

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

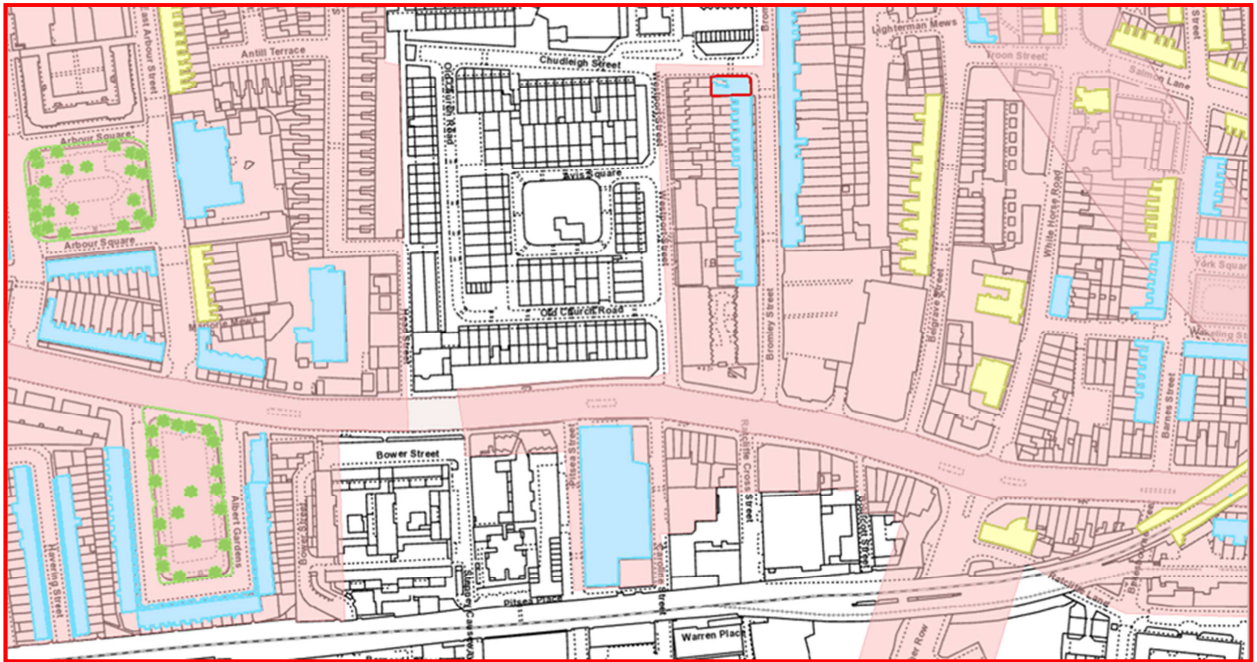
4.2 Commercial Road is predominantly an area rich with commercial/industrial/town centre uses, interspersed by residential buildings. This part of Commercial Road is similar but the vicinity has a higher element of residential spread especially in the side roads as is the case with Head Street, Old Church 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'."

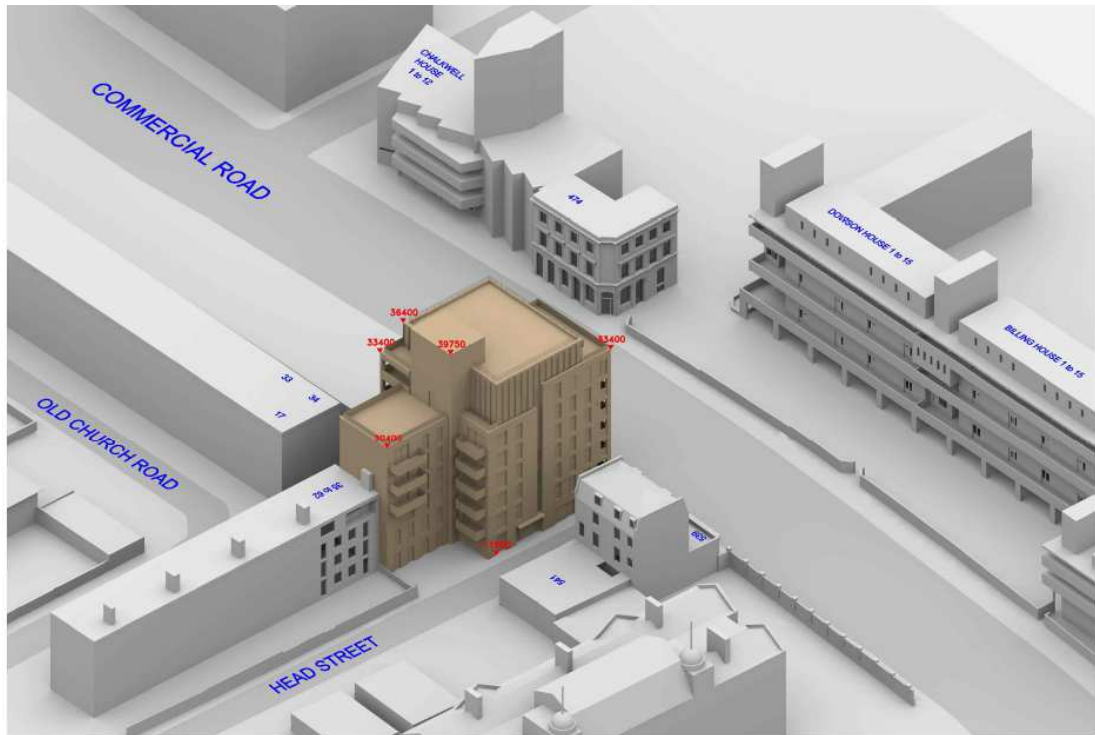
Height, siting and massing

- 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

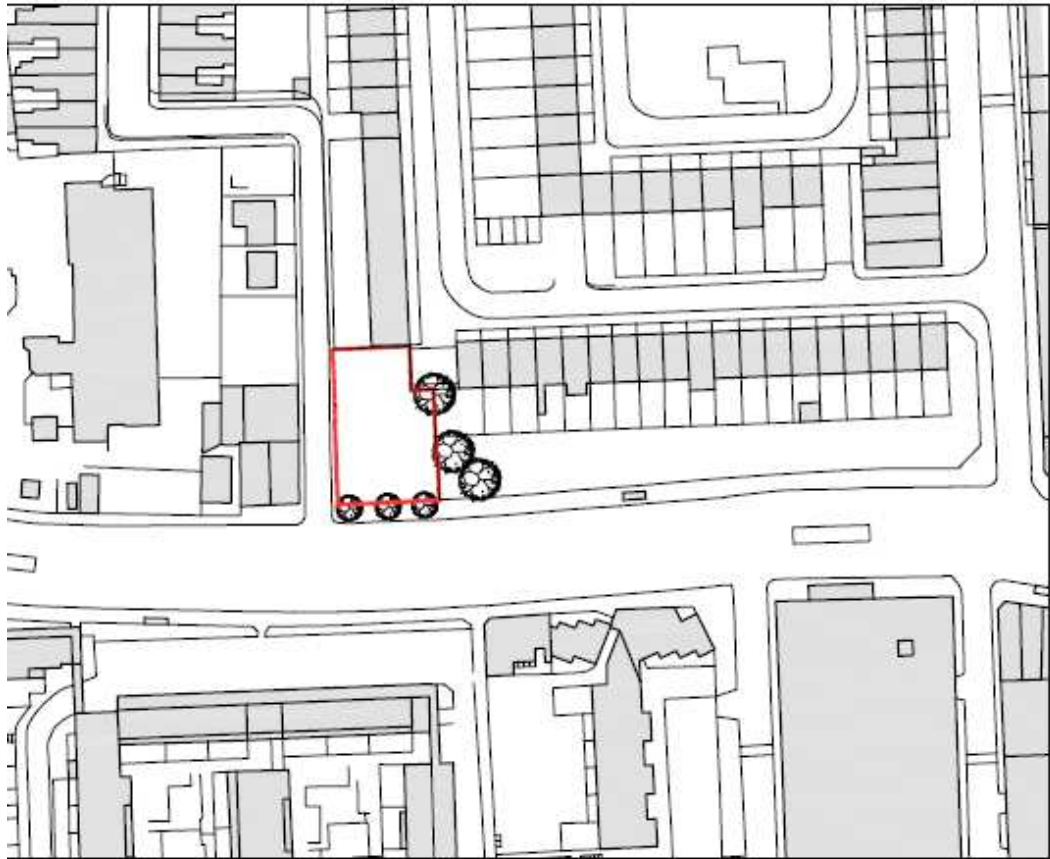
- 9.44 It is noted that the building has attempted to scale itself down by introducing several setbacks at upper levels. However, the building is large and extends to all four corners of the site. That in itself prevents this building from appearing anything but bulky. Although the setbacks vary, the 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

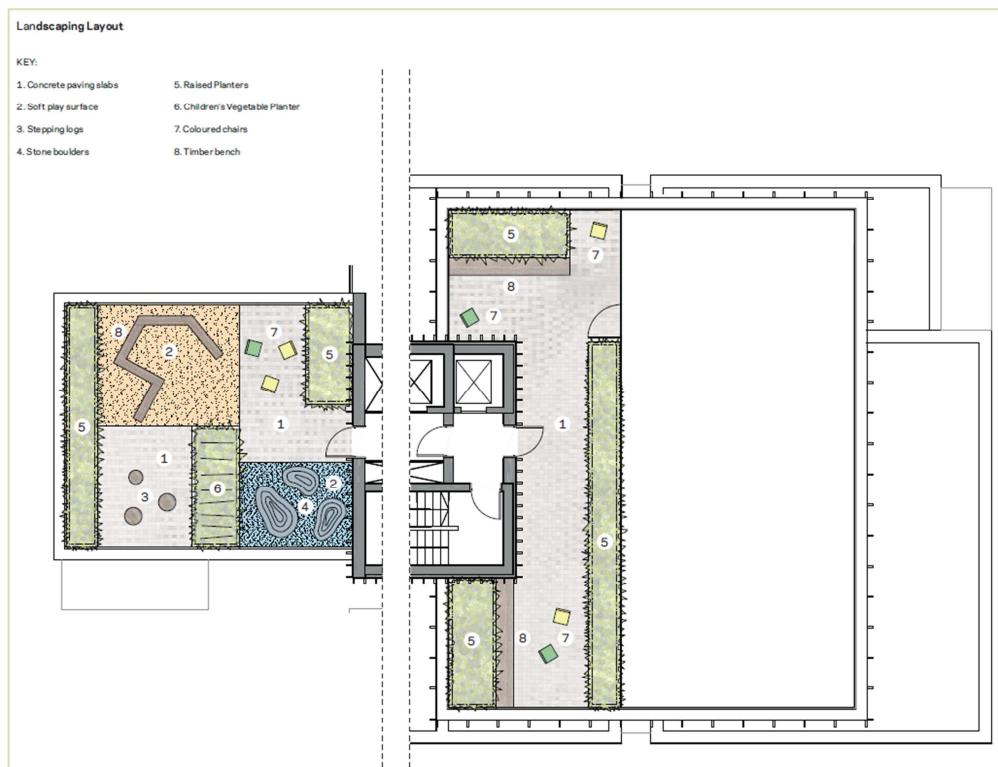
Proportion of children		
	Number of children	%
Under 5	4	33%
5 to 11	5	39%
12+	3	28%
Total	12	100%

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 GLAYield

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

