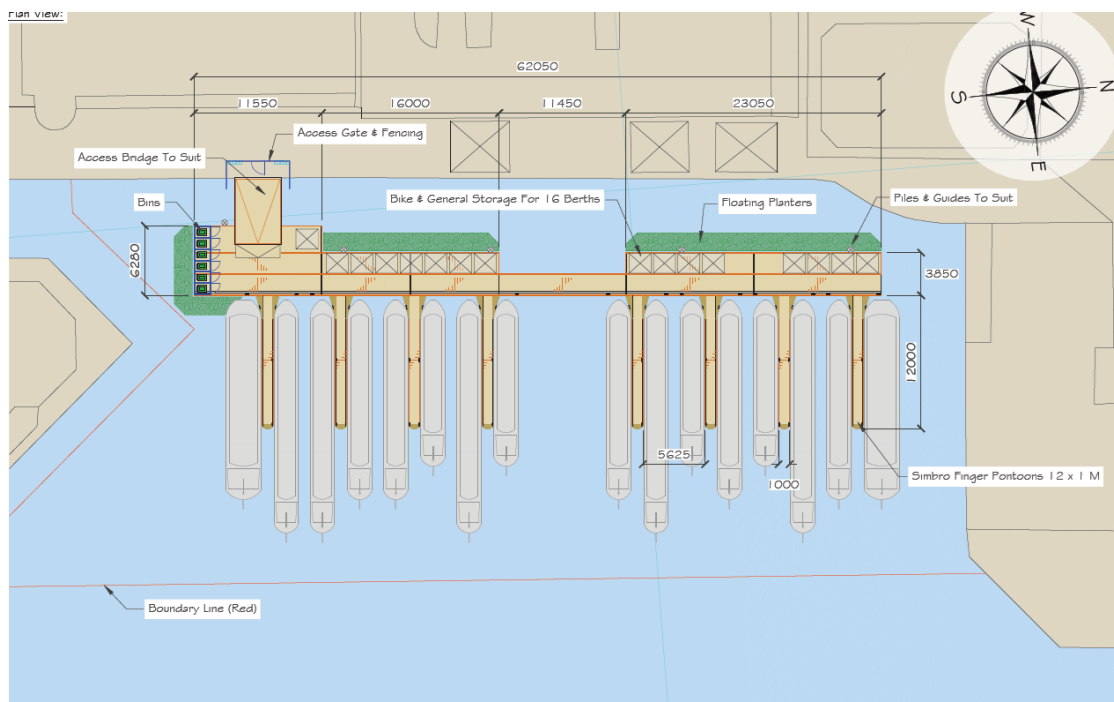
- 8.11 The loss of existing open water space, and the provision of residential moorings can be considered to be acceptable in this instance as the proposed development meets the relevant exceptions in policy for developing within water space, does not adversely impact upon the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, and also provides additional residential accommodation within the Borough.

Design

Policy Context

- 8.12 Policy 7.1 of the London Plan (2016) seeks to ensure that “the design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability, and accessibility of the neighbourhood”. Policy 7.2 seeks to ensure “the principles of inclusive design [...] have been integrated into the proposed development”. Policy 7.3 seeks to ensure that development reduces “the opportunities for criminal behaviour and contributes to a sense of security”. Policy 7.4 seeks to ensure that “buildings, streets and open spaces should provide a high quality design response that contributes to a positive relationship between the urban structure and natural landscape features”. Policy 7.5 seeks to ensure that “development should make the public realm comprehensible at a human scale”. Finally policy 7.6 seeks to ensure that “buildings and structures should be of the highest architectural quality”.
- 8.13 The Council’s Core Strategy policy SP10 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”.
- 8.14 The Council’s Managing Development Document policy DM23 states that “development should be well-connected with the surrounding area and should be easily accessible for all people by: ensuring design of the public realm is integral to development proposals and takes into consideration the design of the surrounding public realm [and] incorporating the principles of inclusive design”. DM24 states that “development will be required to be designed to the highest quality standards, incorporating principles of good design, including: ensuring design is sensitive to and enhances the local character and setting of the development”.

Layout and Scale



Site plan of the proposed mooring facility

- 8.15 The overall layout and scale of the proposed development, which has been amended by the applicant during the application process, has been designed in a way so as not to appear overly dominant nor significantly impact upon the predominantly open character of Millwall Outer Dock. In order to achieve these objectives the applicant has incorporated notable breaks/gaps in the mooring facility at either end and in the centre of the proposal as well as between the back of the facility and the existing dock wall, and any structures on both the pontoon and the dockside path have been kept to a minimum, both in quantum and scale.
- 8.16 A number of visuals have been presented by the applicant which demonstrate that the measures employed (as outlined above) to reduce as far as possible the impact of the proposal on the openness of Millwall Outer Dock are successful in this respect.



View from the dockside path looking south



View from the dockside path looking north

- 8.17 The proposed storage boxes on the pontoon which also house secure cycle parking facilities for each boat, along with the proposed refuse store at the southern end of the pontoon are only 1.5m in height, and due to the fact that the pontoon itself sits at a lower level than the dockside path, sit below the eye line of passers-by and do not obstruct views of the open dock beyond. The 5 x 3m high pontoon guides which will secure the proposed pontoon in place have a diameter of less than 0.5m and as such have a minimal impact on the open character of Millwall Outer Dock. The only structure proposed on the dockside path is the single entrance gate to the proposed moorings which is located away from the 3 cranes in order to minimise any impact upon them. Whilst the scale and nature of this structure is dictated by its functionality, which is to ensure that the development is secure, the applicant has made notable amendments to the entrance gate (since the initial submission) and re-designed it in such a manner as to reduce its impact on the dockside as far as possible, by keeping its height and scale to a minimum (3m in width, 2.4m in height and 2.25m in depth) and cladding the structure in perforated panels (as opposed to solid panels). In order to ensure that the finished entrance gate is of the highest quality, further details, such as samples of the proposed perforated cladding, will be required by condition.
- 8.18 The proposed mooring facility has been designed to accommodate boats of up to a maximum of 4.5m in width and 25m in length, however it is envisaged by the applicant that the proposed moorings will be taken up predominantly by narrow boats which are typically 2.1m wide and 22m long, supplemented by a mixture of shorter cruiser style vessels, wide beam canal vessels and varying sizes of Dutch barges. In order to prevent the eventuality of any larger vessels occupying the proposed moorings, which could in turn create a navigation issue, a condition restricting the size of boat allowed to be moored in this facility to 4.5m in width and 25m in length will be imposed should planning permission be granted.

Appearance

- 8.19 The proposed pontoon deck and finger pontoons are to be finished in a sand coloured anti-slip composite material, whilst the entrance gate, storage boxes and refuse store are to be clad in a mixture of undulating perforated and solid anodized aluminium panels which will add a degree of visual interest to the proposal for passers-by. The applicant is also intending to use a variety of low level lighting techniques after dark, which will shine through the perforations in the storage units creating further visual interest for passers-by in the evening.
- 8.20 The proposed material palette for the scheme, which has an industrial feel to it, is appropriate and robust, and will also complement both the existing character and heritage of the Docklands. Further details and physical samples of the proposed material palette, including the exact design of the perforated anodized aluminium panels, and details of the proposed lighting strategy for the site will be required by condition, and be subject to further review, in the event that planning permission is granted.

Secure by Design

- 8.21 The proposed mooring facility only has one means of access from the public realm, which is through the main access gate towards the southern end of the site. This entrance gate is proposed to be 3m in height and 6.6m in width, and is proposed to be finished in a perforated cladding.

- 8.22 The Metropolitan Police's Secure by Design officer had no in principle objections to the proposal and requested a pre-commencement Secure by Design condition to be imposed in the event that planning permission is granted, in order to ensure that the proposal fully complies with the principles and practices of the Secure by Design scheme.

Conclusion

- 8.23 The proposed design of the scheme is acceptable in terms of its layout, scale and appearance, as the proposal does not significantly impact upon the open character of Millwall Outer Dock, features a high quality material palette, and also has been designed in accordance with Secure by Design principles. As such officers can conclude that the application is acceptable in design terms.

Amenity

Policy Context

- 8.24 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.
- 8.25 The Council's Core Strategy policy SP10 (4) seeks to ensure that development *"protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight)"*.
- 8.26 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, as well as the amenity of the surrounding public realm"*.

Impact on Neighbouring Amenity

- 8.27 The nearest residential properties to the site are located on the Glengall Bridge to the north, with the properties to the west (currently under construction) being used as a data centre, and the property to the south (3 Greenwich View Place) being used as a commercial office.
- 8.28 Given the nature and scale of the proposed development it is not considered that the proposal is likely to result in any notable adverse amenity implications for surrounding residents and building occupiers with respect to overlooking, outlook and daylight and sunlight. With respect to any adverse noise and odour implications generated by the development, such as from users (in reference to the former), and from the refuse store (in reference to the latter), a condition would be imposed to request a site management plan prior to the occupation of the mooring facility (in the event that planning permission is granted) to ensure that appropriate measures are put in place in order to minimise/negate any such impacts.

Amenity of Future Occupants

- 8.29 The surrounding area already features a number of residential properties and officers consider in principle that the application site is a suitable location for residential uses in terms of the level of amenity that future residents may be afforded. Whilst the exact nature of each individual residential boat to be moored on site is unknown, it is likely that future occupants will experience good levels of daylight and sunlight and

outlook, by virtue of the open setting of the site, and also will likely experience good levels of privacy due to the fact that the moorings themselves are notably offset from the dockside edge.

- 8.30 In terms of the level of noise generated within the immediately surrounding area, it is noted that a large data centre is currently under construction on the adjoining site at 1 and 2-4 Greenwich View Place, however conditions have been attached to the consents to ensure that any noise generated by said buildings does not exceed a level of 10dB below the lowest measured background noise from the nearest residential windows (likely to be within the Glengall Bridge which is in a similar proximity to the site of the data centre as the application site in question). Whilst canal boats / Dutch barges will not benefit from the same levels of noise insulation as traditional residential properties, it is still considered that the aforementioned conditions will ensure that any noise emitted from the adjoining site will not be at a level which would be incompatible with the proposed residential moorings.

Conclusion

- 8.31 The proposal would not significantly adversely impact the amenity of surrounding residents and building occupiers, and would also likely afford future occupiers of the proposed residential moorings a suitable level of amenity, the proposed development can be seen to be in accordance with policy SP10 (4) of the Core Strategy (2010) and policy DM25 of the Managing Development Document (2013) and is thus acceptable in amenity terms.

Highways and Transportation

Policy Context

- 8.32 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. 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 standards [...] and the guidance set out in the London Cycle Design Standards”*. Policy 6.13 states that *“in locations with high public transport accessibility, car-free developments should be promoted (while still providing for disabled people)”*. Finally policy 6.14 states that *“delivery and servicing plans [should be used] to minimise congestion impacts and improve safety [and that development proposals should] increase the use of the Blue Ribbon Network for freight transport”*.
- 8.33 The Council’s Core Strategy policy SP08 seeks to *“promote the sustainable transportation of freight by promoting and maximising the movement of freight by water and rail to take the load off the strategic road network”*. Policy SP09 seeks to *“ensure new development has no adverse impact on the safety and capacity of the road network [and promotes] car free developments and those schemes which minimise on-site and off-site car parking provision, particularly in areas with good access to public transport”*.
- 8.34 The Council’s Managing Development Document policy DM20 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”*. Policy DM21 states that *“development that generates a significant number of vehicle trips for goods or materials during its construction and operational phases*

will need to demonstrate how movement by water and/or rail, the use of low emission vehicles, electric vehicles and bicycles has been prioritised". Policy DM22 states that "in order to ensure suitable provision for cyclists, development will be required to: meet, and preferably exceed, the minimum standards for cycle parking".

Highway Impact

- 8.35 In order to ensure that the proposed development does not have an adverse impact on the local highway network the proposed residential moorings will be required to be car free, and a condition requiring the applicant to enter into a legal agreement to secure the development as car free will be imposed in the event that planning permission is granted. As the development has good access to local walking and cycling routes and moderate access (PTAL 3) to the local public transport network, with Crossharbour DLR station being approximately a 5 minute walk from the site, it is envisaged that future residents have sufficient alternative options to private vehicular transport.
- 8.36 The applicant will also be required (by condition) to explore the feasibility of using the waterways for transporting goods during the construction phase of development, in order to reduce number of construction vehicles using the local highway network, and a construction management plan will also be conditioned to ensure that the construction process itself does not have any adverse impact on the local highway network or nearby pedestrian and cycle routes such as the dockside path.

Parking

- 8.37 In order to comply with the London Plan (2016) cycle parking standards a minimum of 16 cycle parking spaces are required to be provided for the proposed development, i.e. 1 space per mooring. The applicant has proposed to provide 1 dedicated cycle parking space per mooring within each of the 16 storage boxes on the access deck. These spaces will be under cover, secure and easily accessible, and further details of the proposed cycle parking will also be secured via condition. As such the proposal is acceptable in terms of parking provision as the development is to be car free and provides cycle parking in line with London Plan (2016) requirements.

Servicing

- 8.38 Due to the fact that the site has limited access which would preclude regular sized vehicles such as refuse lorries accessing the site, the applicant has proposed to establish an alternative means of servicing the site. Instead of Council refuse lorries collecting waste from site the applicant's facilities management company would collect waste from site twice weekly using a smaller vehicle which would access the site from Greenwich View Place. Similar arrangements to that being proposed on this site are already in place at other mooring facilities owned by the applicant and the applicant has also stated that both themselves and their contractors currently service refuse bins on the dockside walkway (adjacent to the application site) 3-5 times a week from Greenwich View Place.
- 8.39 Whilst access across Greenwich View Place to service this proposal has been disputed by an objector, the applicant has provided a copy of the 1991 head lease which states that the lessor must allow for the following:

"The right at all times and for all purposes to place and maintain (and remove) moorings pontoons jetties structures and equipment of any nature on along and in

the dock walls adjacent to the Demised Premises and to pass and repass with or without vehicles (subject to such vehicular rights to be available for the purposes of maintenance and repair only) to obtain access to such boats vessels plant machinery moorings pontoons jetties structures and equipment over that part or parts of the Demised Premises as is shown hatched orange on Plan A or over and along such other route (if any) across the Demised Premises that is of an equivalent size and shall be approved by the Lessor from time to time such approval not to be unreasonably withheld.”



Plan A (as referred to in the previous paragraph)

- 8.40 The applicant has also stated that in the unlikely event that a legal dispute does arise which precludes them access over Greenwich View Place, an alternative means of access via Muirfield Crescent/Pepper Street (to the north of the application site) could be established.
- 8.41 In light of the above officers are content that the proposed servicing strategy is acceptable and that the applicant has the necessary rights of way in place / alternative means of access to the application site. Further details of the servicing of the site will be requested via the site management plan which would form a condition of the consent.

Conclusion

- 8.42 The proposal would not have an adverse impact upon the local highway network, would provide appropriate cycle parking arrangements, and would be serviced in an appropriate manner, the proposal on balance is acceptable in transport and highways terms.

Refuse

Policy Context

- 8.43 Policy 5.17 of the London Plan (2016) states that development proposals should be *“minimising waste and achieving high reuse and recycling performance”*.
- 8.44 The Council’s Core Strategy policy SP05 (1) states that development should *“implement the waste management hierarchy of reduce, reuse and recycle”*.
- 8.45 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”*.

Assessment

- 8.46 In order for the proposed development to comply with LBTH waste standards the proposal should incorporate sufficient waste storage to accommodate up to 1600 litres of refuse and 960 litres of recyclables each week.
- 8.47 The applicant has proposed an enclosed refuse store at the southern end of the site on the pontoon structure which will accommodate 4 x 240 litre refuse bins and 2 x 240 litre recyclable bins meaning that 960 litres of refuse storage and 480 litres of recyclables storage is to be provided on site. The applicant has also stated that refuse collections for the proposed mooring will be twice weekly meaning that the refuse store effectively could cope with up to 1920 litres of refuse storage and 960 litres of recycling storage per week which is in excess of LBTH waste standards.
- 8.48 As the proposed refuse store will be enclosed and will be emptied on a twice weekly basis it is considered that any odours created by it are likely to be minimal and unlikely to have an adverse impact on adjoining occupiers. In order to ensure that all reasonable measures to reduce any odours from the proposed refuse store are employed by the applicant, further details of how the refuse store will be managed will be required as part of the site management plan which will be conditioned in the event that planning permission is granted.

Conclusion

- 8.49 The proposed refuse strategy for the site is acceptable as the refuse store is located in a suitable location, is of a suitable size and it has been designed with the Council’s waste management hierarchy of reduce, reuse and recycle in mind, in accordance with policy SP05 (1) of the Core Strategy (2010) and policy DM14 (2) of the Managing Development Document (2013).

Environmental Considerations

Policy Context

- 8.50 Policy 2.18 of the London Plan (2016) states that *“development proposals should incorporate appropriate elements of green infrastructure that are integrated into the wider network including the Blue Ribbon Network”*. Policy 5.12 of the London Plan states that *“development proposals must comply with the flood risk assessment and management requirements set out in the NPPF”*. Policy 7.14 states that *“development proposals should be at least ‘air quality neutral’ and not lead to further deterioration of existing poor air quality”*. Finally Policy 7.19 states that *“development proposals should, wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity”*.

- 8.51 The Council's Core Strategy policy SP03 states that development proposal should *"minimise and mitigate the impact of noise and air pollution"*. SP04 states that the Council will *"promote and support new development that provides green roofs, green terraces and other measures to green the built environment"* and that *"all new development that has to be located in a high risk flood zone must demonstrate that it is safe [and] that all new development across the borough does not increase the risk and impact of flooding"*.
- 8.52 The Council's Managing Development Document policy DM9 states that *"minor development will be required to submit details outlining practices to prevent or reduce associated air pollution during construction or demolition"*. Policy DM11 states that *"development will be required to provide elements of a 'living building'"* and will be required to deliver *"biodiversity enhancements in accordance with the Council's Local Biodiversity Action Plan"*.

Air Quality

- 8.53 In order to ensure that the proposed development prevents and/or reduces associated air pollution during the construction process the applicant will be required to submit a construction management plan which demonstrates that all reasonable measures to prevent and/or reduce associated air pollution during the construction process has been undertaken.
- 8.54 In the event that planning permission is granted, a condition would be imposed which will restrict future users to using only smokeless fuels in stoves and heaters on their boats and will also require the applicant prior to the first occupation of the development to submit a site management plan which will contain measures and management strategies to ensure that this restriction is fully adhered to. With the addition of this condition and the restrictions that it would apply to the development, officers are content that the proposed development would be acceptable in air quality terms.

Biodiversity

- 8.55 The application site sits within the Millwall & West India Docks Site of Importance for Nature Conservation (SINC), and as part of this application the applicant has provided an ecological assessment which assesses the existing ecological value of the site and also proposes a number of recommendations which could lead to the site having an enhanced ecological value.
- 8.56 The Council's biodiversity officer is content that the proposed habitat enhancements being proposed as part of this application, which include floating reed beds between the pontoon and the dockside edge along with fish refuges beneath the pontoons, would both offset any adverse impact upon the SINC caused by the proposal and also increase the biodiversity value of the site which is welcomed by officers.
- 8.57 Subject to further details of the biodiversity enhancements proposed being secured by condition, officers are therefore content that the proposal is acceptable in biodiversity terms as it accords with relevant planning policy.

Flood Risk

- 8.58 The application site falls within Flood Risk Zone 3 of the Environment Agency (EA) map, where the annual probability of fluvial flooding is classified as greater than 1 in 100 and the annual probability of tidal flooding is classified as greater than 1 in 200.

Whilst Flood Risk Zone 3 represents an area with the highest level of flood risk, it should be noted that this area is well protected by the Thames Barrier.

- 8.59 The application is supported by a flood risk assessment which outlines that the proposal has been designed to allow for rising water levels in the event of a flood, as the entire mooring structure, including the access bridge and the structures on the pontoons themselves would rise or fall with changing water levels. This arrangement means that moored boats do not become lopsided or have strained fixings in the event of water levels rising in a flood, meaning that users of the proposed facility will be able to safely evacuate the moorings structure to dry land where they can seek refuge.
- 8.60 The Environment Agency have reviewed the proposal and have concluded that they have no objection to the proposal in flood risk terms. Given their stance and the fact that suitable measures have been designed into the scheme to allow for safe refuge officers are content that the proposal is acceptable in flood risk terms.

Conclusion

- 8.61 The proposal is acceptable in air quality, biodiversity and flood risk terms and thus is considered to be in accordance with the relevant policies of the London Plan, Core Strategy (2010) and Managing Development Document (2013) as set out within the policy context section of this chapter.

9.0 FINANCIAL CONSIDERATIONS

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

- 9.1 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.
- 9.2 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
- 9.3 In this context “grants” might include New Homes Bonus. This is not applicable to this application.
- 9.4 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012 however as this proposal does include the creation of any new build floor space it is not liable for Mayoral CIL.
- 9.5 The Borough’s Community Infrastructure Levy came into force from 1st April 2015. The proposal would not be liable for Borough CIL as proposals for sui generis uses do not attract Borough CIL payments.

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 HUMAN RIGHTS CONSIDERATIONS

11.1 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:

11.2 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".

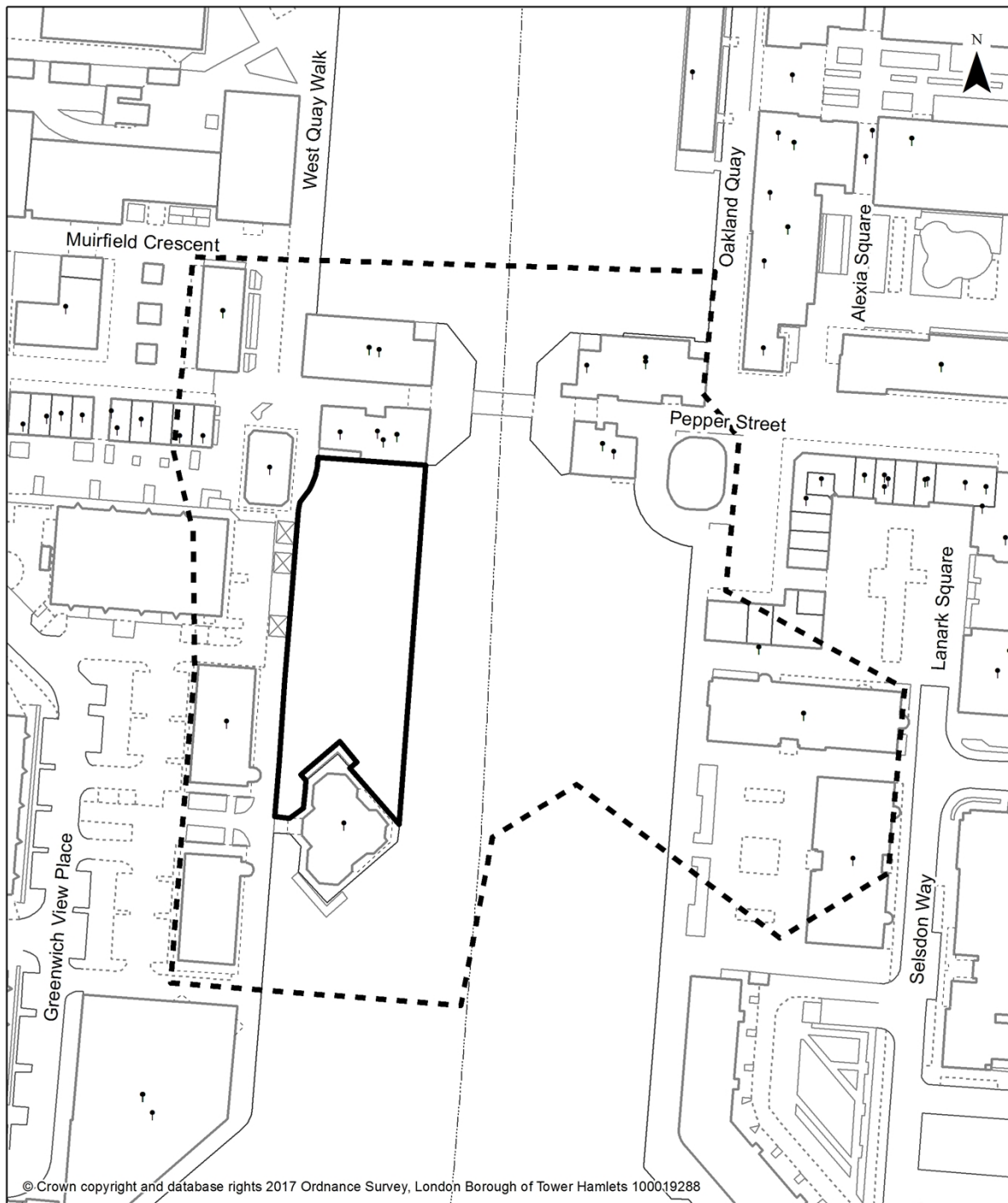
11.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

- 11.4 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.
- 11.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 11.6 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.

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



© Crown copyright and database rights 2017 Ordnance Survey, London Borough of Tower Hamlets 100019288

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

Scale @ 1:1,250
 10 5 0 10 20 30 Meters

Planning Application Site Map PA/16/01798

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



GIS for
Place Directorate
LONDON BOROUGH OF TOWER HAMLETS
Date: 20/03/2017



This page is intentionally left blank

Agenda item no	Reference no	Location	Proposal / Title
5.2	PA/16/01798	Millwall Outer Dock, London, E14 9RP	Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

1.0 ADDITIONAL REPRESENTATION

1.1 Since the publication of the committee report, the Council has received additional comments from a previous objector which raise the following points:

- We do not consider that the rights sets out in the head lease which allow for 'repair and maintenance' extend to allowing for the servicing of the proposed residential mooring facility.
- The adjacent data centre will operate 24 hours a day, 7 days a week and given that barges will not have the same level of sound insulation as traditional residential properties it is considered that the proposal would lead to the creation of a sub-standard residential environment which would then impact on the operation of the adjacent data centre.

1.2 Officers have taken legal advice in relation to the first point following the publication of the main report. It has been viewed that this matter would be for the two parties to resolve legally and privately, and therefore there is a need to consider whether other servicing route is likely to be suitable in planning terms in event that an access cannot be obtained to and from Greenwich View Place. As it has been mentioned in the main report, alternative approach for CRT's refuse collection operative to service the application site would be via Muirfield Crescent and Pepper Street. The applicant have stated that the vehicle would park on the CRT land on the Dockside walkway, and the CRT staff or the contractor would walk south to the moorings and collect the refuse wheelle bins. it has been made clear that the temporary vehicle parking area is large enough for a flatbed truck whilst still allowing pedestrians to walk around the vehicle. The area is also secured by a chain and CRT lock and therefore it is not likely that unauthorised vehicles would occupy the space when it would be need for servicing.

1.3 Given that refuse would be collected privately by CRT's operative and there is already a collection of refuse bins along the Dockside walkway by CRT, officers are content that servicing of the site can be carried out without the need to rely on access to and from Greenwich View Place for the proposal to be acceptable in planning terms. Securing the site access through a planning condition is already mentioned in the main report.

1.4 In relation to the second point, this has already been addressed in the main report.

2.0 RECOMMENDATION

2.1 Officer's recommendation remains to GRANT planning permission subject to the conditions and Informatives set out in the committee report.

This page is intentionally left blank

Agenda Item 7

Committee: Development	Date: 14 June 2017	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Place		Title: Planning Applications for Decision	
Originating Officer: Owen Whalley		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

1.1 In this part of the agenda are reports on planning applications for determination by the Committee. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.

1.2 The following information and advice applies to all those reports.

2. FURTHER INFORMATION

2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.

2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

3. ADVICE OF HEAD OF LEGAL SERVICES

3.1 The relevant policy framework against which the Committee is required to consider planning applications comprises the Development Plan and other material policy documents. The Development Plan is:

- the London Plan 2011
- the Tower Hamlets Core Strategy Development Plan Document 2025 adopted September 2010
- the Managing Development Document adopted April 2013

3.2 Other material policy documents include the Council's Community Plan, supplementary planning documents, government planning policy set out in the National Planning Policy Statement and planning guidance notes and circulars.

3.3 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the

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 the relevant Agenda Item.

5. RECOMMENDATION

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

Agenda Item 7.1

Committee: Development	Date: 14 June 2017	Classification: Unrestricted	Agenda Item Number:
----------------------------------	------------------------------	--	----------------------------

Report of: Director of Place	Title: Applications for Planning Permission
Case Officer: Jennifer Chivers	Ref No: PA/16/00988
	Ward: Whitechapel

1.0 APPLICATION DETAILS

Location:	87 Turner Street, Good Samaritan Public House
Existing Use:	Drinking Establishment (A4) and Residential (C3) Public House on ground and basement floors with ancillary residential accommodation above.
Proposal:	PA/16/00988 Refurbishment of existing public house (A4) along with 3 storey extension to the west elevation to allow for the use of the upper stories as residential (C3) and associated works.
Drawings and documents:	A003 Rev F; A1000; Rev F; A1001 Rev F; A1002 Rev F; A1003 Rev F; A1004 Rev F; A1005 Rev F; A1006 Rev F; A1006 Rev F; A10007 Rev F; A1008 Rev F; A1008 Rev F; A1009 Rev F; A1010 Rev F; A0003a Rev H; A1000a Rev H; A2101 Rev J; A2102 Rev J; A2103 Rev H; A2104 Rev H; A2105 Rev H; A2104 Rev H; A2105 Rev H; A2106 Rev H; A2107 Rev H; A2108 Rev H; A2109 Rev H; A2110 Rev H; A2112 Rev H; A2112 Rev H; A2114 Rev H; A2115 Rev H
Applicant:	Barts Charity
Ownership:	Barts Charity
Historic Building:	None. However the proposal lies within the setting of a Grade II* listed building at St Augustine with St Philip's Church (across Turner Street)
Conservation Area:	London Hospital Conservation Area

2.0 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 (2013) in addition to the London Plan (2016) as well as the National Planning Policy Framework and all other material considerations.
- 2.2 This report considers the application for the extension to the upper floors of the public house to create four residential units while retaining the public house at ground and basement level.
- 2.3 Officers consider that the proposal is acceptable for the following reasons:
- The public house would be retained and refurbished
 - The operation of the public house would not be undermined by the provision of residential units above;
 - The scale, bulk and mass of the proposed development responds satisfactorily to the context of the existing site and surrounding buildings and sits comfortably within the local streetscape.
 - The proposed alterations are sensitive to the historic character and would not harm the existing building, the London Hospital Conservation Area or the setting of the Grade II* listed building.

3.0 RECOMMENDATION

- 3.1 That the Committee resolve to **APPROVE** planning permission subject to conditions and informatives:
1. Time Limit
 2. Approved Plans
 3. Materials
 4. A written scheme for car-free development
 5. Requirement to maintain a public house use at ground floor and basement levels.
 6. Waste Management Strategy
 7. Servicing and delivery Strategy
 8. Cycle Parking
 9. Construction Management Plan
 10. Part M accessible requirements
 11. Details of internal noise insulation measures in accordance with BS 8233:2014 noise report to be submitted prior to commencement and to include post completion testing.
 12. No new flues, satellite dishes without prior consent.
 13. Tree protection

Informatives

- 3.2 The following informative are to be attached to the planning permission
- 1) That the development will be subject to a car free s106 agreement
 - 2) CIL requirements

- 3) Any other conditions/informative(s) considered necessary by the Corporate Director of Place

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application proposes to refurbish the existing public house at ground and basement level and extend the building to create four residential units (1 x 1-bed and 3 x 2- bed).
- 4.2 It is proposed to remove the existing roof and replace with a new roof in the same shape in order to conceal the internal extensions in order to extend the building along Stepney Way and hip the new roof extension.
- 4.3 It is also proposed to construct a contemporary rear extension which sits on the boundary with Gwynne House on the southern elevation. Additionally, it is proposed to lower the existing basement floor in order to create sufficient room for the kitchen and patron toilets.
- 4.4 The residential access to the site will be via the rear courtyard, which will also contain the storage area for waste for the public house and residential units.



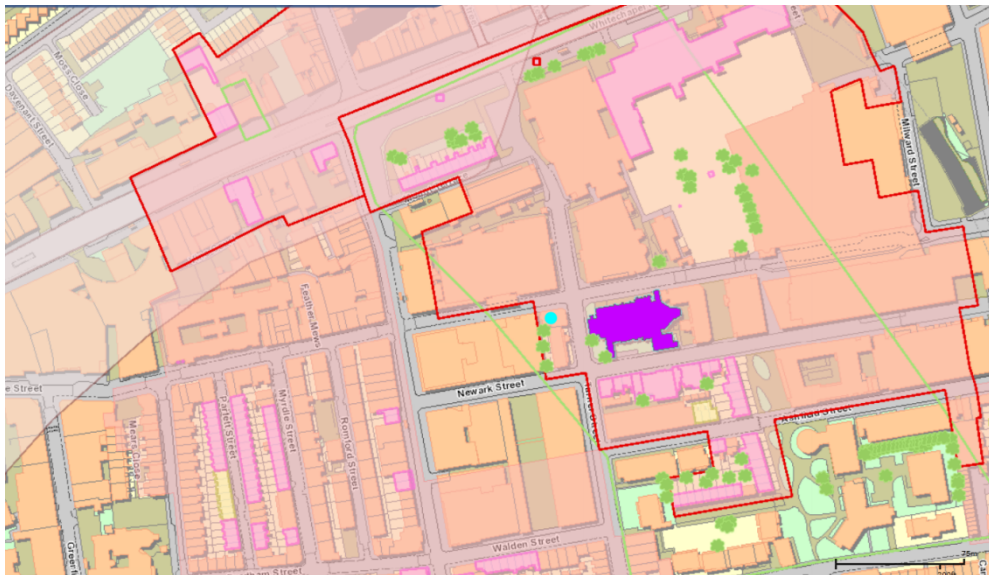
Figure 1: Photo of the site (existing)
proposal



Figure 2: CGI showing the proposal

Site and Surroundings

- 4.5 The site is located on the corner of Turner Street and Stepney Way on the South-western side of the intersection. The site is located within the London Hospital Conservation Area and is within the setting of a Grade II* listed building listed as "St Augustine with St Philip's Church" which is located on the opposite side of Turner Street.



Legend

- Tree Preservation Orders (Last Surveyed 1)
- Ancient Monuments
- Historic Places of Worship
 - Buddhism
 - Christianity
 - Islam
 - Judaism
 - Sikhism
- World Heritage Sites
- Heritage at Risk
- Statutory Listed Buildings
 - Ecclesiastical Grade A
 - Ecclesiastical Grade B
 - Ecclesiastical Grade C
 - Grade I
 - Grade II
 - Grade II*
- Locally Listed Buildings
- Tree Preservation Order Areas (Last Surveyed)
- Listed Parks and Gardens
- Conservation Areas
- Archaeological Importance

- 4.6 The public house is one of four distinctive buildings which stand at the corners of the Turner Street and Stepney Junction, being the former St Phillip's Church (Grade II*), the Edwardian former outpatients department and the late Victorian Garrad Building (former medical collage).
- 4.7 The site contains a two storey brick building, with original dormer window inserts which wraps around Turner Street and Stepney Way. The site currently contains a public house at basement and ground floor with kitchen at the rear of the first floor, with an ancillary residential unit on first floor. The existing public house operates between 11am and 11pm.
- 4.8 The exterior of the public house is finely detailed with very prominent chimney stacks and a large tiled roof. The sculptural decoration at the base of the chimney stack facing Stepney Way is one of the most distinctive architectural features within the Conservation Area. The roof contains distinctive dormers incorporating tiled hipped roofs.
- 4.8 The site sits adjacent to Gwynne House a five storey, 21 unit residential block that fronts Turner Street. To the rear of this building are three trees which are all subject to tree preservation orders (TPO).
- 4.9 The site sits within the Whitechapel employment area and the Whitechapel Masterplan area but is not subject to any other designations.

Planning History

- 4.10 There is no comprehensive planning history for this property. However, given the building's historic public house use and Council tax payment evidence, the property is divided between A4 use on the ground floor with one residential unit (C3 use) on upper floors. Only one permission is relevant to the site, i.e:

PA/00/00879 - Display of externally illuminated fascia signs, projecting signs plus amenity and history boards at various locations on the building. Permit 20/07/2000

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.
- 5.2 For details of the status of relevant policies see the front sheet for "Planning Applications for Determination" agenda items. The list below is not an exhaustive list of policies however, it contains some of the most relevant ones to the application:

5.3 Government Planning Policy

National Planning Policy Framework 2012
National Planning Practice Guidance (NPPG)

5.4 London Plan 2016

3.16 Protection and enhancement of social infrastructure

- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 4.6 Support for and enhancement of arts, culture, sport and entertainment
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing traffic flow and tackling congestion
- 6.12 Road network capacity
- 6.13 Parking
- 7.1 Building London's neighbourhoods and communities
- 7.2 An inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.8 Heritage assets and archaeology

5.5 Tower Hamlets Core Strategy 2010

- SP01: Refocusing on our Town Centres
- SP02: Urban Living for Everyone
- SP09: Creating Attractive and Safe Streets and Spaces
- SP10: Creating Distinct and Durable Places

5.6 Managing Development Document 2013

- DM3: Delivering Homes
- DM7: Short Stay Accommodation
- DM8: Community Infrastructure
- DM14: Waste
- DM22: Parking
- DM24: Local Character
- DM25: Amenity
- DM27: Heritage and the Historic Environment

5.7 Other relevant policy/ guidance

- London Hospital Conservation Area Character Appraisal 2007
- Mayor of London Housing SPG (2016)

Tower Hamlets Draft Local Plan 2031: Managing Growth and Sharing the benefits

6.0 CONSULTATION RESPONSE

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

LBTH Transportation & Highways

6.3 Highways require a section 106 'car and permit' free agreement for this development as it is located in excellent PTAL area (PTAL 6a). The minimum door opening to any cycle storage must be 1200mm. The applicant has only provided 900mm. This is not acceptable; the applicant is required to modify the plan to meet the minimum requirement. We were unable to determine the design of the cycle spaces. Therefore, the applicant is required to provide information about the type of the cycle storage provided. LBTH's preferred option is the Sheffield stand (1 Sheffield Stand = 2 cycle space) or a similar hoop design which allows bicycles to be rolled into a horizontal ground level position effortlessly while at the same time providing increased security. The applicant is proposing to place the refuse bin in between the cycle stands. The applicant should relocate the bin either at the beginning of the corridor or at the end but not in middle.

6.4 LBTH Waste Officer

Commercial and residential waste bins and stores need to be separate. There is no other information about the waste strategy and servicing provided.

LBTH Conservation and Design Officer

6.5 The proposal is broadly acceptable subject to conditions.

LBTH Arboricultural Officer

No objection to the proposed works

LBTH Contaminated Land

If, during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan.

6.6 External Consultees

Campaign for Real Ale (CAMRA)

- Reduction in trading space, and putting the kitchen, toilets, cellar etc into the basement with restricted space makes the lock up unattractive to pub operators;
- The soundproofing between levels is inadequate;
- Removal of ancillary accommodation will make the pub unattractive to operators. A community pub works better when the publican lives on the premises.
- The internal works are unnecessary and would harm the fabric of this historic pub by fundamentally changing its internal layout, eroding the character and making the layout unworkable.
- Draft Tower Hamlets local plan recognises the term Trojan Horse in relation to public house loss and consider this application is one.

7.0 LOCAL REPRESENTATION

7.1 A total of 28 neighbours letters were sent to neighbours and interested parties. A site notice was displayed outside the application site and the application was advertised in the press.

7.2 In addition, the freeholder has had a number of consultation events with the current leaseholder.

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

No of individual responses: 85 letters in objection

Petition: 5,690 online signatories

7.3 The following comments were raised in objection the proposal:

- Potential to prejudice the redevelopment of the adjacent site (former Dental Institute)
- The two new windows on the southern elevation will look directly into the bedroom and kitchen windows of the flats at Gwynne House
- The accommodation is only for market rent and should be provided for local people i.e. doctors and nurses.
- Outlook and sense of enclosure to the those flats directly adjacent to the rear extension- at three storeys in height
- There is no mention of the mature Mulberry Tree to the rear of Gwynne House in close proximity to the rear extension. This tree is subject to a TPO.
- The cellar is approx. 2 metres in height and would prove not to be practical to provide kitchen facilities without further disruption to the existing fabric of the building.
- The extent of the works proposed will require the good Samaritans to close for a considerable period of time. It will involve the loss of employment, loss of a family home, loss of customers and loss of this business.
- As one of the only traditional pubs left in the east area it should be maintained in its current state. It performs an extremely important role for the hospital and the local community.
- Approving residential units will lead to the public house becoming unviable and resulting in closure;
- The building is a detached building and referenced as unique within the existing streetscape (stands alone). The proposed infill three storey extension is higher than the building adjacent and only references the Good Samaritan in height by the existing dormer windows. The proposed extension will make Good Samaritan a terraced building, destroying the individuality of the building and disrupting the historic streetscape.

8.0 MATERIAL PLANNING CONSIDERATIONS

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

1. Land Use
2. Design

3. Amenity
4. Transportation
5. Conclusion

8.2.1 Land Use

Retention of the A4 Public House

- 8.2.1 Policy DM8 of the Managing Development Document (2013) seeks to protect social and community facilities where they meet an identified local need and the buildings are considered suitable for their use, in accordance with the aims of policy 3.16 of the London Plan (2016) which states that existing development should, wherever possible extend the use of facilities to serve the wider community especially within the wider community.
- 8.2.2 Policy DM8 details the Council's approach to Community Infrastructure. Paragraph 8.4 in the supporting text lists public houses as a community facility. The policy states that health, leisure, social and community facilities will be protected where they meet an identified need and the buildings are considered suitable for their use. Furthermore it states that the loss of a facility will only be considered if it can be demonstrated that there is no longer a need for the facility within the local community and the building is no longer suitable or the facility is being adequately re-provided elsewhere in the borough.
- 8.2.3 London Plan policy 4.8 recognises the important role that London's public houses can play in the social fabric of communities. In addition, the availability of accessible uses meeting local needs for goods and services (including post offices and public houses) is also important in securing 'lifetime neighbourhoods' which are welcoming, accessible and inviting to everyone regardless of age, health or disability which provide local facilities available to all.
- 8.2.4 The pub is not an Asset of Community Value (ACV), nor is it on the Council's list of pending applications. The pub is therefore not currently protected by the relevant provisions of the Localism Act (2011) as amended.
- 8.2.5 The proposal seeks to retain the existing A4 (public house) use, while extending the basement in order to relocate the kitchen and toilets into this area. As such the space allocated for the current A4 use will be retained. The existing public house was 240m² and the proposal would result in 280m² in floor space for the public house.
- 8.2.6 Objectors have noted that the changes to the public house may result in the space being unviable for continued use as a public house. It should also be noted that emerging Policy CSF 9 of the Draft Local Plan states that where re-provision of a public house is proposed, adequate floorspace must be provided to ensure the continued viability of the pub. It should be noted that this draft local plan can be given almost no weight in planning decisions at this time given the document is at such an early stage in the process towards its formal adoption.
- 8.2.7 The proposed drawings show a practical layout for a public house, with a suitable floor area similar to the existing that can be retained. It will also allow for internal upgrade of the spaces. The submitted information also demonstrates how servicing and waste can still be accommodated for the public house.

- 8.2.8 It should be noted that Public Houses classified as A4 use (drinking establishments), previously benefitted from permitted development rights for a change of use to A1 (shops), A2 (professional and financial services) or A3 (restaurants and cafes). It should be brought to member's attention that on the 23rd May 2017, the General Permitted Development (England) Order 2015 was amended to remove permitted changes for public houses other than to public houses with extended food provision (Class A4 *with* Class A3). Therefore, any change of use beyond that would now require planning permission.
- 8.2.9 In addition, the emerging policy states in CF1 (d) that proposals will not be supported to convert a public house where the public house has become unviable as a result of previous development, Such as conversion of ancillary accommodation, or inadequate floor space being retained for public use. While it is acknowledged that this policy carries little weight at this stage, it is indicative of the Council's emerging policy and considerations surrounding the intention to retain public houses.
- 8.2.10 Objectors have noted that the development will cause the public house to close for an extended period of time and at which stage it will not be viable to reopen. The applicant provided further information from a construction company who have advised that the demolition works will take 2-3 months and the fit-out and extension will take 16-19 months for redevelopment to be completed. This would result in the public house being closed for approximately 2 years. While this is regrettable, the public house could close for refurbishment works for any period of time without recourse from planning and it's the view of Officer's that this could not be substantiated as a reason for refusal.

Residential C3

- 8.2.11 The NPPF attaches great importance to significantly boosting the supply of new housing. LBTHs 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 focusing the majority of new housing in the eastern part of the borough.
- 8.2.12 The London Plan sets a revised minimum 10 year housing target of 39,314 between 2015 – 2025 (3,931 per year) for Tower Hamlets. The development proposes adapt the existing building for a mix use of both residential and commercial uses and subject to maximising the use of the land on a constrained site. This approach accords with the core principles of the NPPF, which encourages the re-use of an underutilised site.
- 8.2.13 The residential use of the upper floors of a public house is a historically established mix of land uses. Given the above, the residential use accords with the surrounding area and is acceptable subject to meeting the relevant housing policies.

8.3 Design and Impact on the conservation area and setting listed building

- 8.3.1 Statutory tests for the assessment of planning applications affecting listed buildings or conservation areas and their settings are found in the Planning (Listed Building and Conservation Areas) Act under: section 72(1)1990 which states that "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*"; and Section 66(1) which requires decision makers determining planning application 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*'.

- 8.3.2 The approach taken by the Courts in the application of this legislation (which is echoed in the NPPF (as explained further below)) is that decision makers should give 'considerable weight and importance' to avoiding harm to listed buildings and their settings, and correspondingly to any harm to the character and appearance of conservation areas. Special regard and weight should first be given to assessing whether the proposal causes such harm and the desirability of avoiding that harm. And where such harm may arise then considerable weight and importance should be given to avoiding that harm in the carrying out the balancing of the benefits and impacts of the proposal.
- 8.3.3 The NPPF is the key policy document at national level, relevant to the formation of local plans and to the assessment of individual planning applications. The parts of this document relevant to 'Heritage, Design and Appearance' are Chapter 7 '*Requiring good design*' and Chapter 12 '*Conserving and Enhancing the Historic Environment.*'
- 8.3.4 Chapter 7 explains that the Government attaches great importance to the design of the built environment. It advises that it is important to plan for high quality and inclusive design, including individual buildings, public and private spaces and wider area development schemes. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness.
- 8.3.5 Chapter 12 relates to the implications of a development for the historic environment and provides assessment principles. It also identifies the way in which any impacts should be considered, and how they should be balanced with the benefits of a scheme. 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.
- 8.3.6 Paragraphs 133 and 134 address the balancing of harm to designated heritage assets against public benefits. 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. 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.
- 8.3.7 Paragraph 126 of the NPPF states that in developing a positive strategy for the conservation and enjoyment of the historic environment 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;
 - the desirability of new development making a positive contribution to local character and distinctiveness; and
 - opportunities to draw on the contribution made by the historic environment made by the historic environment to the character of a place.
- 8.3.8 Policy 7.8 of the London Plan (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 (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.

- 8.3.9 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.
- 8.3.10 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'.
- 8.3.11 In this case the relevant designated heritage assets are the London Hospital Conservation Area and the setting of the Grade II* listed building at St Augustine with St Philip's Church. The subject building is not listed or referred to specifically within the conservation area character appraisal. It is however considered to positively contribute to the conservation area both in terms of its architectural style and its use.
- 8.3.12 The exterior of the public house has ornate and unique detailing, with very prominent chimney breasts, particularly the sculptural decoration at the base of the chimney stack facing Stepney Way, which is one of the most distinctive architectural features of the conservation area. It is proposed to retain three of the chimneys on the building, with removal of the rear service style chimney. The removal of this chimney will preserve the character and appearance of the area as it is located at the rear of the existing building and is not a prominent feature. The retention of these chimneys is a positive feature of the proposal.
- 8.3.13 In terms of massing, the proposed extension is considered broadly acceptable with regard to the impact on the exterior of the public house. The modern extension to the rear is set back from the main frontage on Stepney Way by 5 metres and would be read as a new but subservient extension.
- 8.3.14 The modern design draws on the traditional elements of the public house. The design of the extension is viewed as a contemporary interpretation of a side addition to the more historic main building without competing for attention or appearing overbearing. The windows are in a similar form to the traditional design but a modern style.
- 8.3.15 It is also proposed to hip the existing roof and extend the main building along the Stepney Way elevation. This is a traditional style of extension to the roof and building and as such is an acceptable way to extend the building on this elevation.
- 8.3.16 The success of the extensions will largely depend on the proposed materials, and while the main extension is proposed to be in keeping with the original and existing materials a condition will be attached requiring details of the proposed brick work, bonding, mortar to be constructed on site, in addition to the windows and the roof tiles.
- 8.3.17 The majority of the extensions and alterations are on the Stepney Way elevation, , due to the alterations being in keeping with the existing building and their location to the rear of the building to the west in the site would not result in the extension not being overtly visible within the setting of the listed building, it is therefore considered there will not be harm to the setting of the Grade II* listed St Augustine with St Philips Church.

8.3.18 As such, the proposal is considered to preserve the character and appearance of the London Hospital Conservation Area pursuant of the Listed Building and Conservation Areas Act 1990 (as amended).

8.4 Housing Mix and Quality of Residential Accommodation

8.4.1 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.

8.4.2 The proposal includes four residential units (including the re-provision of the existing on site unit). The proposed residential units meet with London Plan guidelines and DM4 with the units exceeding the minimum gross internal floor area requirements comfortably with the exception of one unit. In this case, as the units will be provided by adapting the existing building, the under provision in one unit is considered acceptable. The room sizes are acceptable and provide a functional layout. All units have access to light and ventilation with most units having a form of dual aspect.

	Required by London Plan	Provided
1 bed 2 p	50	57
2 bed 3 p	61	68
2 bed 3 p	61	55
2 bed 4 p	79 (over two floors)	98

8.4.3 There is no external amenity space provided for the units, given the site constraints and overall design of the building it is considered on balance that the under provision of external balconies is acceptable.

Noise

8.4.4 The proposed units would sit above the public house. Policy DM4 seeks to ensure that developments provide an acceptable standard of accommodation and Policy 25 and appendix 2 provides more detail on noise and vibration. London Plan policy 7.15 specifically states that sensitive to noise in locations with noise pollution, unless appropriate attenuation measures are provided. The applicant has provided some detail regarding noise insulation between the ground floor public house and first floor residential.

8.4.5 In order to ensure the ongoing viability of the public house any potential conflict needs to be managed. As such, additional sound insulation details to ensure that the immediate and surrounding uses (hospital) do not adversely impact on the quality of life on the prospective occupiers is required. Confirmation of noise insulation details and post completion testing would be reserved by way of a planning condition.

Accessibility

8.4.6 New build residential developments must now comply with the access standards in Part M of the Building Regulations. The Design and access statement makes reference to the accessibility of the proposed units and to ensure that the units are accessible compliance with the access standards referred to in Part M of the Building Regulations will be secured via condition.

8.5 Neighbouring Amenity

- 8.5.1 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.
- 8.5.2 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 during the life and construction of the development.

Privacy and Sense of enclosure

- 8.5.3 There are no new windows proposed facing into the rear of Gwynne House. The new windows on the southern elevation at the front are located at an acute angle such that direct views could not be afforded into units in Gwynne House.
- 8.5.4 The proposed extension along the southern boundary of the site extends up to three storeys and sits lower than the existing public house. It is not considered that this would be overbearing to the neighbouring site.
- 8.5.5 Objectors noted that the proposal could have the potential to prejudice the redevelopment of the neighbouring site west. The proposal contains two west facing windows on both first and second floor levels, to the living space. These two rooms are dual aspect, with additional windows facing north. As such, it is not anticipated that potential reduction in light to these two rooms would be sufficient to prejudice the redevelopment of the neighbouring site.

Daylight Sunlight

- 8.5.6 Guidance relating to daylight and sunlight is contained in the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight' (2011). For calculating daylight to neighbouring properties, the primary assessment is the vertical sky component (VSC) method. The 2011 BRE guidance emphasises the VSC method as the primary method of assessment. The applicant has assessed the impact on adjoining residents in relation to VSC and daylight (Annual probable sunlight hours).
- 8.5.7 With regards to VSC, BRE Guidelines advise that a loss of vertical sky of more than 20% becomes noticeable to residents and can potentially be considered as an adverse impact from the development. The assessment confirms that the majority of the surrounding residential buildings will be BRE compliant. The assessment does indicate that the flats closest to the host site on ground, first and second floor of Gwynne House will experience reductions of VSC above 20%. This will affect three windows, each rear bedroom window of each unit. It is noted that the living spaces retain higher than 80% VSC levels.
- 8.5.8 On balance, given the urban setting and context the effect of the proposed development on the amenity of neighbouring residents is considered to be broadly acceptable in terms of loss of daylight and sunlight.

8.6 Transport

- 8.6.1 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.
- 8.6.2 Policy 6.3 of the London Plan states that development proposals should ensure that impacts on transport capacity and the transport network, at both corridor and local level are fully assessed. Development should not adversely affect safety on the transport network.
- 8.6.3 The impact on the existing road network is considered minimal. This is in accordance with policy SP09 of the Core Strategy, policy DM22 of the Managing Development Document (2013). The site is located within excellent proximity to public transport (i.e. PTAL 6a) (excellent). Also the proposed scheme is as a car-and-permit free agreement development, to prevent future occupants from parking on the existing road network.

Cycle Parking

- 8.6.4 The proposal provides secure cycle parking inside the dwelling on ground floor level as detailed submitted plans. The minimum London Plan and Council policy requirement is 1 space per 1 bed unit and 2 spaces per 2 bed unit. In relation to the public house 1 space needs to be provided for every 175m². The total requirement for residential would be 7 spaces and 2 spaces for the public house. The proposal provides 6 spaces for the residential units, however these are provided in two tiered Josta stands, which the Highways officer has stated are not accessible and convenient for everyone to use. While this is regrettable, given the restricted nature of the site it is considered that the provision of three secure cycle spaces that are accessible and convenient is on balance acceptable. Each unit also has the ability to provide space for a cycle internally.

Refuse

- 8.6.5 Policy 5.17 of the London Plan requires all new developments to include suitable waste and recycling storage facilities. Policy SP05(1) of the Council's adopted Core Strategy (2010) and Policy DM14(2) of the Council's adopted Managing Development Document (2013) seek to implement the waste management hierarchy of reduce, reuse and recycle by ensuring that developments appropriately design and plan for waste storage and recycling facilities as a component element.
- 8.6.6 The waste and recycling is located at the rear of the building in the route through to the residential units. There is sufficient space to provide for both the residential bins and commercial bins and this is within the 10 metre collection distance. In addition, this removes the bins from the footpath (the existing arrangement) which obstructs the pavement and is unsightly.
- 8.6.7 Further information is sought by condition to confirm the collection times and frequency and this will be way of waste management strategy.

Servicing

- 8.6.8 The servicing for the public house will be undertaken through the entry on Turner Street as per the existing arrangements. In addition it is noted that there is an internal

hatch that can be utilised for delivery of the barrels should it be required. Further details would be restricted via condition.

Construction Management Plan

- 8.6.9 Policy SP09(3) of the Council's adopted Core Strategy (2010) and Policy DM20(2) of the Council's Managing Development Document (2013) seek to ensure that new development has no unacceptable impacts on the capacity and safety of the transport network.
- 8.6.10 It is recommended that due to the nature of the surrounding area being a highly utilised hospital road, a demolition and construction plan is required in order to ensure public safety and ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network.

Other

Trees

- 8.7.1 Core Strategy Policy SP04 seeks to protect and enhance biodiversity value through the design of open space and buildings and ensuring development protects and enhances area of biodiversity value in order to achieve a net gain in biodiversity.
- 8.7.2 The Council's senior aboricultural officers has reviewed the application and assessed the proposed works potential to affect the existing TPO and has no objection to the works. In order to ensure that the trees continue to contribute to the visual amenity of the area are adequately safeguarded and to protect them from damage during construction works a condition will be attached requiring protection throughout the construction phase.

8.8 HUMAN RIGHTS CONSIDERATIONS

- 8.81 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 8.82 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
 - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
 - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1).

The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

- 8.83 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 8.84 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 8.85 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.86 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

8.9 EQUALITIES ACT CONSIDERATIONS

- 8.91 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.
- 8.92 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 8.93 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation there are no identified equality considerations.

9 FINANCIAL CONSIDERATIONS

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

9.1 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.

9.2 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

In this context “grants” might include New Homes Bonus. This is not applicable to this application.

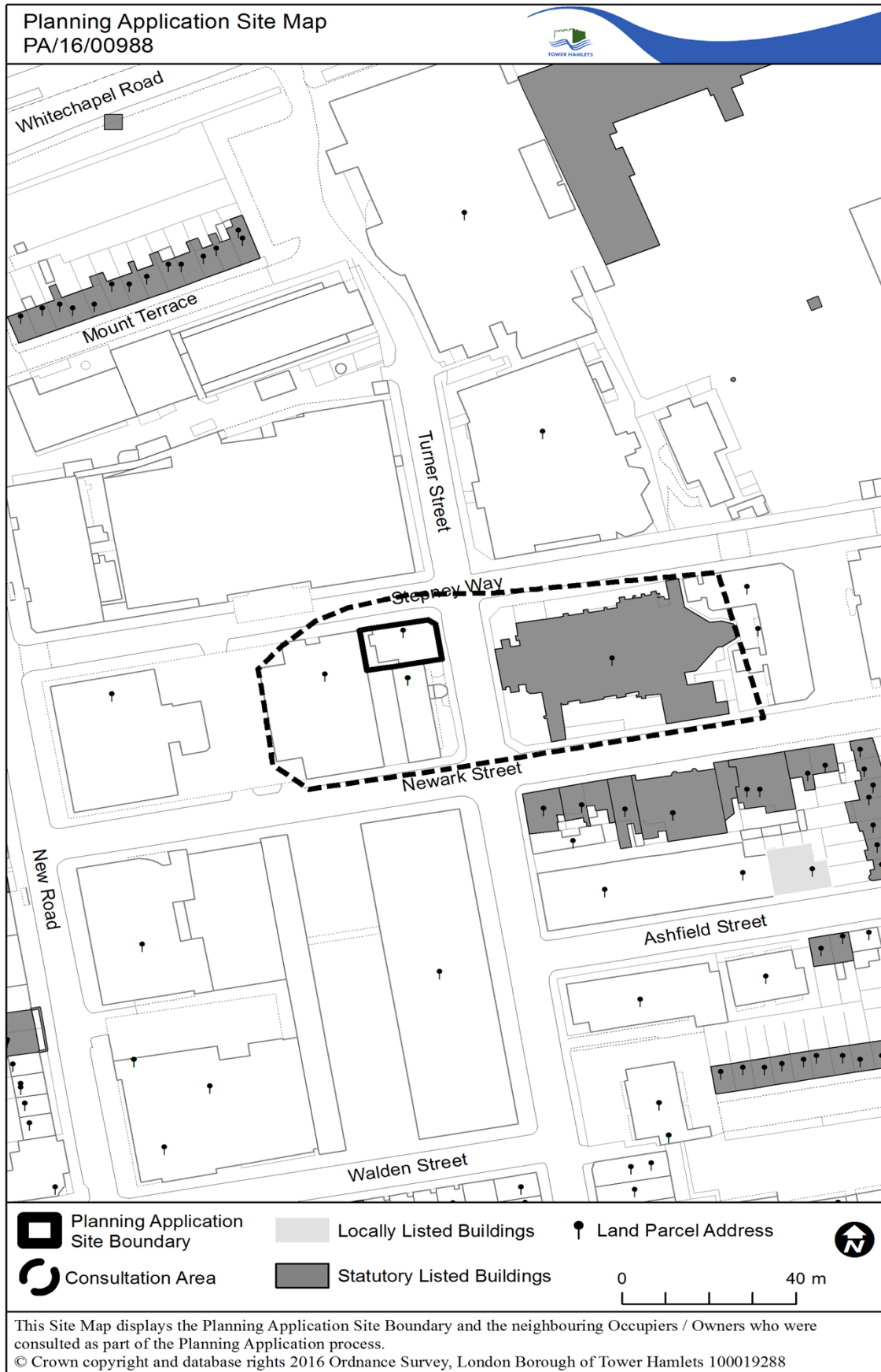
9.3 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012, the proposal includes four new residential units and will be liable for Mayoral CIL.

9.4 The Borough’s Community Infrastructure Levy came into force from 1st April 2015. The proposal would be liable for Borough CIL as it includes new residential floor space in CIL charging zone 2.

10.0 CONCLUSION

10.1 All other relevant policies and considerations have been taken into account. Planning permission should be APPROVED subject to conditions and legal agreement for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

12.0 SITE MAP



This page is intentionally left blank

Agenda Item 7.2

Committee: Development	Date: 2017	Classification: Unrestricted	Agenda Item Number:
----------------------------------	----------------------	--	----------------------------

Report of: Place Directorate	Title: Applications for Planning
Case Officer: Kamlesh Harris	Ref No: PA/16/03300
	Ward: Stepney Green

1.0 APPLICATION DETAILS

Location: Royal Duchess Public House, 543 Commercial Road, London E1

Existing Use: Vacant site, previously a two storey public house building

Proposal: Erection of a part 6, part 7 and part 8 storey building comprising 30 residential units (use class C3) and 70sqm of flexible floor space (Use Classes A1/A2/A3/B1/D1) together with associated access, cycle parking and landscaping.

Documents and drawings: D1000 R02, D5110 R05, D5111 R04, D5112 R03, D5113 R03, D5114 R03, D5115 R03, D5116 R 02, D5117 R00, D5118 R02, D5500 R03, D5501 R03, D5700 R03, D5701 R03, D5702 R03, D5703 R04, D5800 R02, D5801 R02, D5900 R07

- Design and Access Statement;
- Heritage Statement;
- Planning Statement;
- Daylight/Sunlight;
- Air Quality Assessment;
- Sustainability and Energy Statement;
- Desk Top Study and Site Investigation Report;
- Noise Assessment;
- Statement of Community Involvement;
- Arboricultural Impact Assessment;
- Transport Statement;
- Ecology Walkover;
- Social and Community uses report;
- Drainage and Water Inquiry

Applicant: Telford Homes Plc

Ownership: The Applicant

Historic Building: No listed buildings on site

Conservation Area: Not within a Conservation Area; Adjoins Albert Gardens Conservation Area (to the west) and York Square Conservation Area (to the south east).

2.0 EXECUTIVE SUMMARY

- 2.1 The proposed redevelopment of this site is for a residential-led mixed use development to create 30 residential units (C3 land use class) and provide 70sqm of flexible commercial floor space (Use Classes A1/A2/A3/B1/D1). The proposed building would be part 6, part 7 and part 8 storey high with the commercial space occupying the ground floor area fronting Commercial Road.
- 2.2 In land use terms, the principle of the redevelopment proposal is generally consistent with relevant Local Plan and London Plan policies and objectives as set in the Vision for Limehouse (Core Strategy 2010). However, Officers consider that the proposal fails to respect the Vision's principle 2 which states that "*New development should be in keeping with the scale and character of historic warehouse buildings conservation areas and waterways*"
- 2.3 The scheme would deliver 34% affordable housing in terms of habitable rooms (30% in terms of units). Taking into account the viability of the site, the development is considered to maximise the affordable housing potential of the scheme. On balance, the proposed housing would provide a policy compliant mix of one, two and three bedroom homes. The scheme would provide 10% policy compliant wheelchair accessible units on ground and first floor levels but without any car parking spaces on the outset. A car parking space would be provided if and when it is required and this arrangement would form part of any S106 Agreement.
- 2.4 The site is framed to the south, east and west by two conservation areas and is set in close proximity to various Grade II listed buildings, such as the Troxy building, Marian Richardson Primary School building and the properties along Albert Gardens. The proposal is considered to be overbearing in terms of the proposed height and scale and would establish an uncomfortable and an unsympathetic relationship with the adjoining historic buildings and the character of the immediately surrounding heritage assets, in particular the Albert Gardens Conservation Area and York Square Conservation Area.
- 2.5 It is also considered that due to its corner location and inconsistent approach to existing setbacks along Commercial Road, the building would appear incongruous in its immediate surroundings and would be disrespectful of the established building line along this part of Commercial Road. Further, the overall scale of the proposed building would rise significantly above the prevailing storey heights and would result in an overdevelopment of the site and result in significant harm to a series of designated heritage assets.
- 2.6 The public benefits associated with the proposal include new housing on the site, delivery of affordable housing and new commercial floor space. However, the Council has a statutory duty to consider a proposal's impact on the borough's conservation areas and their settings as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). This is also reflected in Chapter 7 of NPPF, policies of the London Plan and the Borough's Local Plan. Furthermore, the Court of Appeal's decision in *Barnwell Manor Energy Limited v East Northamptonshire District Council* [2014] is of relevance to the application of this statutory duty. This provides that where a decision maker finds that a proposed development would harm listed buildings or their setting and/or harm the character or appearance of a conservation area, it must give the desirability of avoiding that harm considerable importance and weight and it is not enough to ask whether the benefits of a development outweigh the harm. The special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas also applies to

development adjoining a conservation area, which is applicable here. This report will show that these benefits do not overcome the identified harm to the local townscape and designated and undesignated heritage assets. Therefore, officers recommend this proposal for refusal

- 2.7 In reaching this conclusion, officers have carefully considered and weighed the public benefits of the scheme including the delivery of new housing and provision of affordable housing. However, officers consider that the scale and bulk of the proposed building are not acceptable and the overdevelopment of the site and the resulting harm to local heritage and townscape cannot be sustained in this instance. It has also been deemed that the use of planning conditions and obligations as potential means to mitigate the harm couldn't be justified in the case of this proposal. In conclusion, the development would conflict with the Borough's Local Plan policies, London Plan policies and the objectives of the NPPF and as such, is recommended for refusal.

3.0 **RECOMMENDATION**

- 3.1 That the Development Committee **REFUSES** planning permission, subject to any direction by the London Mayor, for the reasons set out below.

Reasons for refusal

- 3.2 *Reason 1 – harm to local heritage*

The proposed development by virtue of its excessive height and scale would be visually intrusive in the backdrop of the Grade II listed buildings at Albert Gardens, Marion Richardson School, the Troxy Building and the would also be harmful to the setting of the Albert Gardens and York Square Conservation Areas. The proposal would fail to respect the restrained scale of the adjacent conservation areas, creating a visually dominant development that would be visible from the public realm. The public benefits associated with the proposal, which include thirty new homes, including nine affordable dwellings, and additional jobs generated from 70sqm of retail/ community floorspace, are not considered to overcome the harm to the setting of the neighbouring listed buildings.

As a result the scheme would also fail to comply with sections 61 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the National Planning Policy Framework (NPPF) objectives in particular paragraph 14, and section 12 of the NPPF, the London Plan, in particular policies 3.5, 3.7, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8 of the London Plan (2016), policies SP02, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies, DM4, DM23, DM24, DM25, DM26, DM27 the Tower Hamlets' Managing Development Document and the priorities and principles of the Limehouse Vision (Core Strategy 2010) which seek to deliver place-making of the highest quality in accordance with the principle of sustainable development, including preserving, protecting or enhancing heritage assets.

Reason 2 – overdevelopment and poor quality design

- 3.3 The proposed development exhibits poor quality design and demonstrable signs of overdevelopment by virtue of:

- a) lack of privacy for the occupiers of the proposed development due to overlooking associated with inter-visibility between windows and balconies of the proposed residential dwellings;
- b) the loss of street trees which provide significant landscape and visual amenity value;
- c) the proposal for a tall building in this location would fail to adhere to the principles of good design and place-making by virtue of its height and scale which would result in an unsympathetic built form that would not positively respond to and mediate with existing developments within the immediate surroundings. The detrimental townscape impacts result from the proposed height, scale and mass of the development which is set on a small, tightly confined site situated in a narrow street and set within an established lower scale of the adjoining housing estate and bounding conservation areas.
- d) proposed density significantly above the Greater London Authority's density matrix guidance and the scheme would fail to demonstrate the exceptional circumstances and design quality required to justify the excessive density; and
- e) the proposal provides insufficient child play space and poor quality private amenity spaces for the proposed maisonettes and the ground floor wheelchair accessible unit which will suffer from the overbearing nature of the development including an undue sense of enclosure.

As such, the scheme would fail to provide a sustainable form of development in accordance with paragraphs 14, 17, 56 and 61 of the NPPF and would be contrary to the Development Plan, in particular policies 3.6, 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2015), policies SP02, SP06, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies, DM23, DM24, DM25, DM26 and DM27 the Tower Hamlets' Managing Development Document and the Borough's vision for Limehouse, that taken as a whole, have an overarching objective of achieving place-making of the highest quality.

Reason 3 – lack of a legal agreement to mitigate the impacts of the proposed development

- 3.4 No agreed planning obligations in the form of policy compliant financial and non-financial contributions have been secured to mitigate the impacts of the development. As a result, the proposal would fail to meet the requirements of policies SP02 and SP13 of the adopted Core Strategy (2010), policy 8.2 of the London Plan, the Planning Obligations SPD (April 2016) which seek to agree planning obligations between the Local Planning Authority and developers so as to mitigate, compensate and prescribe matters relating to the development.

4.0 SITE AND SURROUNDINGS & THE PROPOSED DEVELOPMENT

- 4.1 The application site is now vacant; prior to its clearance in spring 2016 (following prior approval consent), the site was occupied by a two storey 1960's Public House building located at the corner of Commercial Road and Head Street, with ancillary residential accommodation above. The PH building was set back from Commercial Road with the frontage used as a beer garden. Commercial Road is one of the borough's strategic roads and designated

Transport for London red route; in contrast, Head Street is a quieter and narrower road which extends about 75m north of Commercial Road and bends towards the west to become Senrab Street. The site measures 0.05 hectares.

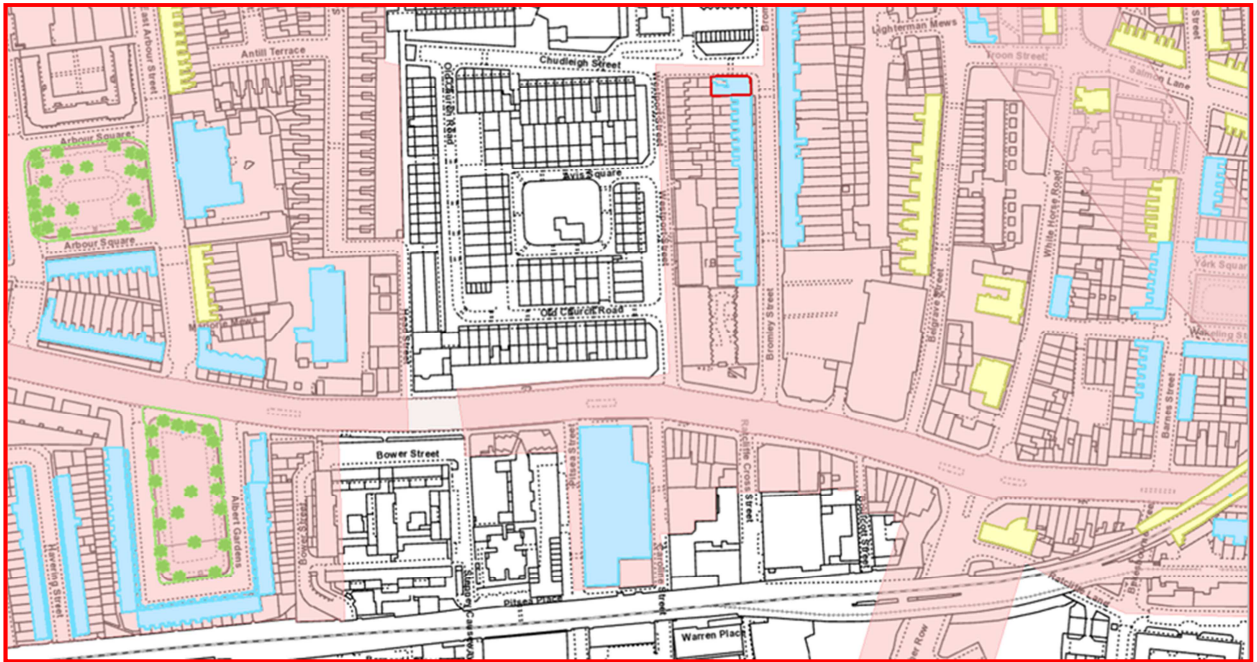
4.2 Commercial Road is predominantly an area rich with commercial/industrial/town centre uses, interspersed by residential buildings. This part of Commercial Road is similar but the vicinity has a higher element of residential spread especially in the side roads as is the case with Head Street, Old Church Street and Westport Street, lying east of the site. The defining character remains that of commercial usage on ground floors with residential above. To the immediate west, on both sides of Commercial Road are rows of shops at ground floors, whereas to the immediate east, are blocks of flats. These flats are set back from Commercial Road by a 12m green open space, containing a variety of trees. Beyond this green space are private gardens belonging to the ground floor flats of the residential block. This area along Commercial Road offers a well-established and welcoming green space that should be celebrated and enhanced.

4.3 At the start of Head Street, the dominating features are the four storey building opposite the site and the Grade II Listed Marian Richardson Primary School building which is set back from adjoining main roads. Further along Head Street, to the east is a four storey residential block similar to others within the estate and along Old Church Street. It is noted the site does not lie within a conservation area; however, it does lie sandwiched between two conservation areas, Albert Gardens and York Square and is located on the edge of the Albert Gardens Conservation Area. The application site is therefore an important corner location affecting the settings of these conservation areas.



Map 1 - showing conservation areas

4.4 In terms of the designated heritage assets surrounding the site, as mentioned above, Marion Richardson School lies west of the site and would be the closest to the application site. Other listed buildings of great significance is the Troxy building, also Grade II and lying south-east of the site. Other designated heritage buildings lie relatively close to the development site and are depicted on the map below, highlighted in blue.



Map 2 - Location of Grade II listed buildings, shaded blue

- 4.5 The site is not in a designated Area of Archaeological Priority. The site does not fall within any of the London View Management Framework viewing corridors. The site lies on the Transport for London Red Route.
- 4.6 There are three trees which are located on the pavement to the south of the site; these are owned by Transport for London. A further three trees lie on the green space to the east of the site and these are owned by the Council.
- 4.7 In terms of highways and transport matters, the application site is highly accessible and benefits from a public transport accessibility level (PTAL) 5. Limehouse Railway and DLR station is located approximately 450 metres to the south-east of the site; this provides access to overground services and underground services via the Jubilee and Central Line travelling towards Stratford, the City and Canary Wharf. About a kilometre north-east and north-west of the site are the Whitechapel and Stepney Green Underground Stations providing access to the Hammersmith & City and District Lines. The area is also very well served by buses which stop at several locations along Commercial Road. These include bus routes 15, 115 and 135.

The Proposed Development

- 4.8 The development site measures some 540sqm/0.0054 hectares. The applicant has applied for planning permission for the redevelopment of the vacant site to provide a residential led mixed use scheme, consisting of 30 units – 10 one bed, 13 two bed, 6 three bed and 1 four bed – and a 70sqm flexible commercial floor space within the classes A1/A2/A3/B1/D1.
- 4.9 The proposal would offer housing within the 3 tenures; 21 units in private ownership, 4 in shared ownership/intermediate and 5 affordable rented units. The assumptions made by and submitted with the planning application, are to deliver the five rented homes in line with the Council's Borough Framework Rents. It is also known that the four intermediate homes are to be delivered as

shared ownership with affordability criteria in line with the GLA salary cap and associated affordability framework.

- 4.10 The building on site would vary in heights and would seek to place the taller elements in the centre of the building and at front, along Commercial Road. The centre piece is an 8 storey element and the 2 lowest at 6 storeys face east and to the rear/north, alongside an existing 4 storey residential block.



Figure 1 - View of the building looking west along Commercial Road

- 4.11 Out of the 30 units, 28 are apartments and 2 would be three bedroom maisonettes set over three floors, with a small private urban garden at the front.
- 4.12 The proposal would also offer 3 units designed to be wheelchair accessible. This would represent the 10% policy compliant offer for the scheme. One of the units would be located on the ground floor and two on the second floors. The ground floor unit, a one bed unit, would be in the affordable rented tenure; the 2 two bed units on second floor would be within the shared ownership and private tenures.
- 4.13 All apartments would share the same one main entrance from Head Street; the maisonettes will have their own private entrances as would the ground floor one bed wheelchair accessible unit. All affordable rented and shared ownership units, and one private unit would occupy the lower floors and the remaining 20 private units are set on the third to seventh floors.
- 4.14 The commercial unit would have one main entrance from Commercial Road to the south east of the site. Further openings would be created along Head Street to give access to bin stores and cycle stores. Two lifts would serve the whole building and there are four store rooms located on ground floor. All residential units would have their own private amenity spaces in the form of balconies and urban gardens.
- 4.15 The commercial waste would be located in the east corner of the site by the plant room. Residential waste would be accessed on Head Street and refuse collection would be from Head Street. Servicing would also take place from

Head Street for the two maisonettes and for the rest of the development along Commercial Road to the south, for deliveries and servicing. The proposed scheme would be car free development, including no provision for disabled parking due to site constraints. However, the applicant has agreed to enter into an agreement to deliver a disabled parking bay, on Head Street, should this be required.

5.0 RELEVANT PLANNING HISTORY

5.1 The planning history available on the Council's records for this site includes those relating to the public house extension and beer garden, dated 1969 and 1990 respectively. Of relevance here is the 2016 application as outlined below:

5.2 **PA/16/00389** – Demolition Determination (GPDO Part 31) - Demolition is required in order to clear the site in preparation for the construction of a proposed new building which is yet to achieve planning permission. Prior approval was given on 11 March 2016.

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 Albert Gardens and York Square Conservation Areas (Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990).

6.2 The list of policies detailed below is not exhaustive, but it does contain some of the most relevant policies applicable to the application's proposal:

6.3 Core Strategy Development Plan Document (CS)

Policies:

- SP02 Urban living for everyone
- SP03 Creating healthy and liveable neighbourhoods
- SP05 Dealing with waste
- SP06 Delivering successful employment hubs
- 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 Placemaking
- 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
	DM11	Living Buildings and Biodiversity
	DM13	Sustainable Drainage
	DM14	Managing Waste
	DM15	Local Job Creation and Investment
	DM20	Supporting a Sustainable Transport Network
	DM21	Sustainable Transport of Freight
	DM22	Parking
	DM23	Streets and Public Realm
	DM24	Place Sensitive Design
	DM25	Amenity
	DM26	Building Heights
	DM27	Heritage and Historic Environment
	DM29	Zero-Carbon & Climate Change
	DM30	Contaminated Land

6.5 **LBTH Supplementary Planning Guidance/Documents**

- Planning Obligations Supplementary Planning Document (2016)
- Draft Development Viability Supplementary Planning Document (SPD) 2017

6.6 **The London Plan (with MALP amendments 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
	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
	5.8	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
- 5.17 Waste Capacity
- 5.18 Construction, excavation and demolition waste
- 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 Lifetime Neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.7 Location and Design of Tall and Large Buildings
- 7.8 Heritage Assets and archaeology
- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 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 March 2016
- Social Infrastructure (May 2015)
- All London Green Grid (March 2012);
- Shaping Neighbourhoods: Play and Informal Recreation SPG September 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 Best Practice Guide (2014)
- 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
- Draft Affordable Housing & Viability SPG (2016)

6.8 **Government Planning Policy Guidance/Statements**

- The National Planning Policy Framework 2012 (NPPF)
- Technical Guide to NPPF
- The National Planning Policy Guide (NPPG)
- National Housing Standards (October 2015)

6.9 **Other relevant documents**

- Tower Hamlets Local Biodiversity Action Plan
- Managing Significance in Decision-Taking in the Historic Environment Historic England Good Practice Planning Advice Note 2 (2015)
- The Setting of Heritage Asset, Historic Environment Good Practice Advice in Planning Note 3 (2015)
- York Square & Albert Gardens Conservation Area Character Appraisal and Management Guidelines
- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment, English Heritage (2008)
- Conservation Area Designation, Appraisal and Management – Historic England Advice Note 1 (2016)
- Appendix 1, Planning Policy Explanatory Note - Tall Buildings, April 2016
- Tall Buildings – Historic England Advice Note 4 (2015)

7.0 CONSULTATION RESPONSES

7.1 The views of the Place Directorate are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

7.2 The following were consulted and made comments regarding the application, summarised below:

Internal Consultees

Waste Management Team

7.3 The Waste team requested further information on bin store, bins, commercial waste, bulky waste, dropped kerb and waste strategy for disabled residents. Revised plans have been received which address some of the issues raised. Matters surrounding type and number of waste receptacles can be conditioned and officers have no further objections or comments to make.

Biodiversity

7.4 The application site has been cleared recently and contains no significant wildlife habitats. The loss of the three trees adjacent to the site would have a minor adverse impact on biodiversity.

7.5 Communal spaces with planting in raised planters are proposed at 6th and 8th floor levels. No information is provided on what is to be planted. If the planting includes a good diversity of nectar-rich plants, chosen to provide nectar for as much of the year as possible, this would contribute to a target in the LBAP to provide more forage for bees and other pollinators. However, the planting scheme would have to be very good for pollinators to more than offset the loss of the three street trees, which are pears that will provide both nectar and fruit.

7.6 The Ecology Report recommends a biodiverse green roof. This could be combined with PVs on the part of the 8th floor roof not used for amenity. If designed in line with Buglife's best practice guidance, this would contribute to a LBAP target to create new open mosaic habitat.

7.7 A green roof would also increase the efficiency of the PVs. Specially designed seed mixes for "biosolar" roofs are commercially available. A biodiverse roof in

addition to nectar-rich planting would be sufficient to ensure compliance with DM11.

- 7.8 Other biodiversity enhancements that could be considered include nest boxes for swifts, house sparrows and house martins. A condition should require details of biodiversity enhancements to be approved by the Council before work commences.

Senior Arboricultural Officer

- 7.9 The loss of the three trees along the street frontage would have a high landscape and amenity impact. A final judgment on the overall implications of the scheme cannot be made, without confirmation of the agreed mitigation strategy for tree losses. The option to replace trees in the neighbouring property first needs approval from the Housing Association responsible for the land. This is not something the Council have direct control or influence over.
- 7.10 Should this be agreed with the Applicant, a specification and landscaping scheme would be required for the officer to consider. Should the option be pursued of paying the CAVAT value to TFL as compensation, it is not clear how this would achieve replacement planting in the locality, to mitigate for the losses. This point will need specific clarification.

EH Contaminated Land Team

- 7.11 No objections subject to a condition requiring contamination study/ report

Air Quality Team

- 7.12 The development will meet the air quality neutral standards.

Transportation & Highways Team

- 7.13 In summary, the highways and transportation group have no objections subject to securing the application as car free; however, as no disabled parking has been proposed, a bond of £10,000 should be secured to provide for one on-street parking space, if required. The proposal would also result in a redundant crossover on Head Street and the applicant must enter into an agreement for highway improvement works necessary to serve the development. This would include the re-instatement of a normal footway and removal of the redundant cross over. Subject to relevant conditions such as the submission of a Construction Management Plan, the proposal would be supported.

Energy Officer

- 7.14 The submitted Sustainability and Energy Statement has broadly followed the principles of the Mayor's energy hierarchy, and seeks to focus on reducing energy demand, utilising a communal boiler system and integration of renewable energy technologies (PV and ASHP's (for the commercial unit)). At present the proposals the cumulative CO2 savings from these measures are a 45% reduction in CO2 emissions.
- 7.15 Subject to conditions securing the details of 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.

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

- Delivery of Energy Strategy and CO2 savings to at least 45%
- Submission of the SAP and SBEM calculations
- Provide the as built approved calculations for the scheme to demonstrate CO2 savings have been delivered
- Carbon offsetting contribution to deliver zero carbon residential developments secured through S106 contribution (£40,860)

Employment & Enterprise Team

7.17 The developer should exercise reasonable endeavours to ensure that 20% of the construction phase workforce will be local residents of Tower Hamlets and 20% of goods/services procured during the construction phase should be through businesses in Tower Hamlets. The developer should also make a Planning Obligation SPD compliant offer in respect of skills and training along with apprenticeship places in the scheme's construction phase and end user phase.

SuDs Officer

7.18 The application does not provide sufficient detail to make a suitable assessment of the management of surface water. In particular, more detail is needed to demonstrate that the development does not increase flood risk in accordance with relevant policies. The applicant's intention to include SuDS as part of the proposed development is welcome; however, to ensure proposal does not increase flood risk, a condition is recommended.

External Consultee

Transport for London

7.19 No objection in principle subject to some clarifications on the following issues; deliveries, impact of construction on the TLRN, occupancy of the loading bay, door widths and cycle parking arrangements.

Metropolitan Police Crime Prevention Design Officer

7.20 The DOCO officer commented on the lack of details within the application proposal and the fact that there has been no engagement with the project architect with regards to Secured by Design issues. The officer has concerns with regards to boundary treatment, mail strategy, physical security, lighting, secure cycle storage, secure refuse store and secure airlock within the Communal entrance/s. The applicant is required to engage with the DOCO to ensure that the development achieves a Silver Secured by Design Award. Furthermore, a number of conditions are advised and would need to be submitted prior to the commencement of the development, to show details of the measures to be incorporated into all the development demonstrating how the principles and practices of the 'Secured by Design' scheme have been embedded.

London Fire and Emergency Planning Authority (LFEPA)

7.21 No comments received to date

Thames Water (TW)

- 7.22 No objection in principle with regards to sewerage infrastructure capacity and subject to necessary planning conditions and informative to ensure:
- No piling shall take place until a piling method statement has been submitted and agreed upon in writing

Environment Agency

- 7.23 No objection. Seek an informative in regard to piling methods and to ensure they do not pose a pollution risk to controlled waters.

8.0 LOCAL REPRESENTATION

- 8.1 193 neighbouring properties were notified about the application and invited to comment. The application was also publicised in the local press on 05 January 2017 and with a set of site notices on or near the site on 18 January 2017.
- 8.2 Twenty four written representations have been received on the application following the public consultation. Twenty three are in favour of the proposal and one letter of objection has been received from the Chair of the nearby Pitsea Estate. A petition containing eighty-three signatures has also been submitted to the council and the petition is in objection to the proposal.
- 8.3 The letters of support do not make any comments on the application except that the development is supported.
- 8.4 The representation received from the Chair of Pitsea Estate considered the public consultation carried out by Telford Homes to be misleading and not engaging.
- 8.5 The objections of owners/occupiers within the petition are summarised below:
- The development is primarily focused at the private market and does not fulfil the need for housing to address the needs of local population who require target rent social housing.
 - Residents wish for this application to be heard by the Development Committee so that their views can be heard by elected councillors.
 - Proposal would involve removal of several trees (or re-siting them); trees have been on site for several decades and lie outside the site's boundary.
 - Development lies in the midst of two conservation areas and is incongruent with this stretch of Commercial Road.
 - The development is described as "car free"; however, this will merely put car parking pressure on nearby housing estates and adjacent highways roads, which are already overloaded.

9.0 ASSESSMENT OF APPLICATION

9.1. The main planning issues raised by the application that the committee must consider are set out below

- Principle of Land Uses
- Design and Heritage
- Density
- Housing including mix, quality, amenity
- Neighbours Amenity
- Highways & Transportation

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 significantly boost the supply of housing and applications should be considered in the context of the presumption in favour of sustainable development.

Proposed commercial flexible unit

9.3 The proposal would include the creation of a new commercial unit at ground floor level measuring some 70sqm within flexible uses of A1/A2/A3/B1/D1. As stated above, the site used to be a public house which ceased operation and was disused; the applicant demolished and cleared the site in the spring of 2016.

9.4 During pre-application discussions, it was acknowledged that a social and community led use would be considered acceptable along Commercial Road and in this area which is considered an edge of town centre location (the application site is approximately 120m from the Limehouse Neighbourhood Centre). A local Class A1/A2 unit would also be appropriate provided the floor space was 100sqm or less. The applicant is seeking to use the commercial unit as a mixed use D1/ A1/ A3 – as a community café.

9.5 The MDD policy DM2 governs the local shops in the borough. It seeks to ensure that the level of local shop is maintained in any given area and that it complements the town centre network. In terms of the creation of local shops outside of town centres, this would only be supported provided that there is a demonstrable need for them. The scale should be appropriate, the local shop should not affect amenity or detract from the character of the area and new local shops should not form part of, or encourage, a concentration of uses that would undermine nearby town centres.

9.6 The applicant has applied for planning permission for flexible retail and community use of the 70sqm ground floor unit fronting Commercial Road. It is understood that Tower Hamlets College (THC) would use the facility for their learners with Special Educational Needs and Disability (SEND) and their main stream learners to run a Community Café. The applicant has confirmed that successful discussions were had with THC. Telford Homes would fund the fit out of the commercial space for THC and offer the space on a rent free basis for two academic years. This use would be acceptable and compatible in this

location as it would seek to replace the lost social and community use that the public house offered, albeit to a different clientele.

- 9.7 As outlined earlier, the site doesn't fall within any specific areas such as town centre or central activity zone. It is considered to be local in nature but it is acknowledged that it is in close proximity to the Limehouse Neighbourhood Centre. The use as described above would provide a D1/A1/A3 floor space which could be supported in this location given it is below 70sqm and therefore is akin to a local shop and is not considered to impact on the vitality or viability of Limehouse town centre, subject to conditions regarding details of odour and fumes extraction to ensure this is compatible with the proposed residential layouts.. The use by THC as a community café would complement the scheme and provide an active frontage along Commercial Road. Furthermore, it is a common feature along Commercial Road, to have commercial on the ground floor and residential above. This use would also provide activity along Commercial Road during the day. Therefore, the proposed use of a community café would be considered acceptable in the ground floor of this block and along this part of Commercial Road and in that respect would be supported by officers.
- 9.8 In terms of the inclusion of B1 (office) use within the flexible ground floor use, this would support Policy SP06 in the Core Strategy (2010) which seeks to deliver successful employment hubs and Policy DM15 in the Managing Development Document (2013) which seeks to create local jobs and investment. As such, no objections are raised to the inclusion of B1 office space within the proposed development.
- 9.9 Policy DM8 requires that new social and community facilities are located in or at the edge of town centres. Therefore, a community café and learning/work experience platform would be acceptable in principle and would be policy compliant. It is considered that the proposed flexible A1/A2/A3/B1/D1 unit would be acceptable in principle in land use terms given its small size and that it provides an appropriate ground floor use along the busy Commercial Road.

Proposed Residential Use

- 9.10 The regeneration of sites to provide new homes and jobs 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 39,314 homes in the borough, making the annual target 3,931.
- 9.11 The proposed development would deliver a total of 30 new residential dwellings on the site consisting of 21 market rented units, 5 affordable rented homes and 4 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 supported in policy terms.

Urban Design, Heritage and Townscape

- 9.12 Section 66(1) of the Planning (Listed Buildings 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".
- 9.13 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) 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".
- 9.14 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.
- 9.15 As set out in Section 12 of the National Planning Policy Framework, when considering the impact of a proposed development on the significance of a designated heritage asset, considerable 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.
- 9.16 Paragraphs 132-135 require local authorities when assessing the effects of a development on a heritage asset, to give weight to an asset's conservation in proportion to its significance. To be clear, heritage assets include designated heritage assets such as listed buildings and conservation areas but can also locally listed buildings which are undesignated.
- 9.17 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.
- 9.18 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). 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.

- 9.19 Accordingly, careful consideration should first be given to assessing whether the proposal causes harm to the listed buildings and/ or 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) the listed buildings and conservation areas and their settings when carrying out that balancing exercise.
- 9.20 London Plan policies 7.11 and 7.12, policy SP10 of the CS and policies DM26 and DM28 of the MDD seek to ensure large scale buildings are appropriately located and of a high standard of design whilst also seeking to protect and enhance regional and locally important views.
- 9.21 The National Planning Practice Guidance (NPPG) sets out a list of criteria of "What is a well-designed place? 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"*
- 9.22 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.
- 9.23 Core Strategy Policy SP10 and Policy 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.
- 9.24 Policy DM26, Part 2 of the Borough's Managing Development Document sets out that proposal for tall buildings should satisfy the following criteria:
- a. Be of a height and scale that is proportionate to its location within the town centre hierarchy and sensitive to the context of its surroundings;
 - b. Within the Tower Hamlets Activity Area, development will be required to demonstrate how it responds to the difference in scale of buildings between the CAZ/Canary Wharf Major Centre and the surrounding residential areas.
 - c. Achieve high architectural quality and innovation in the design of the building, including a demonstrated consideration of its scale, form, massing, footprint, proportion and silhouette, facing materials, relationship

to other buildings and structures, the street network, public and private open spaces, watercourses and waterbodies, or other townscape elements;

- d. Provide a positive contribution to the skyline, when perceived from all angles during both the day and night, assisting to consolidate clusters within the skyline;
- e. Not adversely impact on heritage assets or strategic and local views, including their settings and backdrops;
- f. Present a human scale of development at the street level;
- g. Where residential uses are proposed, include high quality and useable private and communal amenity space and ensure an innovative approach to the provision of open space.

Assessment of heritage and design

- 9.25 The Albert Gardens Conservation Area lies immediately west of the application site incorporating the western part of Head Street (road and buildings). The Conservation Area extends north bound towards Aylward Street and south bound towards and over Commercial Road to end at Albert Gardens. For such a small area, the number of Grade II listed buildings contained within this conservation area (15 in total) shows how significant this heritage asset is. The Albert Gardens Conservation Area was designated in July 1969 and its boundaries revised in October 2008.
- 9.26 Albert Gardens (formerly Albert Square) was a 19th century development built to respond to the creation of Commercial Road. It has remained largely intact and consists of three storey residential terraces, built in the early 1840s which face each other across a railed garden. The square opens up to the south of Commercial Road on its fourth side. It is interesting to note that there used to be building acts which imposed building heights limits in this area dating back to the 1890s. However, from 1969, this pattern was replaced by comprehensive redevelopment and the character of the area irrevocably altered. In the 1970s this trend was reversed and interest in conservation gathered momentum again. These trends explain why the surrounding area within this conservation area is so fragmented; but a large portion of the orderly and elegant skyline still remains, in particular in all the listed terraces and buildings.
- 9.27 The character of the Albert Gardens Conservation Area is marked by its distinctive built form and reflected by its layout, in its narrow street widths, fine urban grain and modest scale. It is this very character that makes Head Street (in particular the edge of the street as viewed from Commercial Road) an attractive road worthy of preservation. Furthermore, the three storey building with setback mansard roof, 539-541 Commercial Road, is of considerable importance and sets off the character and the edge of this conservation area. Despite being an undesignated heritage asset, the setting of this building is considered worthy of protection in line with policy DM27 of the MDD which 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”*.



Figure 2 - The application site (Public House now demolished), narrow Head Street and corner building

- 9.28 The application site lies just outside of this conservation area and opposite the three storey plus mansard building on the west side of Head Street. Officers expressed their strong concerns and reservations about the relationship of the proposal with this building, at pre application stage. Comments made were *“Whilst in principle the redevelopment of this site is supported, it is considered that the proposed massing (height and bulk), layout and design would not result in a high quality design that would positively respond to or enhance the character and appearance of the local area and in particular the adjacent heritage assets”*.
- 9.29 The Albert Gardens Conservation Area is an area of particular special architectural and historic interest; the existing scale is predominantly low-rise, with terraced housing ranging between 2-3 storeys. The tallest building within the conservation area is the nearby Grade II listed Marion Richardson Primary School building. There are taller residential buildings on the south side of Commercial Road but these do not enjoy the same character and significance that the northern part of Commercial Road enjoys. Furthermore, in townscape terms their siting is less prominent compared to the application site.
- 9.30 The Albert Gardens Conservation Area Appraisal considers that *“Long views exist of good, early 19th century buildings running along Commercial Road, East and West Arbour, Havering and Dunelm Streets. This highlights a classic vision of the 19th century East End, with its traditional street pattern and repetitive and rhythmic continuous terrace housing. Local views through the narrow, intimate scale of Senrab Street terminates with the grand scaled Marion Richardson School. Other localised views around Albert Gardens and Arbour Square reveal the tree lined garden areas and domestic 2-3 storey scale”*.
- 9.31 The existing scale of the area is predominantly low-rise, with terraced housing ranging between 2-3 storeys plus basement. The East End Hospital, former Raine’s Foundation School and Marion Richardson Primary School are slightly taller in scale, reflecting their historical and social importance. Their proportions, details and materials appropriately match the scale of the adjoining traditional terraces. The proposed building of eight storeys and the site’s prominent corner location mean it is highly visible in a numerous views from the adjoining Albert Gardens Conservation Area. The scale of the proposed development is incongruous with that of this conservation area and given its prominent location would harm the setting of this heritage asset.
- 9.32 The York Square Conservation Area lies to the south and east of the application site and extends to the north, ending at Durham Row. This conservation area was designated in January 1973 and extended in October 2008; it has an

irregular boundary and is mainly contained to the north with a small part extending over and beyond Commercial Road. York Square contains a number of Grade II listed buildings mostly to the north and none are as close to form part of the context of the application site and likely to be affected by this proposal. The Grade II listed Troxy building located to the south of the conservation area and south east of the application site is approximately 81m away and would be in full view of the proposed building. This listed building located within the York Square Conservation Area would form part of the context of the application site and it is considered that the proposed building on the site would have an adverse impact on the setting of the listed building, by virtue of its prominent corner location in Commercial Road, proximity to the Troxy building, inconsistent building line in terms of lack of a set back of the upper floors, and overbearing height and mass.



Figure 3 - 539-541 Commercial Road, previous PH building and green open space

- 9.33 It is officers' opinion that the application site, despite being vacant, is still linked with its neighbours and should be experienced together and in harmony with each other. This relationship requires the redevelopment of the application site to be handled with great sensitivity and homogeneity as was outlined in the pre application discussions and subsequent letters. As proposed, the new building appears to be in fierce competition with its surroundings and is visually dominant; as submitted the development would fail to satisfy relevant planning policies and guidance in relation to the protection and enhancement of the historic environment. Policy DM27 of the Managing Development Document (2013) seeks to protect and enhance the borough's heritage assets, their setting and their significance. Furthermore, it states that development should enhance or better reveal the significance of the asset or its setting.
- 9.34 To conclude, officers are of the opinion that this proposal would bring less than substantial harm to the setting of the neighbouring Conservation Areas and setting of the grade II listed school building, particularly given its prominent corner location and the lower scale of the surrounding area. In accordance with paragraph 134 of the NPPF, the harm to a heritage asset should be weighed against the public benefits of the scheme, including whether it is the optimum viable use. The optimum viable use does not necessarily need to be the most profitable, as it should be the one that is viable but causes least harm. As noted, the statutory duty under Section 72, is explained in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council & Ors* [2014]. At paragraph 23 of the '*Barnwell Manor*' decision Lord Justice Sullivan advises that "there is a 'strong presumption' against granting planning permission for development which would harm the character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of 'considerable importance and weight'."

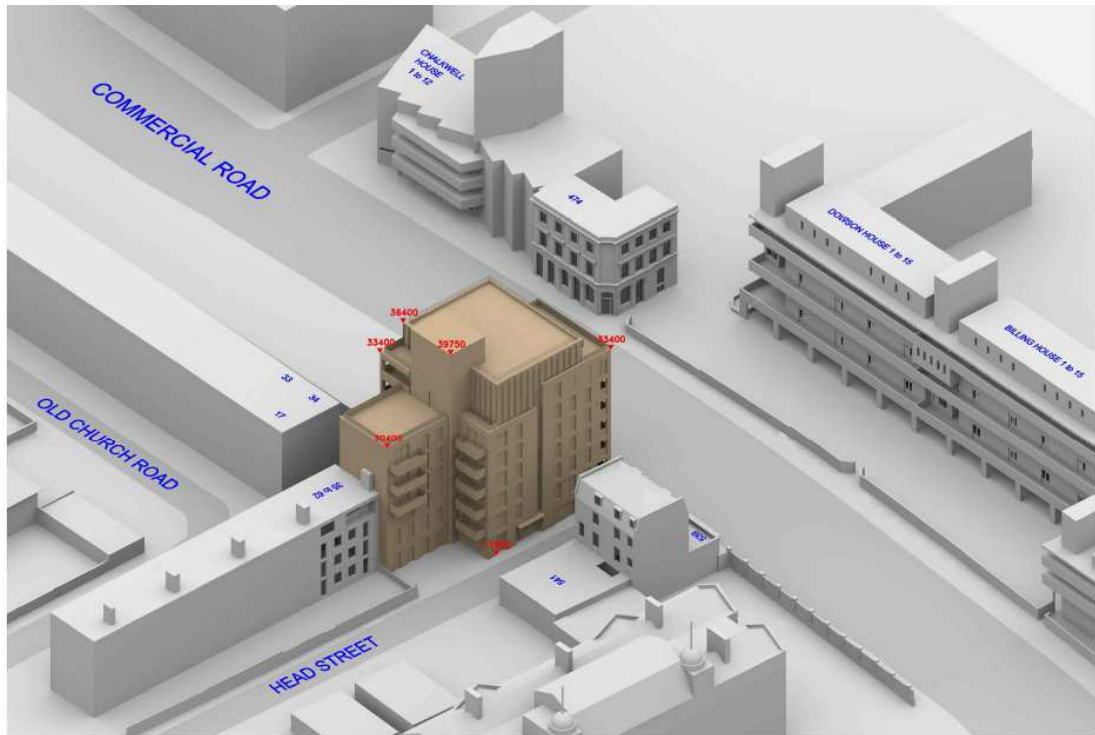
Height, siting and massing

- 9.35 Reference to relevant policies has been made already at the beginning of the Urban Design and Heritage chapter. Of note is policy 7.4 of the London Plan (MALP 2016) which 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.
- 9.36 Policy SP10(4) of the Council's adopted Core Strategy (2010) which seeks to promote good design principles and policy DM24 of the Council's adopted Managing Development Document (2013) which 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.
- 9.37 It is officers' opinion that the application would involve the development of a tall building on this corner site. The Tall Buildings – Historic England Advice Note 4 (2015) states that "*What might be considered a tall building will vary according to the nature of the local area*". A Planning Policy Explanatory Note was agreed by the Mayor in Cabinet on 10 May 2016 which seeks to reiterate the borough's approach to tall buildings through its existing Local Plan. The Note also seeks to define a tall building in Tower Hamlets, and confirms that "*The definition of a "Tall Building" in the Borough will therefore depend on its location and the predominant height of buildings in the local context*". This definition allows for the fact that areas of different character within the borough have different sensitivities and that a five storey building in a two-storey context is equally as prominent as a much taller building in a more built up context. Mid-Rise buildings are those that are considered to be tall in the context of relatively low-rise development but that in absolute terms are in the region of 6-9 storeys.
- 9.38 Of more importance and relevance therefore, is policy DM26 which addresses "building heights". Whilst policy DM26 of the Managing Development Document provides the criteria for assessing the acceptability of building heights, it is important to note that normally the criteria for tall buildings are meant to be read as a whole with the spatial strategy that focuses on the hierarchy of tall buildings around town centres (figure 9 of DM26).
- 9.39 However, this application site is not in a town centre. It enjoys a corner location along a major road with a side return onto a side street which is narrow and within a conservation area. The Council's approach would therefore be to assess this case based on Part 2 of policy DM26 (quoted at paragraph 9.34). Policy DM26.2 includes criteria a-l, which provides a more detailed checklist of requirements that new development for Tall Buildings need to satisfied. Criterion a) is particularly noteworthy and states that new developments should be "*Be of a height and scale that is proportionate to its location within the town centre hierarchy and sensitive to the context of its surroundings*". On the whole, the purpose of this policy is to ensure all planning applications for "Tall Buildings" are sustainable in terms of location, design and function and that they help contribute to the overall vision for Tower Hamlets that is set out in the Local Plan.

9.40 Policy DM26 is further supported by policy 7.7 of the London Plan which states that applications for tall or large buildings should include an urban design analysis that demonstrates the proposal is part of a strategy which meets the following criteria:

- *Generally be limited to sites in the Central Activity Zone, opportunity areas, areas of intensification or town centres that have good access to public transport;*
- *Only be considered in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building;*
- *Relate well to the form, proportion, composition, scale and character of surrounding buildings, urban grain and public realm (including landscape features), particularly at street level;*
- *Individually or as a group, improve the legibility of an area, by emphasising a point of civic or visual significance where appropriate, and enhance the skyline and image of London;*
- *Incorporate the highest standards of architecture and material, including sustainable design and construction practices;*
- *Have ground floor activities that provide a positive relationship to the surrounding streets;*
- *Contribute to improving the permeability of the site and wider area, where possible;*
- *Incorporate publicly accessible areas on the upper floors, where appropriate;*
- *Make a significant contribution to local regeneration.*

9.41 The proposal, in its current form is considered to be incongruous to the existing streetscape of Commercial Road and Head Street, due to its height and mass. The applicant is seeking to introduce a tall building in a location where the prevailing height is predominantly 2 to 4 storeys. Furthermore, it has not been shown how the new building is sensitive to and relates to its surroundings in a positive way. The development of single tall buildings (solitary tower) within the context of smaller buildings often causes more harm to an area; a tall building in the wrong surrounding tends to lose its impact and sense of importance. It also has the disadvantage of dwarfing attractive smaller buildings, without any commensurate benefit, as is the case here, with 539-541 Commercial Road. This one tall building is considered to be overbearing in comparison to the smaller adjacent residential developments and the Grade II listed Marion Richardson school building, and therefore negatively impacts on the setting of this listed building.



Plan showing surrounding context and building heights

9.42 In terms of longer views, the building would fail to harmonise itself with its surroundings. Instead, it appears visually intrusive, unattractive and large. A new building within this corner location should enhance the streets it is set in through its form, massing, setback and architectural language. The proposal however, is built close to pavement lines, close to boundaries to its north, south, east and west and leaves no room for any public realm or amenity areas that could have created a more comfortable and attractive space around itself. Currently, the building is considered to be insensitive, out of place, out of scale, bulky building resulting in a significant adverse visual impact in this part of Commercial Road.



Figure 4 - View east along Commercial Road

9.43 As noted previously in this report, the application lies sandwiched between two conservation areas – Albert Gardens and York Square – but is closer and abuts the Albert Gardens Conservation Area. Any new building in this location should

be assessed and determined on its ability to better enhance the setting and appearance of the conservation areas and heritage assets and better reveal their significance. This proposal would blight the landscape due to its large and looming presence in this corner site which, if approved and built, would result in a bulky and inelegant building which fails to successfully or sensitively relate or mediate the transition in height between the proposed building and those adjacent to it.



Figure 5 - View south towards Commercial Road

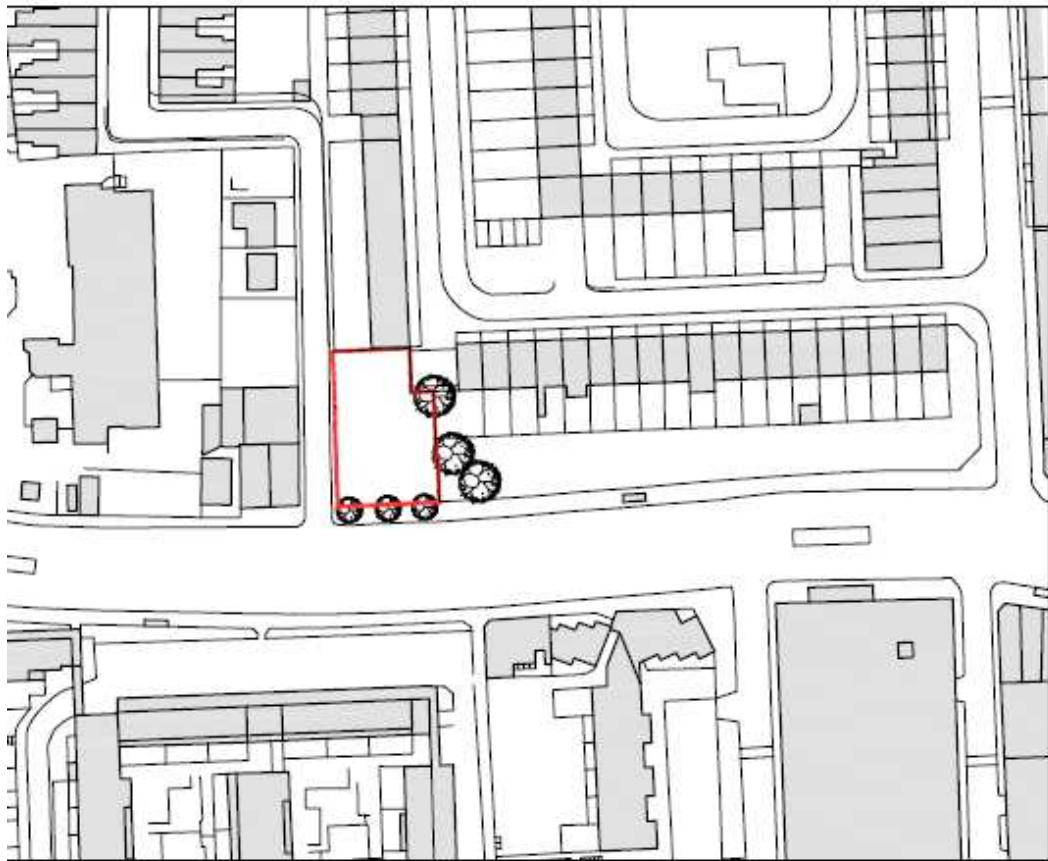
- 9.44 It is noted that the building has attempted to scale itself down by introducing several setbacks at upper levels. However, the building is large and extends to all four corners of the site. That in itself prevents this building from appearing anything but bulky. Although the setbacks vary, the sizes of the block create a rhythm which helps reinforce a sense of consistency that is not apparent in the proposed building. The different storey levels only manage to make the building look more haphazard and large and result in a visually intrusive element in the landscape. The proposed building would read (from the east and west) as an anomaly in this part of the borough.
- 9.45 To conclude, officers are of the opinion that the building is insensitive to its context and harmful to local conservation areas and nearby listed buildings. It is of an inappropriate scale to its location and by virtue of this particular corner location, its mass and design would not constitute the very highest, outstanding quality of design required for a proposed building on this site. Furthermore, the applicant was advised that, in this location, only a four to five storey building fronting Commercial Road and a four storey element along Head Street would be appropriate and supported by officers. The combination of the height and depth of the proposed building results in development with an overly dominant and overbearing appearance, that is out of keeping with the taller or larger buildings in the immediate local area. The height and scale therefore, are not considered to be proportionate to its location, adjacent and abutting conservation areas and not sensitive to the context of its surroundings. For the abovementioned reasons, the proposal is contrary to the second part of Policy DM26 in the MDD (2013).



Figure 6 - View east along Commercial Road

Layout, Architectural Appearance, Materials and Landscape

- 9.46 The new building footprint would occupy almost the entire site and would sit close to its perimeter lines. The building would also be built close to the boundary wall of the four storey building to its north and to the edge of the green space along Commercial Road. Similarly, on Head Street, the building would sit on the edge of the pavement within this narrow road. This close relationship to the surrounding area and the lack of setbacks at ground floor would provide a hostile and an unfriendly approach which officers sought to resist previously (during pre-application discussions). The proposed layout is insensitive and fails to respond to its immediate context in terms of the building line and lack of a setback. Given the scale and mass of the proposed building, in design terms, this result in an overbearing and uncomfortable relationship with the neighbouring buildings particularly the Victorian corner building opposite which is considered to make positive contribution to the conservation area
- 9.47 Therefore, it is considered that the proposed building has failed to consider prevailing building lines in the area and whilst there is no concern regarding the loss of the existing building, however the redevelopment should be of a size and design which would not dominate neighbouring buildings and respect the character of the area.



Map 4 - showing location of existing trees

- 9.48 In terms of all accesses and entrances, these are mainly on the narrow Head Street. The commercial unit would be accessed via one doorway only, located on the south-east corner of the building. Two residential entrances are proposed, one for the upper levels and one for the ground floor wheelchair accessible flat; other accesses lead to the refuse area and cycle storage area. The two triplex family units would enjoy their own private entrances with a front urban garden from Head Street. Green planting is proposed in front of the gardens and at the rear of the building on its north east elevation.
- 9.49 To the east of the site, there are accesses to the plant area and commercial waste/refuse area and two new cycle spaces for the commercial unit. The ground floor wheelchair unit would face east and would have direct and private access to a small courtyard terrace/amenity area.
- 9.50 In terms of materials, the use of bricks would be supported. Landscaped areas are limited to two amenity areas on the roof of the upper levels. These would be laid out with concrete paving slabs, soft play surface for the child play space area and raised planters.
- 9.51 The loss of the existing street trees is the result of the proposed footprint of the building covering almost the entire site, and providing a large mass at the back of the pavement without any setback. The loss of the three trees along the sight frontage would have a high landscape and amenity impact. As an alternative, the applicant has proposed relocating trees within the Tower Hamlets Homes owned green space immediately to the or Commercial Road and to the east of the site. A final judgment on the overall implications of the scheme cannot be made, without confirmation of the agreed mitigation strategy for tree losses. The

option to replace trees in the neighbouring property first needs approval from the Housing Association responsible for the land. Notwithstanding, the above relocation of the trees from their current location is considered to have an adverse impact in terms of loss of visual amenity in the local streetscene. It is however accepted that any biodiversity impacts would be mitigated by replacement trees in close proximity.



Figure 7 - View west along Commercial Road

- 9.52 The proposed building in terms of layout, design and heights is not considered to pay special regard to the desirability of the traditional low rise historic character of the two adjoining Conservation Areas. It is considered that the resultant scheme would have unduly detrimental impacts on the historic character and appearance of the York Square and Albert Gardens Conservation Areas to the south, east and west. By reason of its poor design by virtue of its poor layout, and inappropriate height and overall scale, the proposed development is considered to be contrary to the requirements of Policies SP02 and SP10 and SP12 of the Core Strategy 2010, Policies DM24 and DM27 of the Managing Development Document 2013.

Housing & Density

- 9.53 Increased housing supply is a fundamental policy objective at national, regional and local levels, including the provision of affordable housing. NPPF Paragraph 7 advises that a dimension of achieving sustainable development is a “social role” supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 9 advises that pursuing sustainable development includes widening the choice of high quality homes. NPPF Section 6 advises local planning authorities on ‘*Delivering a wide choice of high quality homes.*’ Paragraph 47 requires local plans to meet the full objectively assessed need for market and affordable housing and to identify and update annually a supply of specific deliverable sites sufficient to provide five years housing supply with an additional buffer of 5%. Currently the Council is able to demonstrate circa 5.2

years' worth of housing capacity and therefore is not reliant on the new homes provided by this proposed development to meet this requirement.

- 9.54 London Plan Policy 3.3 '*Increasing housing supply*' refers to the pressing need for more homes in London and makes clear that boroughs should seek to achieve and exceed their relevant minimum targets. The London Plan annual housing monitoring target for Tower Hamlets is 3,931 new homes between years 2015 to 2025. Policies 3.4 of the London Plan and SP02 of the Core Strategy (2010) seek to ensure new housing developments optimise the use of land by relating the distribution and density levels of housing to public transport accessibility levels and the wider accessibility of the immediate location. The London Plan (policy 3.4 and table 3A.2) sets out a density matrix as a guide to assist in judging the impacts of the scheme. It is based on 'setting' and public transport accessibility as measured by TfL's PTAL rating. The site's public transport accessibility is PTAL 5 and has the characteristics of an 'urban' area.
- 9.55 London Plan Policy 3.8 '*Housing choice*' requires borough's local plans to address the provision of affordable housing as a strategic priority. Policy 3.9 '*Mixed and balanced communities*' requires communities mixed and balanced by tenure and household income to be promoted including in larger scale developments.
- 9.56 London Plan Policy 3.11 '*Affordable housing targets*' requires boroughs to maximise affordable housing provision and to set an overall target for the amount of affordable housing needed in their areas. Matters to be taken into consideration include the priority for family accommodation, the need to promote mixed and balanced communities and the viability of future developments. London Plan Policy 3.12 '*Negotiating affordable housing*' requires that the maximum reasonable amount of affordable housing be sought. This should have regard to affordable housing targets, the need to encourage rather than restrain residential development, the size and type of affordable units needed to meet local needs, and site specific circumstances including development viability, any public subsidy and phased development including provisions for re-appraising viability prior to implementation. Affordable housing should normally be provided on site.
- 9.57 Tower Hamlets Core Strategy Policy SP02 (1) supports the delivery of new homes in line with the Mayor's London Plan housing targets. Policy SP02 (3) sets an overall strategic target for affordable homes of 50% until 2025. This is to be achieved by requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability). Paragraph 4.4 explains:
- 9.58 Given the extent of housing need, Tower Hamlets has set an affordable housing target of up to 50%. This will be delivered through negotiations as a part of private residential schemes, as well as through a range of public initiatives and effective use of grant funding. In some instances exceptional circumstances may arise where the affordable housing requirements need to be varied. In these circumstances detailed and robust financial statements must be provided which demonstrate conclusively why planning policies cannot be met. Even then, there should be no presumption that such circumstances will be accepted, if other benefits do not outweigh the failure of a site to contribute towards affordable housing provision.

Density

- 9.59 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 2016). 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.

9.60 The proposed development would have a residential density of 1,800 habitable rooms per hectare (hr/ha). The appropriate London Plan density range for the sites within an urban setting and PTAL of 5 is 200 to 700 hr/ha. The proposed density is therefore inconsistent with the London Plan density matrix.

9.61 The density for the 30 residential units proposed is in fact significantly above the London plan density guidelines. The London Plan Housing SPG advises that development outside density ranges will require particularly clear demonstration of exceptional circumstances (taking account of relevant London Plan policies) and it states that unless there are significant reasons to justify exceeding the top of the appropriate, they should normally be resisted. The Housing SPG recognises that making decisions on housing density requires a sensitive balance which takes account of a wide range of complex factors. The SPG outlines the different aspects which should be rigorously tested, these include:

- inadequate access to sunlight and daylight for proposed or neighbouring homes;
- sub-standard dwellings (size and layouts);
- insufficient open space (private, communal and/or publicly accessible);
- unacceptable housing mix;
- unacceptable sense of enclosure or loss of outlook for neighbouring occupiers;
- unacceptable increase in traffic generation;
- detrimental impacts on local social and physical infrastructure; and
- detrimental impacts on visual amenity, views or character of surrounding area.

9.62 The scheme exceeds the suggested density range thereby suggesting that the level of development is not appropriate for this location. However, a numerical assessment of density is but one factor to consider, in assessing whether the site is capable of accommodating the quantum of development. Consideration must also be given to the design and quality of accommodation to be provided, the siting and scale of the development, its relationship to site boundaries and adjoining properties and the level and quality of amenity space to support the development. Some of these factors have already been considered and some will be considered below.

9.63 On the whole, taking all the above into consideration, officers confirm that the proposal would result in insufficient public realm and play space; would be too tall in the context and does not present a high quality external appearance; it would fail to protect the amenity of future occupants and would fail to provide safe and convenient parking spaces for the wheelchair accommodation. The proposal therefore does not demonstrate the exceptional circumstances or exceptional design quality to justify the excessive density as required by the Housing SPG. The abovementioned issues relating to design, housing and

amenity are expressed and considered in detail within the respective sections of the report below.

- 9.64 To conclude on the matter of density, the proposed density is significantly over double the greatest density in the Greater London Authority's density matrix. The scheme does not demonstrate the exceptional circumstances and design quality required to justify this level of density. The proposal is therefore contrary to Policy 3.4 of the London Plan (2016) and Policy SP02 of the Core Strategy (2010) as well as guidance in the Housing SPG (2016).

Affordable Housing

- 9.65 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.*"
- 9.66 The application proposes 30 (use class C3) residential units as part of a mixed use scheme and as set out previously the principle of residential-led re-development on the site is accepted. 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 make a positive contribution to meeting local, regional targets and national planning objectives.
- 9.67 The London Plan has a number of policies which seek to guide the provision of affordable housing in London. 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.
- 9.68 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 sites, having regards 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.
- 9.69 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.
- 9.71 Managing Development Document Policy DM3 (3) states development should maximise the delivery of affordable housing on-site.

- 9.72 This scheme makes an affordable housing offer of 34% by habitable room, through an on-site provision. A viability appraisal has been submitted with the scheme and this has been independently reviewed by the Council's financial viability consultants who have confirmed the maximum amount of affordable housing that the scheme can viably provide is 34%, in terms of habitable rooms.
- 9.73 The affordable housing is being offered as 5 affordable-rented units and 4 intermediate units. The London Plan seeks a ratio of 60:40, whilst Local Plan policy seeks a 70:30 split to ensure housing contributes to the creation of socially balanced and inclusive communities. The affordable housing is being offered at a 78:22 split (by habitable rooms) between affordable-rented units and intermediate units. 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.
- 9.74 The percentage of the affordable provision (by habitable room) for the rented units has been viability tested at Tower Hamlets Borough Framework Rent.

Housing Mix and Tenures

- 9.75 Pursuant to Policy 3.8 of the London Plan, new residential development should offer genuine housing choice, in particular a range of housing size and type. 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. Specific guidance is provided on particular housing types and is based on the Councils most up to date Strategic Housing Market Assessment (2009).
- 9.76 The tables below compare the proposed housing mix against policy requirements:

		Affordable Housing						Private Housing		
		Affordable Rent			Intermediate			Market		
Unit size	Total Units	Unit	%	LBTH policy%	Unit	%	LBTH policy %	Unit	%	LBTH policy %
1bed	10	1	20%	30%	3	75%	25%	6	29%	50%
2bed	13	0	0%	25%	1	25%	50%	12	57%	30%
3bed	6	3	60%	30%	0	0%	25%	3	14%	20%
4bed	1	1	20%	15%	0	0%	0%	0	0%	
Total	30	5	100	100	4	100	100	21	100	100

Table 1 showing housing mix

- 9.77 For the market housing, the scheme would under provide in 1 bedroom by a large margin, overprovide in 2 bed units (by almost 50%) and would underprovide in larger family sized units. The under provision in larger family sized units is considered to be reasonable and is not considered to be such a deviation from policy to constitute a robust reason for refusal.; this is justified by the advice within the London Mayor’s Housing SPG in respect of market housing which argues that it is inappropriate to be applied crudely *“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”*.
- 9.78 The housing mix within the affordable rented units is 20% of one bed units against Borough policy target of 30%, no two bed units against Borough policy target of 25%, 80% in three and four bed units, set against the policy target of 45%. Whilst there are under provisions in this tenure as well, the family housing provision is almost doubled which is welcome. Notwithstanding this, the lack of two bedrooms is not acceptable. Further, the proposal fails to achieve an overall target of 30% family sized (three-bed plus) across the entire provision – only 7 family sized units are being offered, representing 23%. On the other hand, the proposal achieves 44% of new affordable rented homes for families against the policy requirement of 45%, as required by Policy SP02 of the Core Strategy. Overall, the scheme provides a good level of 3 bed plus units within the affordable housing tenure.
- 9.79 Four units are proposed within the intermediate housing tenure but the proposal fails to provide any three bed units, however larger intermediate units are typically too expensive (in terms of income) for those who qualify for this tenure. It is deficient in both the two (under provision) and three bed (zero provision) mix and over providing in the one bed sized unit.
- 9.80 The Borough Affordable Housing Team has reviewed this proposal and considers that given the relatively small size of this scheme and small number of units proposed, on balance the housing mix is acceptable and the opportunity to increase the number of family size units mitigates the shortfall in achieving the required targets within the other mix and tenures.
- 9.81 To conclude, given the relatively small size of the scheme, exact compliance with all aspects of the housing size policy in DM3 is more difficult to achieve and on balance the proposals would offer a good range and mix of housing types, sizes and tenures. The proposed mix is supported by officers and the Affordable Housing Team.

Housing quality and standards

- 9.82 London Plan Policy 3.5 *‘Quality and design of housing developments’* requires new housing to be of the highest quality internally and externally. The Plan explains that the Mayor regards the relative size of all new homes in London to be a key element of this strategic issue. Local Plans are required to incorporate minimum spaces standards that generally conform to Table 3.3 – *‘Minimum space standards for new development.’* Designs should provide adequately sized rooms and convenient and efficient room layouts. Guidance on these issues is provided by the Mayor’s *‘Housing’* SPG 2016.
- 9.83 MDD Policy DM4 *‘Housing Standards and Amenity Space’* requires all new developments to meet the internal space standards set out in the Mayor’s earlier 2012 SPG.

- 9.84 In March 2015, the Government published *‘Technical housing standards – nationally described space standard.’* This deals with internal space within new dwellings across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The Minor Alterations to the London Plan 2016 and the Mayor’s *‘Housing’* SPG 2016 reflect the national guidance.
- 9.85 All of the proposed flats meet or slightly exceed the London Plan (2016) minimum internal space standards and the Minimum National Floor space standards. The minimum floor-to-ceiling height also exceeds 2.5m which is in accordance with relevant policy and guidance.
- 9.86 The proposed development would not consist of any north facing single aspect residential units which in turn allows for the level of sunlight and daylight to the proposed residential units to be maximised. The Housing SPG recommends that no more than 8 flats should be served by a single core to ensure that the development provides the required sense of ownership for future occupiers. The proposed development would comprise 3 and 4 units per core and this is considered an acceptable arrangement and no issues are raised on this basis.
- 9.87 The opportunities to maximise dual aspect units within the internal layout of the blocks appears to be taken.

Inclusive design

- 9.88 Policy 7.2 of the London Plan (2016), 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.
- 9.89 The proposed development provides 3 dwellings (10%) as wheelchair adaptable units to meet the building Regulations Part M4 (3) requirements. It must be noted that there is no parking provision allocated to these units on site. However, as detailed in the Highways section of the report below, the applicant has confirmed that one space can be provided if this be needed. As such, it is considered that the proposal would provide adequate measures for inclusive design and would be in accordance with Policy SP10 in the Core Strategy as well as Policy DM4 in the Managing Development Document (2013) and Policy 7.2 of the London Plan (2016).

Internal Daylight and Sunlight

- 9.90 DM25 of the MDD seeks to ensure adequate daylight and sunlight levels for the future occupants of new developments.
- 9.91 The Building Research Establishment (BRE) Handbook *‘Site Layout Planning for Daylight and Sunlight 2011: A Guide to Good Practice’* (hereinafter called the *‘BRE Handbook’*) provides guidance on the daylight and sunlight matters. It is important to note, however, that this document is a guide whose stated aim “is to help rather than constrain the designer”. The document provides advice, but also clearly states that it “is not mandatory and this document should not be seen as an instrument of planning policy.”
- 9.92 The application is accompanied by a daylight and sunlight assessment report that tested the daylight and sunlight provision to the proposed new dwellings

Daylight

- 9.93 The daylighting conditions within new homes are normally assessed in terms of the Average Daylight Factor (ADF). The BRE guidelines and British Standard 8206 recommend the following minimum ADF values for new residential dwellings:
- >2% for kitchens;
 - >1.5% for living rooms; and
 - >1% for bedrooms
- 9.94 The applicant submitted a Daylight and Sunlight Report which concluded that in terms of daylight, all rooms within the proposal would achieve the BRE targets. A kitchen/dining room would be slightly below and achieve only 1.7% ADF against the 2% recommended target. This is on the eastern elevation of the first floor. One kitchen on the ground floor triplex house would only achieve 1.94% ADF.
- 9.95 Officers consider these daylight achievements acceptable, and will result in accommodation which has good access to natural light.

Sunlight

- 9.96 In relation to sunlight, the annual probable sunlight hours (APSH) considers the amount of sun available in both the summer and winter for each given window which faces within 90° of due south. If the window reference point can receive more than one quarter (25%) of APSH, including at least 5% of APSH during the winter months, between 21st September and 21st March, then the room should still receive good sunlight assessed against BRE guidance.
- 9.97 The report concludes that all but three living rooms will have very good sunlight level, with most achieving substantially in excess of the minimum level suggested by the BRE. The three living rooms will have a lower sunlight level due to their northerly aspects.
- 9.98 Officers note that the applicant's daylight and sunlight report only considers 4 floors – ground to third – in their assessment of light level for the new build. A certain degree of common sense is allowed here in terms of the upper floors being in a better position than these lower floors. Therefore, their light level should be good. Furthermore, the report only shows the calculations for ADF of these 4 floors. In the absence of calculations for the upper floors, officers can only comment for these 4 floors and conclude that the light level would be acceptable as shown in the report.

Amenity space

- 9.99 For all major developments, there are four forms of amenity space required: private amenity space, communal amenity space, child amenity space and public open space. The 'Children and Young People's Play and Information Recreation SPG (February 2012) provides guidance on acceptable levels, accessibility and quality of children's play space and advises that where appropriate child play space can have a dual purpose and serve as another form of amenity space. This is particularly apt for very young children's play space as it is unlikely that they would be unaccompanied. However policy is clear any dual purpose amenity space strategy must not be formulated to double count amenity space and thereby dilute the amenity space standards.

Private Amenity Space

- 9.100 Private amenity space requirements are set figures determined by the predicted number of occupants of a dwelling. Policy DM4 of the MDD sets out that a minimum of 5sq.m is required for 1-2 person dwellings with an extra 1sqm provided for each additional occupant. If in the form of balconies they should have a minimum width of 1500mm.
- 9.101 The proposal would provide private outdoor amenity space to all of the residential units in the form of private balconies and individual gardens (2 front gardens). These private spaces would meet and exceed the above mentioned standards.

Communal Amenity Space

- 9.102 Communal open space is calculated by the number of dwellings (C3 Use Class) within a proposed development. 50sqm is required for the first 10 units with an additional 1sqm required for each additional unit. Therefore, the required minimum amount of communal amenity space for the development would be 70sq.m. The scheme would provide 70sqm.m of communal amenity space on the roof of the 8th floor and as such would meet the policy requirement.
- 9.103 The communal space would be accessed by lifts and stairs and would be accessible to all residents. It would be laid in concrete paving, with raised planters, seating including chairs and benches.
- 9.104 It is noted that no public open space would be provided in this scheme.

Child play space

- 9.105 Play space for children is required for all major developments. The quantum of which is determined by the child yield of the development, with 10sqm of play space per child. The London Mayor's guidance on the subject requires, inter alia, that it will be provided across the development for the convenience of residents and for younger children in particular where there is natural surveillance for parents.
- 9.107 The scheme is predicted by the Borough child yield evidence base to yield approximately 10.5 children, as per the table below.

	Total	Under 5 (Pro-Rata)	5 - 10 (Pro-Rata)	11 - 15 (Pro-Rata)
Child Yield	10.556	4.41	3.90	2.24
Child Playspace Policy Requirement (sq. m)	105.56	44.1	39.0	22.4
Child Playspace Provision (sq. m)	0	0.0	0.0	0.0
Child Playspace Provision Required for Policy Compliance (sq. m)	105.56	44.1	39.0	22.4

Table 2 showing playspace as per the Borough yield

- 9.108 Using the GLA evidence base, the child yield is slightly different and amounts to 12 children. Whilst the GLA child yield estimate is based upon all London data it

is considered the more reliable estimate figure given it is currently derived from a more recent data set than that used to produce the Borough based estimate. Accordingly, the scheme is estimated to yield

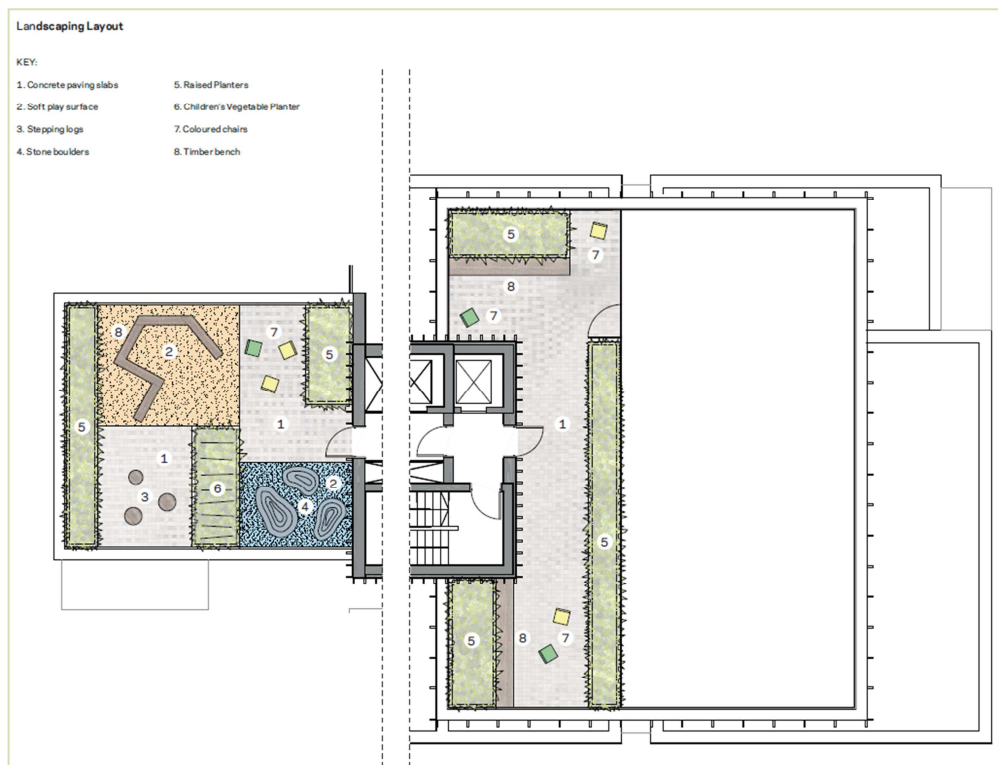
Proportion of children		
	Number of children	%
Under 5	4	33%
5 to 11	5	39%
12+	3	28%
Total	12	100%

Play space requirements		
GLA benchmark (sqm)*	Alternative local benchmark (sqm)**	Total (sqm play space) required
10		119.0
	10	119.0

* GLA benchmark standard=minimum of 10sqm of dedicated play space per child

Table 3 showing playspace as per the GLA yield

9.109 The scheme would provide 70sq.m of dedicated child play space on the roof of the 6th floor and as shown on the left hand side of the below diagram. This space like the communal amenity space (also 70sq.m) would be accessible and opened to all residents of the scheme. Using the GLA figure above, the child play space provision must be at least 119sq.m. The space provided would therefore fall short of policy requirements and would not adequately meet the minimum play space policy requirements for all children. It is noted, that if broken down, the space of 70sq.m provided could adequately be used for the under 5 children and would provide 60% of the minimum quantum of play space required for children aged 5-12.



Plan showing child play space on the roof of 6th floor

- 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 recognise 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 is the distance for children 11 and over, with consideration given to whether the route to this off site play space is convenient and safe.
- 9.111 The applicant has stated that the provision of 70sq.m falls slightly short of the policy requirement. Officers disagree. The applicant has taken the provision of the urban gardens for the two houses and has applied the quantum of their private amenity space into the equation to boost the level of child play space being provided. This would not only result in double counting of child play space but would also take away from private amenity spaces which would be serving a family unit; and that space would already be used for multi purposes, such as garden space, cycle space, refuse space, entrance into the property and general recreation. Furthermore, that space only measures about 21sq.m each. Officers would dismiss the applicant's approach to double count that garden space which is already not a very usable and adequate space for the family it would house. This approach, if allowed, would still have been insufficient to meet the quantum of child play space required, which is 119sq.m.
- 9.112 A calculation was carried out for the two triplex houses in terms of their child yield, requires provision for 4 children or 40sqm.
- 9.113 On its own, the two houses would yield 4 children leading to a policy provision of 40sq.m of child play space. The private amenity space provided in the front of the properties would therefore not be sufficient as child play space leave alone all the other uses, they are supposed to accommodate within their 21sq.m space.
- 9.114 The method or approach used by the applicant carries no weight and is inconsistent and would not be supported in terms of policy, which is very clear about provision of good quality private amenity space, child play space and communal amenity space. Furthermore, the applicant has not identified any local spaces for children over 12, especially as that age group could walk (in safety) 800m to a park or publically accessible open spaces and dedicated hard court surface spaces. It is officers' opinion that the site as currently designed could not accommodate a policy compliant amount of child play space to serve the development.
- 9.115 Therefore, this proposal would fail to provide an adequate and policy compliant quantum of child play space. This would be against the aims and 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).

Secured by Design

- 9.116 Policy 7.3 of the London Plan 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 requires development to improve safety and security without compromising good design and inclusive

environments. Policy SP10 of the Borough's adopted Core Strategy require development to create distinct and durable places.

- 9.117 As detailed in the 'Consultations' section of the report, the Crime Prevention Officer has raised some concerns for the proposed development but has not raised any strong objections. If the application had been recommended for approval, conditions would be added requiring the development to achieve a secure by design certificate and to submit details of the measures to be incorporated into all the development demonstrating how the principles and practices of the 'Secured by Design' scheme have been included.
- 9.118 As such, subject to conditions, the scheme would have been compliant in terms of secured by design and above mentioned policies.

Neighbours' Amenity

- 9.119 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.

Daylight and Sunlight – Impacts on Neighbouring Properties

- 9.120 The daylighting 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.
- 9.121 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
- 9.122 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.

- 9.123 The application has been accompanied by Daylight and Sunlight prepared by Waterslade. The report does not provide calculations and just gives a summary of the findings with some illustrations at the end of the document. That said, officers are of the opinion that due to the orientation of surrounding buildings and the blank facades of the two closest residential buildings to the north and east of the site, the daylight and sunlight impact on these buildings would be lessened. It is also noted that there are no windows on the east elevation of 539-541 Commercial Road. The windows in that building either face Commercial Road or face north towards Head Street. Windows on the four storey building along Head Street face east/west and windows on the eastern block of the flats face north/south. It is considered that the buildings to the south of Commercial Road are sufficiently far away to be affected by loss of light, be it sunlight or daylight.
- 9.124 The report has assessed impact of the new proposal on the following properties: 539-541 Commercial Road, 35 and 36 Old Church Road, 33 and 34 Old Church Road, 1-12 Chalkwell House, 474 Commercial Road, 1-15 Dowson House and 1-15 Billing House.
- 9.125 Overall, it is considered that the impact on these properties would be minimal and negligible in terms of BRE guidelines. Most of the properties would be fully compliant with the guidelines and where there are some deviations, these would be either because of inherent balconies or north facing. It is to be noted that some of these properties are also dual aspect. Officers are of the opinion that levels of daylight and sunlight would not be significantly impacted upon and the proposed development would accord with the guidance provided by the BRE.
- 9.126 The surrounding garden/amenity spaces were also analysed and it is confirmed that these would achieve the recommended level in the BRE guidance. Any overshadowing, given the urban context of this development site, would also be minimal.
- 9.127 It should be noted that no objection has been raised in terms of daylight/sunlight from local residents. To conclude, the proposal would not cause any material harm to the amenity of existing neighbouring occupants in terms of overshadowing/ loss of light.

Overlooking, loss of privacy and Sense of Enclosure

- 9.128 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.
- 9.129 By virtue of the distance to properties around the site, no issues are raised in terms of overlooking or loss of privacy in relation to surrounding properties such as Billing, Dowson and Chalkwell Houses, located to the south side of

Commercial Road. Given the orientation of the buildings closer to the application site, such as 35-62 Head Street and buildings to the east, along Old Church Road, officers do not envisage any direct or unreasonable level of overlooking, loss of privacy or sense of enclosure for the residents of these buildings.

- 9.130 Given the narrow width of Head Street (just under 7m) and the proximity of the new building, it is considered that the new building would appear overbearing and very close to the existing 4 storey building. Any development coming forward on this site (539-541 Commercial Road) would result in a 6m separation distance from habitable rooms in the proposed development. Therefore, the current proposal would have the potential to be harmful to the opposite site and would blight its future potential for development.
- 9.131 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 terms of the relationship between the proposed residential dwellings and those on neighbouring sites), in accordance with the objectives of Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).
- 9.132 Whilst issues of overlooking and loss of privacy are considered minimal for surrounding buildings, the same cannot be said for the new proposal itself. The new building would have a poor relationship within itself, in particular to the north of the site. The first floor and third to fifth floor plans illustrate this poor relationship of the main building with the smaller addition to the north.



- 9.133 The first floor flats on the corner of the new building along Head Street would face the north part of Head Street and the smaller part of the development. The location and orientation of the two houses are such that they would be subject to direct overlooking and an unreasonable level of overlooking, loss of privacy and sense of enclosure. Local policies require development to protect the amenity of adjoining and surrounding existing and future residents as well as the surrounding public realm. The poor design of this building would not only affect the residents/occupiers of the two houses but would also affect the

amenity of occupiers of the upper floors, from third to fifth floors due to the position and proximity of the balconies and windows.

- 9.134 The balcony of the first floor flat would open onto the garden of the houses and this would represent a poor amenity for the house closest to the main building. It would lead to direct overlooking and would create a poor living condition for the occupiers of that house (closest to the main building). In terms of the relationship between the balconies and the windows of the adjoining flats on the smaller section of the development, the separation distance would measure some two metres. This would also lead to direct overlooking and loss of privacy for the occupiers, both for those who would occupy the corner flats and those within the smaller part of the development. The proposal would result in direct overlooking between habitable rooms for a residential development, which is against the aims of above mentioned policies.
- 9.135 The proposal would lead to a development that is badly designed and would represent a clear sign of overdevelopment. Overall, it is considered that the proposed development would give rise to unacceptable levels of overlooking or loss of privacy and would not protect the amenity of future occupants of this site. The proposal is therefore contrary to Policies SP02 and SP10 in the Core Strategy (2010) and Policy DM25 in the Managing Development Document (2013).

Highways and Transportation

- 9.136 The NPPF and Policy 6.1 of the London Plan (2016) seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.
- 9.137 Core Strategy policies SP08 and SP09, together with policy DM20 of the MDD seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment. 9.138 Policies 6.13 of the London Plan, spatial policy SP09 of the CS and Policy DM22 of the MDD seek to encourage sustainable non-car modes of transport and to limit car use by restricting car parking provision.
- 9.138 The development would have been subject to a S106 agreement prohibiting all occupiers of the new residential units from obtaining on-street parking permits issued by LBTH, had the proposal been considered acceptable and had it been recommended for approval. No on-site disabled parking has been proposed. The Highways officers would also seek the imposition of a bond of £10,000 for the provision of an on-street car parking space in Head Street, should there be a demand for this provision. It was also noted that the residential cycle store and residential bin stores open over highway in contravention of s53 of the Highways Act 1980; however, this has now been amended. The door to the cycle store is also insufficient width and should be widened to at least 1.2m effective width in line with the London Cycle Design Standards. A condition would have addressed this issue.
- 9.139 The proposals would result in a redundant crossover on Head Street. The highways officers have advised the inclusion of a condition to cover all highway improvements necessary to serve this development. Furthermore, a condition requiring approval of a Construction Management Plan prior to commencement

of construction would also have been required had the proposal been deemed acceptable.

Cycling Parking Provision

- 9.140 The cycle parking provision would be in accordance with London Plan cycle standards with 52 cycle stands provided; 48 within the cycle store and 4 for the two triplex family units.
- 9.141 Cycle stand provision would also be included for the commercial use. 2 cycle stands have been included in the revised ground floor plan and these would be located within the alley way on the eastern elevation of the building. The cycle parking provision would be policy compliant and would have been subject to a condition, were the proposal to be supported by officers.

Servicing

- 9.142 It is envisaged by the applicant that deliveries would take place from a loading bay on Commercial road, with 5-7 deliveries forecast every day for the site. Transport for London (TfL) have requested that the applicant assesses the level of occupancy at the loading bay. This has not been done yet. Furthermore, TfL are concerned with the impact of construction on the TLRN. It is noted that the applicant should submit a construction logistics plan (CLP) which broadly outlines the expected level of construction traffic and how the impacts of construction will be mitigated. This would have been subject to a condition, were the proposal to be supported by officers.

Concluding remarks

- 9.143 The Borough Highways & Transportation Team and TfL have reviewed the application and have no objection in terms of car parking and cycle provision or the impact of the scheme on road network subject to appropriate planning conditions including Construction Management. TfL has however sought further information with regards to servicing and level of occupancy of the loading bay; therefore, this proposal is not compliant with policies

Environmental Considerations

Noise and Vibration

- 9.144 Chapter 11 of the NPPF gives guidance for assessing the impact of noise. The document states that planning decisions should avoid noise giving rise to adverse impacts on health and quality of life, mitigate and reduce impacts arising from noise through the use of conditions, recognise that development will often create some noise, and protect areas of tranquillity which have remained relatively undisturbed and are prized for their recreational and amenity value for this reason.
- 9.145 Policy 7.15 of the London Plan, policies SP03 and SP10 of the CS and policy DM25 of the MDD 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.
- 9.146 The applicant has submitted a Noise/Acoustic report which has not been reviewed by the Council's Environmental Health Noise and Vibration officer.

However, officers appreciate that intermittent noise level can be an issue as the site is along a major road.

- 9.147 In general, noise level is not considered to be of a significantly high nature in this area. 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, officers consider that the proposed development would therefore not result in the creation of unacceptable levels of noise and vibration during the life of the development in accordance with the NPPF, policy 7.15 of the London Plan, policies SP03 and SP10 of the CS and policy DM25 of the MDD. It is considered that the proposed development would adequately protect future residents from undue noise disturbance.

Air Quality

- 9.148 Policy 7.14 of the London Plan seeks to ensure design solutions are incorporated into new developments to minimise exposure to poor air quality, Policy SP03 and SP10 of the CS and Policy DM9 of the MDD seek to protect the Borough from the effects of air pollution, requiring the submission of air quality assessments demonstrating how it would prevent or reduce air pollution in line with Clear Zone objectives.
- 9.149 The LBTH Environmental Health Officer confirmed that the updated Air Quality Neutral Assessment shows that the development will meet the air quality neutral requirements.
- 9.150 In light of the above, officers considered that the resulting associated air quality would comply with policy 7.14 of the LP, Policy SP02 of the CS and Policy DM9 of the MDD, which seeks to reduce air pollution.

Contaminated Land

- 9.151 In accordance with the requirements of the NPPF, Policies 5.21 and 5.22 of the London Plan 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 commented that the Site Investigation Report was missing from this proposal. Nevertheless, her overall comments are that subject to conditions (prior to commencement and prior to occupation) 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 appropriately worded planning conditions.

Energy & Sustainability

- 9.152 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.

- 9.153 The submitted 'Sustainability and Energy Statement' (Greengage) has broadly followed the principles of the Mayor's energy hierarchy, and seeks to focus on reducing energy demand, utilising a communal boiler system and integration of renewable energy technologies (PV and ASHP's (for the commercial unit)). The current proposals are anticipated to achieve CO2 emission reductions of 11.3% through Be Lean measures, 5.8% through communal boiler system and 34.2% from a photovoltaic array (24kWp).
- 9.154 At present the proposals the cumulative CO2 savings from these measures are a 45% reduction in CO2 emissions. Subject to Conditions securing the details of 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.
- 9.155 It is recommended that the proposals are secured through appropriate conditions and planning contributions to deliver:
- Delivery of Energy Strategy and CO2 savings to at least 45%
 - Submission of the SAP and SBEM calculations
 - Provide the as built approved calculations for the scheme to demonstrate CO2 savings have been delivered
 - Carbon offsetting contribution to deliver zero carbon residential developments secured through S106 contribution (£40,860)
- 9.156 To conclude, the overall approach to reducing carbon dioxide is supported by the Energy Officer and this is in accordance with relevant policies.

Flood Risk & Water Resources

- 9.157 The NPPF, policy 5.12 of the London Plan, and policy DM13 of the MDD and SP04 of CS relate to the need to consider flood risk at all stages in the planning process. Policy 5.13 of the London Plan seeks the appropriate mitigation of surface water run-off.
- 9.158 The application site does not fall within any Flood Zones and therefore, the main risk is from surface water run-off from the development. The Council's SuDs officer accepts the applicant's intentions to include SuDS as part of the proposed development. However, in order to prevent increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with policy SP04 of the Core Strategy (2010), a condition has been recommended to ensure a surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, for the site is submitted and approved by the local Planning Authority.
- 9.159 Overall, with the application of the appropriate planning conditions, the proposal would be acceptable with regard to sustainable drainage, sewerage and water supply and as such accord with relevant policy and guidance as set out in NPPF, Policies 5.13 of the London Plan, SP04 and DM13 of the Borough adopted Local Plan.

Trees, Ecology and Biodiversity

- 9.160 The Council's Tree Officer considered that the loss of the three trees along the site frontage would have a high landscape and amenity impact. The issue of trees are subject to the Housing Association responsible for the land and TfL. Any tree replacement would need to be accommodated on the open green space rather than on the applicant's site. Further dialogue would need to be had with the housing association to understand the impact of this proposal on the lost trees. The Tree Officer commented on the lack of information at this stage to make an informed decision.
- 9.161 The applicant on his side stated that they had met with the housing association (THH) to discuss replacement trees within the neighbouring land. THH has confirmed that "*subject to consulting adjacent residents of the estate and subject to a planting location plan, they are perfectly happy in principle for replacement trees to be planted within the adjacent green space. It is suggested that 4 are planted to result in a net increase of 1 tree*". The Tree Officer also advised about the trees on the pavement which is within the jurisdiction of TfL. The applicant has again confirmed that "*Telford Homes, in addition to paying the CAVAT value to TfL, would also fund the planting of the replacement trees as well as the on-going maintenance for a set agreed period*".
- 9.162 It should be noted that a petition of 83 signatures against this proposal has been received. The objections raised cited inter alia, loss of trees as one of their main concern with this development. Whilst the applicant has set talks in motion and is addressing ways to deal with the loss of the trees and their replacement, it must be recognised that this issue is close to residents' heart and a sensible dialogue needs to be had with residents, the housing association and the applicant. The matter would need to be resolved to the satisfaction of the Council before officers can support this part of the proposal.
- 9.163 The Borough's Biodiversity Action Plan (2009), Policy 7.19 of the London Plan, Policy SP04 of the Borough's 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. The Borough's Biodiversity Officer is of the view the application site is of negligible existing of biodiversity value and there will therefore be no significant adverse biodiversity impacts.
- 9.164 The Council's Biodiversity Officer is satisfied subject to the application of an appropriate biodiversity condition the completion of the proposed development would result in a net gain in biodiversity including provision for nesting boxes/spaces for swift, generous degree of soft landscaping that will provide opportunities for nectar rich planting. Living roofs are also proposed. Taken overall the proposal will serve to improve the ecology and biodiversity value as sought by the relevant London and Local Plan policies.
- 9.165 Overall and to conclude, officers would accept the biodiversity arrangements. With regards to the trees to be lost and replaced, further information would need to be submitted to truly understand and clarify this issue. As the proposal would be refused, officers have not pursued this further but remained of the opinion that this matter would not have been resolvable by condition alone, as outlined by the applicant and for the reasons stated in paragraph 9.162 above. The loss of the existing trees and lack of an alternative location for the replacement of these trees is indicative of the over development of the site, and furthermore has a negative impact on the visual amenity enjoyed within this location.

Waste

- 9.166 The Borough's Waste Management Team reviewed the draft Waste Strategy and raised some concerns with the proposed arrangement for the development. Further information was requested with regards to bin stores and access for disabled residents. It is noted that TfL have no objection to the proposed refuse arrangements.
- 9.167 The applicant has responded and provided revised ground floor plans and layout and the previous concerns raised by the Waste Office are largely addressed. Any remaining issues such as noise from bin store, calculations of waste and types of bins would have been secured via a condition, had the development been supported by officers.

Planning obligations, socio economic effects and impact upon local infrastructure / facilities

- 9.168 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 appropriate mitigation.
- 9.169 The NPPF requires that planning obligations must be:
- (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and,
 - (c) Are fairly and reasonably related in scale and kind to the development.
- 9.170 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.
- 9.171 Securing appropriate planning contributions is further supported policy SP13 in the CS which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development.
- 9.172 The Council's Supplementary Planning Document on Planning Obligations carries weight in the assessment of planning applications. This SPD provides the Council's guidance on the policy concerning planning obligations set out in policy SP13 of the adopted Core Strategy. The document also set out the Borough's key priorities being:
- Affordable Housing
 - Employment, Skills, Training and Enterprise
 - Community Facilities
 - Education
- The Borough's other priorities include:
- Public Realm
 - Health
 - Sustainable Transport
 - Environmental Sustainability
- 9.173 The financial contributions that have failed to be secured include £40,860 towards carbon offsetting, £11,708.00 to support and/or provide the training and

skills needs of local residents in accessing the job opportunities created through the construction phase of all new development. The council would also seek a monetary contribution of £444.57 towards the training and development of unemployed residents in Tower Hamlets to access either, i) jobs within the uses A1, A2, A3, B1 & D1 of the development; or ii) jobs or training within employment sectors relating to the final development. This would also include a monitoring contribution of £500 for each of the substantial heads of terms.

9.174 The non-financial contributions identified include four (4) apprenticeships during construction phase and one at end phase for 1st three years after occupation of the development

9.175 The proposal would also be liable to pay the LBTH Community Infrastructure Levy. This is dealt with in the following section on financial considerations.

FINANCIAL CONSIDERATIONS

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

9.176 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.

9.177 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.

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

9.179 These are material planning considerations when determining planning applications or planning appeals.

9.180 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012 and would be payable on this scheme if it were approved. The approximate CIL contribution is estimated to be approximately £77, 787.50 for the Mayoral CIL and £148, 312.50 for Tower Hamlets.

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

9.182 Using the DCLG's New Homes Bonus Calculator, this development, if it were to be approved, would generate in the region of £46,015 in the first year and a total payment of £276,088 over 6 years.

HUMAN RIGHTS CONSIDERATIONS

9.183 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:-

9.184 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".

9.185 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.

9.186 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.

9.187 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.

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

9.189 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.

9.190 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered.

EQUALITIES ACT CONSIDERATIONS

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

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

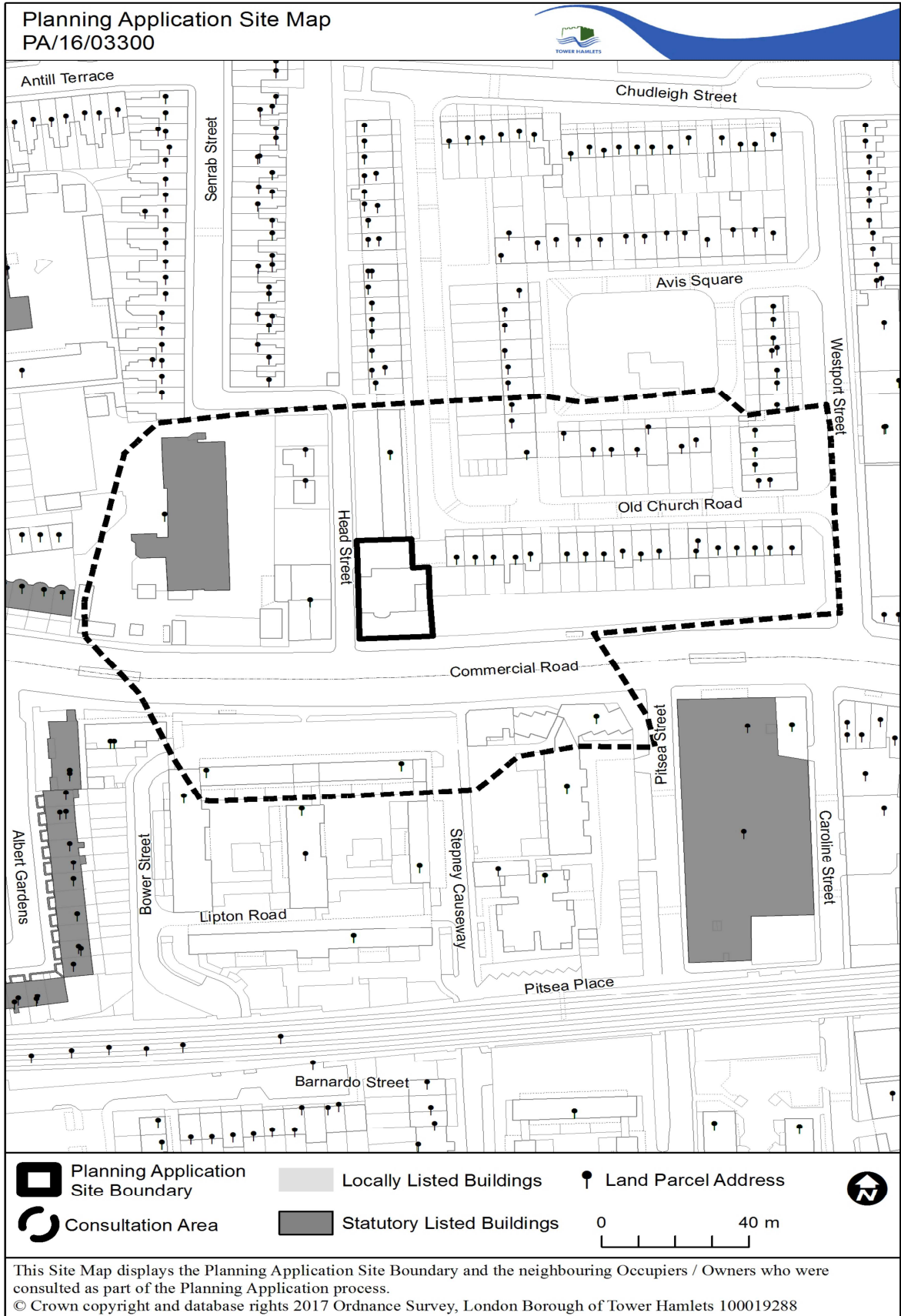
9.192 The residential units and commercial floor space, within the development meets the standards set in the relevant regulations on accessibility. Of the residential units proposed within the development, 10% would be wheelchair accessible. However, as noted above no parking spaces have been proposed for these units. A condition would have been attached to secure a parking space if this proposal was recommended for approval. These design standards 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.

9.193 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 **refused** for the reasons set out in the recommendation at the beginning of this report.

Appendix 1



This page is intentionally left blank