

<b>Committee:</b> Strategic Development	<b>Date:</b> 17 <sup>th</sup> August 2017	<b>Classification:</b> Unrestricted
<b>Report of:</b> Director of Place		<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Brett McAllister		<b>Ref No:</b> PA/16/00943
		<b>Ward:</b> Mile End

## 1.0 APPLICATION DETAILS

<b>Location:</b>	562 Mile End Road & 1a, 1b, 1c Burdett Road
<b>Existing Use:</b>	Vacant nightclub (sui generis) Existing nightclub (sui generis) 2 retail units (use class A1) Minicab office (sui generis)
<b>Proposal:</b>	Demolition of existing buildings and construction of a mixed use development comprising part 3-storey, part 8-storey and part 12-storey building, 46 residential units, up to 832sqm (GIA) flexible commercial floorspace (A1, A2, B1 and sui generis nightclub), landscaping, public realm improvements, access and servicing (including 1 disabled car parking space; 92 cycle parking spaces; and associated highway works) and other associated infrastructure.
<b>Drawings:</b>	953 PL 001, 953 PL 002, 953 PL 003, 953 PL 004, 953 PL 005, 953 PL 099 Rev. E 953 PL 100 Rev. F, 953 PL 100(b) Rev. C, 953 PL 101 Rev. D, 953 PL 102 Rev. E, 953 PL 103 Rev. D, 953 PL 104 Rev. D, 953 PL 105 Rev. D, 953 PL 106 Rev. D, 953 PL 107 Rev. D, 953 PL 108 Rev. D, 953 PL 109 Rev. D, 953 PL 110 Rev. D, 953 PL 111 Rev. D, 953 PL 115 Rev. D, 953 PL 200 Rev. C, 953 PL 201 Rev. E, 953 PL 202 Rev. D, 953 PL 203 Rev. C, 953 PL 300 Rev. D, 953 PL 301 Rev. D, 953 PL 302 Rev. C, 953 PL 303 Rev. D, 953 PL 310 Rev. B, 953 PL 311 Rev. B, 953 PL 312 Rev. B, 953 PL 313 Rev. B, 953 PL 314 Rev. B, 953 PL 400 Rev. B, 953 PL 401 Rev. A, 953 PL 402 Rev. A, 953 PL 403 Rev. A, 14.44.101 Rev. B, 14.44.102 Rev. A, 14.44.103 Rev., 14.44.104 Rev. A, 14.44.105 Rev. B, 14.44.106 Rev. C,

**Documents:**

- Fire Strategy and Material Specification
- Design & Access Statement by BUJ Architects
- Design & Access Addendum Note by BUJ Architects (Dec 2016)
- Design & Access Addendum Note II by BUJ Architects (March 2017)
- Daylight & Sunlight by GVA
- Daylight & Sunlight Addendum by GVA (Sept 2016)
- Daylight & Sunlight Addendum Statement by GVA (March 2016)
- Shadow Analysis Study (April 2017)
- Flood Risk Assessment by Walsh Group
- Transport Statement by Cole Easdon
- Technical Note by Cole Easdon (March 2017)
- Planning Statement by Signet Planning as updated by Letter by WYG dated 22 December 2016
- Heritage Statement, Townscape and Visual Impact Assessment by Stephen Levrant Heritage Architecture (March 2017)
- Air Quality Impact Assessment by Aecom
- Archaeological Desk Based Assessment by CGMS
- Environmental Noise Assessment by Sharps Redmore
- Geo-technical and Geo-environmental Interpretative Report – Rev. 3 by CGL
- Overheating Assessment Rev. C by BBS
- Retail Impact Assessment by RPS
- Statement of Community Engagement by Bestzone Ltd.
- Structural & Civil Engineering Stage C Report by Walsh Group
- Sustainability Report by FHP
- Viability Report by Gerald Eve LLP
- AVR/VVM Methodology Statement and Camera Record
- Wind Microclimate Study by BMT Fluid Mechanics
- Email from BMT Fluid Mechanics (March 2017)
- Spatial Planning and Overheating Report by FHP
- Planning Schedule of Accommodation by BUJ dated 27/07/2017

**Applicant:** Bestzone Ltd.

**Ownership:** Bestzone Ltd.

**Historic Building:** No listed buildings on site.

**Conservation Area:** Not in a conservation area but adjacent to Tredegar Square and Clinton Road conservation areas. Also near to Ropery Street conservation area.

**2.0 EXECUTIVE SUMMARY**

2.1 This report sets out revisions made to the planning application at 562 Mile End Road & 1a, 1b, 1c Burdett Road. This application was considered by the Strategic

Development Committee on two previous occasions, 16 February 2017 and 25 April 2017.

- 2.2 At the 16 February committee, members were minded not to accept officers' recommendation to grant planning permission for the erection of a building up to 15 storeys, proposing 52 residential units and commercial floorspace. The concerns raised by members included:
1. Height, bulk and massing and impact on townscape
  2. Density and overdevelopment of the site
  3. The servicing provision
  4. Loss of the community facility
  5. Design of the proposal
  6. Air Quality issues
- 2.3 Following committee, officers worked with the applicant and secured amendments to the planning application and sought to address the issues raised. The changes were presented to committee on 25<sup>th</sup> April and included the following:
1. The bulk and massing of the scheme was reduced by lowering the height of the 15-storey tower to 12-storeys with a reduced parapet and reduction of the northern shoulder element by a further storey.
  2. The material treatment of the 3-storey element using a red brick to match the 8-storey element to the southern half of the site to further break up the massing.
  3. The density of the scheme was reduced from 1,671hrph to 1,422hrph.
  4. The housing tenure mix was amended with the provision of 35% affordable housing by habitable room and a 66-34 split in favour of affordable rented units.
  5. The affordable rented units would be provided at 50% London Affordable Rent and 50% LBTH Living Rents in line with LB Tower Hamlets updated rental policy.
  6. Further information was provided with regards to the servicing arrangements which TfL support subject to appropriate conditions; daylight/sunlight/overshadowing impacts improved marginally; as did design and heritage and microclimate.
  7. Appropriate air quality mitigation measures would be subject to conditions.
- 2.4 At committee members were minded not to support officer recommendation for the same 6 reasons as at the February committee (listed above).
- 2.5 This report now considers an amended application that includes a basement nightclub. The full description of development is: demolition of existing buildings and construction of a mixed use development comprising part 3-storey, part 8-storey and part 12-storey building, 46 residential units, up to 832sqm (GIA) flexible commercial floorspace (A1, A2, B1 and sui generis nightclub), landscaping, public realm improvements, access and servicing (including 1 disabled car parking space; 92 cycle parking spaces; and associated highway works) and other associated infrastructure.
- 2.6 The amended drawings show a nightclub within the basement with an entrance at ground floor level on Wentworth Mews, similar to the existing arrangement. An access lift from ground floor level is also provided down to basement level. Within this layout option the basement and ground floor spaces have been re-organised slightly to account for the nightclub unit, with proposed commercial space, plant, refuse, energy centre and storage space re-arranged. Residents' cycle storage is relocated to ground floor level with a minor increase in the mezzanine level to the commercial

unit providing an additional 9.6sqm floor area to compensate for the changes at basement and ground level.

- 2.7 The existing nightclub serves a particular part of the gay community and can be considered to be of some public value, given sexual orientation is a protected characteristic under the Equalities Act 2010. The applicant has proposed a planning obligation to be secured in a Section 106 Agreement to provide first refusal to an operator that caters for the current specific use of the nightclub, within the basement of the new development, to re-provide the existing nightclub. Should the existing operator not come forward prior to occupation of the unit, a re-location strategy secured by a legal agreement is proposed, which would be in place to assist in finding another site for this unique club within Tower Hamlets.
- 2.8 As the description of development has materially changed, a new round of public consultation has been undertaken and the application is being reported to committee in full.
- 2.9 In terms of other matters, the development would result in the provision of 35% affordable housing by habitable room (8 affordable rented units and 4 intermediate units).
- 2.10 The residential quality of the scheme would be high. Out of the 8 affordable rented units 38% would be of a size suitable for families (3 bed+ units). All of the proposed affordable units would meet or exceed the floorspace and layout standards with family sized units being more spacious. The proposed flats would all be served by private balconies and terraces that meet or exceed minimum London Plan SPG space requirements. All of the dwellings would meet the Lifetime Homes equivalent standards and 4 units would be provided as wheelchair accessible.
- 2.11 The report acknowledges that the height of the building would be taller than those in the surrounding area. Through the staggered massing and robust materials used in the design it is considered that the proposal would relate well with the local area. The reduction in the height of the proposal to 12 storeys, ensures the building relates better with adjacent properties whilst continuing to ensure the building achieves its designed aim of providing a landmark for a revitalised Mile End town centre that would deliver good quality homes and commercial space at this large junction and transport hub.
- 2.12 Officers consider that any adverse heritage impacts are minor and are less than substantial, and the impact from the earlier scheme has been reduced further still by the reduction in height.
- 2.13 There would be some localised amenity impacts from the development but overall the impacts would be acceptable. Officers consider that the design and massing of the development would minimise any adverse amenity implications.
- 2.14 The proposal would be acceptable with regard to highway and transportation matters including parking, access and servicing.
- 2.15 Subject to the recommended conditions and obligations, the proposal would constitute sustainable development in accordance with the National Planning Policy Framework. The application is in accordance with the provisions of the Development Plan and there are no other material considerations which would indicate that it should be refused.

2.16 The officer recommendation is to grant planning permission. However, given the context of the previous committee decisions and to expedite the decision making process, if the committee are minded not to accept the recommendation a list of reasons for refusal, that reflect the committees previous position at the meeting on 25 April 2017 is set out in Appendix 2.

### 3.0 RECOMMENDATION

3.1 That the Committee resolve to GRANT planning permission subject to any direction by the London Mayor and the prior completion of a legal agreement to secure the following planning obligations:

#### Financial Obligations:

- a) A contribution of **£18,696** towards employment, skills, training for the construction phase
- b) A contribution of **£21,850.95** towards employment, skills, training for the end user phase
- c) A contribution of **£12,780** towards Carbon Off-Setting.
- d) Commuted sum to meet the full costs of securing an accessible car parking space on Eric Street should there be demand
- e) **£4,000** monitoring fee (£500 per individual S.106 Heads of Terms)

**Total £57,326.95**

3.5 Non-financial Obligations:

- a) Affordable housing 35% by habitable room (12 units)
  - 66% Affordable Rent at Borough affordable rental levels (8 units)
  - 34% Intermediate Shared Ownership (4 units)
- b) Access to employment
  - 20% Local Procurement
  - 20% Local Labour in Construction
  - 20% Local Labour in End User Phase
  - 6 Apprenticeships
- c) Car-permit free agreement;
- d) Securing and delivering accessible public realm;
- e) Option agreement for an operator catering for the specific existing nightclub use to take basement unit, with an obligation to ensure the existing operator is consulted;
- f) Re-provision strategy for existing nightclub including financial assistance up to **£10,000**, if the existing nightclub operator decides not to take the unit when consulted under obligation 'e' above.
- g) Any other planning obligation(s) considered necessary by the Corporate Director of Place

3.4 That the Corporate Director, Place is delegated authority to negotiate and approve the legal agreement indicated above.

3.5 That the Corporate Director, Place is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

3.6 Conditions:

1. Three year time limit
2. Compliance with approved plans and documents;
3. All lifts operational prior to occupation of the relevant part of the development;
4. Approval of all external facing materials including brickwork, render, cladding, window reveals, frames and screening, doors and canopies, guttering, post boxes, soffits and all rooftop structures, including flues and satellite dishes;
5. Approval of details for all hard and soft landscaping, boundary treatment and child playspace;
6. Approval of details of the wheelchair housing specification/standards;
7. Approval of details of all Secure by Design measures (Part 2 Secure by Design Accreditation in consultation with Metropolitan Police);
8. Details of biodiversity enhancements including details of green roofs;
9. Detailed specification, tilt angle and location of photovoltaic panels;
10. Drainage Strategy (including SUDs);
11. Hours of construction and demolition;
12. Demolition and Construction Management/Logistics Plan;
13. Delivery, Refuse and Servicing Management Plan in consultation with TfL;
14. Travel Plan including Trip Generation Forecast;
15. Scheme of ground contamination investigation and remediation;
16. Details of cycle storage;
17. Details of noise and vibration mitigation measures to prevent noise transmission from the nightclub to occupiers of the building or surrounding premises;
18. Post completion, prior to occupation, testing in relation to noise and vibration
19. Control of hours of operation for the nightclub;
20. Customer dispersal management strategy for the night club;
21. Details of air quality mitigation measures;
22. Details of piling, all below ground works and mitigation of ground borne noise (Design and method statement in consultation with London Underground);
23. Scheme of highway improvement works;
24. The accessible parking bay shall only be made available to a resident in possession of a blue badge and should be retained and maintained for the life of the development.
25. No cranes shall be erected on the site unless construction methodology and details of the use of cranes in relation to location, maximum operating height of crane and start/finish dates during the development has been submitted to London City Airport for approval;
26. Updated Energy & Sustainability Strategy;
27. Final energy calculations to show how the scheme has delivered the stated carbon emission reductions;

3.7 Informatives:

1. Subject to a S106 agreement;
2. Standard Thames Water informatives;
3. Contact London Underground Infrastructure Protection;
4. Liable for CIL payments.

3.8 Any other conditions or informatives considered necessary by the Committee or the Director of Place.

## 4.0 PROPOSAL AND LOCATION DETAILS

### Site and Surroundings

- 4.1. The application site is located on the corner of Mile End Road (A11), which bounds the site to the north, and Burdett Road (A1205), which bounds the site to the west. Wentworth Mews, a narrow route between Burdett Road and Eric Street bounds the site to the south. The east of the site is bounded by the Telephone Exchange and 564 Mile End Road.
- 4.2. The site itself is comprised at its north end of 2 and 3 storey buildings with commercial units at ground level facing Mile End Road. Beneath these units runs an underground sewer and railway line. To the south of these extends a long building with a gable pitched roof of 3 storeys in height. The north section and majority of this building was previously used as a nightclub, Boheme, but lost its license in 2011 and has been vacant since. A smaller section to the south, with entrance from Wentworth Mews, is a gay nightclub “The Backstreet” which has been running for around 32 years. Adjoining this building at the south west corner of the site at the corner with Wentworth Mews is 1 Burdett Road, a 3 storey building with 3 commercial units facing Burdett Road (1a, 1b, 1c) and with commercial space in the floors above.
- 4.3. The urban block to the east of the site up to Eric Street is comprised of several commercial units in buildings ranging between 2 and 3 storeys fronting Mile End Road and to the south of these a large inter-war Telephone Exchange building (equivalent of approximately 8 storeys at its highest point).



Figure 1 - Existing Site

- 4.4. To north of the site is the large junction of Mile End Road with Burdett Road from the south and Grove Road from the north. Across Mile End Road there are buildings of between 2 and 4 storeys with a string of commercial units at ground floor that principally extend along the east side of Grove Road. There are also some commercial units opposite on the other side of Mile End Road.
- 4.5. To the west across Burdett Road and to the west of Grove Road is Mile End Park. The park extends over Mile End Road with a green bridge.
- 4.6. Directly to the south across Wentworth Mews is a 4 storey building, Beckett House, with a commercial unit at ground floor with flats above. Further south is a 9 storey residential block, 1-36 Wentworth Mews, that runs parallel with Wentworth Mews. To the south east is a two storey public house, the Wentworth Arms and Butcombe House, another 4 storey estate infill residential block.
- 4.7. Away from the main roads where the retail/commercial is located the surrounding area is residential in character with a few tower blocks interspersed amongst a lower, predominantly 3-5 storey scale. To the north on the opposite side of Mile End Road there are the Clinton Road and Tredegar Square conservation areas. The site is within the Mile End Road neighbourhood centre. It is also designated as a Local Office Location.
- 4.8. The site has excellent transport links reflected in the highest Public Transport Accessibility Level (PTAL) of 6b. Mile End station is located 50 metres to the east of the site along Mile End Road. Bus stops are located on Mile End Road, Burdett Road and Grove Road a few minute's walk away serving 8 different bus routes. Transport for London have recently completed a large scale upgrade of the cycle infrastructure along Mile End Road providing separated lanes leading in and out of central London and there is a Cycle Hire docking station opposite Burdett Road under the green bridge.

### **Planning History and Project Background**

- 4.9. The planning history indicates that the site suffered damage following World War II. A cinema at 560 Mile End Road was destroyed and the junction was eventually widened in its place. In the 1950s La Boheme Ballroom that existed at the site was reinstated. From this time it can be seen that there were permitted planning applications for new shop fronts, fascia signs, the change of use of some of the site to an employment agency and betting shop respectively, and advertisement applications.
- 4.10. Boheme nightclub's licence was removed in 2011 following a murder. The Backstreet, a gay nightclub on Wentworth Mews has been operating since the mid-1980s.

### **Proposal**

- 4.11. Full planning permission is sought for demolition of existing buildings and erection of a mixed use development comprising part 3 storey, part 8 storey and part 12 storey building to provide 46 residential units (9 x studio, 17 x 1 bed, 15 x 2 bed, 5 x 3 bed) landscaping, public realm improvements, access and servicing (including 1 on-site disabled car parking space; 99 cycle parking spaces; and associated highway works) and other associated infrastructure. Across the ground and some of the first floor would be 779sqm of commercial space (Use Classes A1, A2 and B1). This would be



provided across 4 units at a range of sizes including 242.8sqm, 220.1sqm, 192.6sqm and 84.6sqm.

- 4.12. There would be 2 cores with equal sized entrances on Burdett Road. Core A would serve the affordable rented units on floors 1, 2 and 5 in addition to the 5<sup>th</sup> floor communal roof terrace. Core B would serve the intermediate units (2<sup>nd</sup> and 3<sup>rd</sup> floors) and the market units on all other floors (3-11) including the basement for access to refuse and cycle stores for this core. The refuse and cycle stores for core A would be on the ground floor.
- 4.13. The building's massing would be 3 storeys where it meets Mile End Road in a slightly separate element which addresses the street corner and the existing scale on Mile End Road. The central section of the building would rise to a total of 12 storeys stepping down to an 8 storey element at the south of the site. The scheme will be based on a simple palette of high-quality traditional materials.
- 4.14. The previous proposal can be seen in the CGI to the left and the current proposal can be seen to the right. It can be seen that the central taller element has been significantly reduced in height and massing with the reduction of 3 storeys and the shoulder element has been reduced by a further storey. The height of the parapet has also been reduced. The 3 storey element would be in red brick to match the 8 storey element to the south of the site to break up the massing.



Figure 2 - Comparison CGI View from Grove Road South - Original (left) and submitted (right)

- 4.15. The proposed development would be car-free. One on-site disabled parking space is proposed on Wentworth Mews and another on-street parking space would be allocated on Eric Street, which would be converted to accessible should there be demand.

## 5.0 POLICY FRAMEWORK

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

### 5.2 Government Planning Policy

National Planning Policy Framework 2012

### 5.3 London Plan FALP 2016

- 2.9 - Inner London
- 2.14 - Areas for regeneration
- 2.18 - Green infrastructure: the network of open and green spaces
- 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
- 3.13 - 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
- 5.18 - Construction, excavation and demolition waste
- 5.21 - Contaminated land
- 6.3 - Assessing effects of development on transport capacity
- 6.9 - Cycling
- 6.10 - Walking
- 6.13 - Parking
- 7.1 - Building London's neighbourhoods and communities
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.4 - Local character
- 7.5 - Public realm
- 7.6 - Architecture
- 7.7 - Location and design of tall and large buildings
- 7.8 - Heritage assets and archaeology
- 7.13 - Safety, security and resilience to emergency
- 7.14 - Improving air quality
- 7.15 - Reducing noise and enhancing soundscapes
- 7.18 - Protecting local open space and addressing local deficiency
- 7.19 - Biodiversity and access to nature
- 7.21 - Trees and woodland
- 8.2 - Planning obligations

#### 5.4 **Core Strategy 2010**

- SP01 - Refocusing on our town centres
- SP02 - Urban living for everyone
- SP03 - Creating healthy and liveable neighbourhoods
- SP04 - Creating a green and blue grid
- SP05 - Dealing with waste
- SP06 - Delivering successful employment hubs
- 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

#### 5.5 **Managing Development Document 2013**

- DM0 - Delivering Sustainable Development
- DM1 - Development within the town centre hierarchy
- DM3 - Delivering homes
- DM4 - Housing standards and amenity space
- DM8 - Community infrastructure
- DM9 - Improving air quality
- DM10 - Delivering open space
- DM11 - Living buildings and biodiversity
- DM13 - Sustainable drainage
- DM14 - Managing Waste
- DM15 - Local job creation and investment
- DM20 - Supporting a sustainable transport network
- DM21 - Sustainable transportation of freight
- DM22 - Parking
- DM23 - Streets and the public realm
- DM24 - Place sensitive design
- DM25 - Amenity
- DM26 - Building Heights
- DM27 - Heritage and the historic environments
- DM29 - Achieving a zero-carbon borough and addressing climate change
- DM30 - Contaminated Land

#### 5.6 **Supplementary Planning Guidance/Documents and Other Documents**

##### Mayor of London

- Shaping Neighbourhoods: Play and Informal Recreation (2012)
- Sustainable Design and Construction (2013)
- All London Green Grid (2012)
- Housing (2016)
- Culture and the Night Time Economy draft for public consultation April 2017

##### Other

- Planning Obligations SPD (2016)
- Tredegar Square Conservation Area Appraisal (2007)
- Clinton Road Conservation Area Appraisal (2007)
- Ropery Street Conservation Area Appraisal (2007)

## 5.7 Tower Hamlets Community Plan objectives

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

## 6.0 CONSULTATION RESPONSE

6.1 The views of the Directorate of Place are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The summary of consultation responses received is provided below.

6.2 The following were consulted regarding the application:

### **External Consultees**

#### 6.3 London Underground Infrastructure Protection (LUIP)

LUIP object to this development as the site is a TfL asset and permission has not been granted for demolition of existing buildings and construction of a mixed use development. The lease states that the tenant shall not make any application for planning permission without the previous written consent of the Landlord.

6.4 LUIP state that the objection can be lifted once the terms of the lease have been amended and request the tenant to contact us.

6.5 Should planning permission be granted, and these works go ahead, it would need to be demonstrated that suitable precautions have been included in the designs to avert any short or long term risk to London Underground assets. In that instance they request that the grant of planning permission be subject to a condition and informative to secure a design and method statement in consultation with LUIP.

6.6 Officer comment: The applicant has advised they are in dialogue with the London Underground Infrastructure Protection. It is also considered the grounds for objection or more on civil matters pertaining to the lease agreement. This is outside of the planning process and the grant of planning permission will not affect this process.

#### Transport for London

6.7 April 2017: Confirm that they are satisfied with the loading bay proposals on the condition that a Delivery and Servicing Plan demonstrates that loading can be accommodated within the loading bay restrictions that currently exist. TfL expect to be consulted on the Delivery and Servicing Plan by the Council.

6.8 As a car free development that has excellent public transport links and that is well connected by cycle, we expect the majority of trips to the site to be non-car. This is welcome. Trip generation forecast is requested (Officer Note: this will be secured by condition).

#### Thames Water (TW)

6.9 No objections. Conditions and/or informatives are requested relating to the provision of a piling method statement, public sewers crossing or close to the development, surface water drainage, impact studies on of the existing water supply infrastructure,

development near to and future access to large water mains adjacent to the proposed development.

Greater London Authority

6.10 The Deputy Mayor considered the application at Stage 1 on 5<sup>th</sup> July 2016. The Council was informed that the application broadly conforms with the London Plan but does not fully comply. Possible amendments could address the following:

- **Principle of development** - The principle of a residential-led mixed use development is strongly supported in strategic planning terms.
- **Housing** - comments were made on the basis of incorrect information. An increase in the proportion of affordable housing and policy compliant housing mix is generally sought.
- **Residential standards** - All dwellings comply with minimum space standards, 'lifetime homes' and 10% of units would be wheelchair accessible which is supported in principle. It is advised that a condition securing standards M4(2) and M4(3) of the Building Regulations should be imposed.  
Child play space provision would address the needs of under 5s. The Council is encouraged to consider seeking an additional open space contribution for Mile End Park to mitigate the scheme's reliance on it for older children's play space.  
The scheme would exceed the London Plan density matrix which is acceptable in the context of its central location and accessibility.
- **Urban design** – although not designated heritage assets the loss of the existing buildings are of some value in townscape terms but the submitted heritage statement is considered to justify the loss citing the wider benefits of the scheme.
- **Tall building** appropriateness. Although visible from various conservation areas the proposal would provide an appropriate response in townscape terms.  
On ground floor there should be no sizing disparity between the entrances and lobbies for the private and affordable units, maximising active frontages to Burdett Road and allowing cycle storage areas to be accessed from within the building.
- **Inclusive access** – The provision of only one on-site disabled car parking space does not accord with Housing SPG standards. Applicant should identify appropriate on-street provision.
- **Sustainable development** – a number of detailed clarifications are sought with respect to efficiency standards and district networking.  
The Council is encouraged to secure detailed approval of the various climate change adaptation measures via condition.
- **Transport** – Swept path analysis is sought to demonstrate that larger vehicles can access the blue badge space.  
Applicant should identify more on-street disabled parking spaces.  
Transport Statement should be updated to reflect current street conditions.  
Trip generation assessment should be based on a larger site sample size.  
The applicant should also disaggregate by mode.  
The scheme meets cycle parking standards but more spaces are encouraged owing to the proximity of the scheme to new cycling infrastructure.  
Location and design of 3 commercial visitor spaces should be confirmed.  
Confirmation of whether the visitor spaces are for the residential or commercial elements of the development is requested.

Pedestrian Environment Audit should be submitted. Pedestrian environment on Burdett Road could be improved.

Frequency of deliveries and vehicle size should be assessed to determine the adequacy of the loading bay.

Travel Plan should be submitted.

#### London Fire

- 6.11 The Brigade needs to confirm that the Access and Water Supplies for the proposed development are sufficient and meet the requirements in Approved Document B (B5, Section 15, 16 & 17) and British Standard 9990.
- 6.12 The Brigade is satisfied with the proposals at this stage of the planning process.
- 6.13 This Authority strongly recommended that sprinklers are considered for the new development.

#### London City Airport

- 6.14 The proposed development has been examined from an aerodrome safeguarding perspective and from the information given LCY has no safeguarding objection. However please include the following condition:

No cranes shall be erected on the site unless construction methodology and details of the use of cranes in relation to location, maximum operating height of crane and start/finish dates during the development has been submitted to London City Airport for approval.

#### **Internal Consultees**

##### Environmental Health – Contamination

- 6.15 A scheme of investigation for contamination is requested as a condition.

##### Environmental Health - Noise and Vibration

- 6.16 No comments received.

##### Air Quality

- 6.17 The air quality assessment shows that the development is located in a highly polluted area. The results show that the NO<sub>2</sub> annual objective will be exceeded at the site up to the 4th floor.
- 6.18 (Officer note: as such mitigation measures will be conditioned to be provided to all facades and floors where the objective is reported to be exceeded.)
- 6.19 Balconies should be avoided looking over Burdett Road and Mile End Road on the lower floors to reduce residential exposure to and mitigate against the high pollution levels.
- 6.20 (Officer note: an area outdoor private amenity space has been prioritised for the lower units but winter gardens are a possible alternative should there be concern in this regard)

6.21 The applicant has provided revised details confirming the CHP plant has a NOx emission rate of 52 mg/Nm<sup>3</sup> which is within GLA emission limits.)

## **7.0 LOCAL REPRESENTATION**

### Statutory Consultees

7.1 Consultation for the proposal was carried out when the application was first submitted in May 2016, January 2017 and July 2017 following respective amendments to the scheme.

7.2 Letters were sent to occupiers of neighbouring properties, a total of 1,095 in all, 3 site notices were displayed outside the application site, and a press advert was published in a local newspaper.

7.3 Following re-consultation in July 2017, based on the current proposal, the Council received 14 additional responses, of which 2 previously objected and 2 is in support.

### Current Scheme

No of individual responses:	Objecting: 18 Supporting: 1
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No of petitions received:	0
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7.5 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

### **Objections**

#### Design

Inappropriate scale  
Impact on views from Rhonda Grove

#### Housing

Density outside of guidelines

#### Amenity

Noise from nightclub  
Anti-social behaviour/crime from nightclub  
Accuracy of the shadow analysis,  
Fire safety  
Air quality  
Wind speeds  
Air quality

#### Highways

Lack of parking  
One loading bay insufficient  
Inappropriate development over underground line

### **Support**

#### Design





Residential/commercial development on this site welcome

#### Highways

Too few on-site car parking places, increase in parking stress in the area  
Increase in public transport demand and overcrowding of Mile End underground station

Access and servicing provision is inadequate

Too many cycle parking spaces for residents

#### Other

Lack of community benefits

Increased demand for local services

Insufficient play space

### **8.0 MATERIAL PLANNING CONSIDERATIONS**

8.1 The main planning issues raised by the application that the Committee are requested to consider are:

- Land Use
- Housing
- Design
- Amenity
- Transport, Access and Servicing
- Sustainability and Environmental Considerations
- Planning Obligations

#### **Land Use**

8.2 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles:

- an economic role – contributing to the economy through ensuring sufficient supply of land and infrastructure;
- a social role – supporting local communities by providing a high quality built environment, adequate housing and local services; and
- an environmental role – protecting and enhancing the natural, built and historic environment.

8.3 These economic, social and environmental goals should be sought jointly and simultaneously.

8.4 Paragraph 9 of the NPPF highlights that the pursuit of sustainable development includes widening the choice of high quality homes, improving the conditions in which people live and take leisure, and replacing poor design with better design. Furthermore, paragraph 17 states that it is a core planning principle to efficiently reuse land that has previously been developed and to drive and support sustainable economic development through meeting the housing needs of an area.

8.5 Policy 2.9 of the London Plan identifies the unique challenges and potential of inner London and specifies that boroughs should work to sustain its economic and demographic growth while addressing concentrations of deprivation and improving the quality of life and health for those living there.

- 8.6 The site is within the Mile End neighbourhood centre and the place of Mile End as set out in the Core Strategy SP12 Annex which seeks to create a lively and well-connected place with a vibrant town centre complemented by the natural qualities offered by the local open spaces.

#### Principle of residential use

- 8.7 Delivering new housing is a key priority both locally and nationally. Through policy 3.3, the London Plan seeks to alleviate the current and projected housing shortage within London through provision of an annual average of 42,000 net new homes. The minimum ten year target for Tower Hamlets, for years 2015-2025 is set at 39,314 with an annual monitoring target of 3,931. The need to address the pressing demand for new residential accommodation is addressed by the Council's strategic objectives SO7 and SO8 and policy SP02 of the Core Strategy. These policies and objectives place particular focus on delivering more affordable homes throughout the borough.
- 8.8 The principle of residential use at this site is acceptable in line with SP02 (1a) which focuses new housing in the eastern part of the borough including the Place of Mile End. The Core Strategy vision for the Place of Mile End specifies that the area is anticipated to undergo housing growth on infill sites.
- 8.9 Given the above and the residential character of surrounding area around the site, the principle of a housing development this brownfield site is strongly supported in policy terms.

#### Loss of Nightclubs

- 8.10 Previously it was proposed to remove the vacant nightclub and an existing nightclub from the site to make way for the development and re-provide the existing nightclub elsewhere in the borough.
- 8.11 With regards the loss of the larger vacant nightclub, "Boheme", this establishment was stripped of its license in 2011 following a murder at the club and has not been used since. It is considered that re-provision of this club is unviable and the use of the site for the proposed residential led mixed-use scheme is the optimal use of the site.
- 8.12 The existing nightclub to the rear of the site: "The Backstreet" with entrance on Wentworth Mews is a gay nightclub. The nightclub operates a strict dress code specialising in leather and rubber. The website states that it has been running for 32 years, that the club has a large international membership of more than 6,000 members and is unique in Britain for its strict dress code. A number of representations received attest to the fact that it is an important and renowned LGBT+ venue, both within London and further afield.
- 8.13 The Draft Culture and Night Time Economy SPD, attempts to stem the loss of London's cultural and night time infrastructure. In terms of LGBT+ venues there has been a fall of 58% within the last decade. The SPD states that "facilities that meet the needs of particular groups (for example, the LGBT+ community) should be protected. The loss of these facilities should be resisted." It goes on to say:
- 8.14 "Planning decisions should guard against the unnecessary loss of valued social, recreational and cultural facilities and services. They should ensure that such facilities are able to develop and modernise and are retained for the benefit of the community."

- 8.15 Policy 3.1 of the London Plan states that development proposals should protect and enhance facilities and services that meet the needs of particular groups and communities. Proposals involving loss of these facilities without adequate justification or provision for replacement should be resisted. The supporting text links the policy to the statutory duties under the Equalities Act 2010 which identifies sexual orientation as a protected characteristic.
- 8.16 Policy DM8 of the Managing Development Document states that health, leisure and social and community facilities will be protected where they meet an identified local need and the buildings are considered suitable for their use.
- 8.17 The policy does not provide an exhaustive list of what constitutes community infrastructure, instead the policy lists the types of facilities that can be included.
- 8.18 It is considered that the nightclub could be considered as community infrastructure for the purpose of the aforementioned policies, being a meeting place and a social & leisure facility for a certain section of the LGBT+ community. From neighbour representations the impression is that it meets a local need in addition to serving a much wider catchment.
- 8.19 The current location of the backstreet is within an appropriate town centre location and the use has existed in the area with no noise or licensing complaints received by the Council.
- 8.20 Previously re-provision on site within the basement was dismissed due to the belief that there was not sufficient space in addition to the space for plants, refuse and bike storage required for the rest of the building. By moving the cycle parking for the intermediate/private units out of the basement and to the void area to the east of the building on the ground floor and using the basement space connected to commercial unit 2 the applicant has been able to rearrange the basement to provide a 233sqm space to re-provide the Backstreet nightclub. This space should actually allow the nightclub to expand its capacity, from 150 to 200 people, allowing this valued social and recreational facility to expand.
- 8.21 With commercial units above on ground floor that would be constructed with solid concrete floors providing a buffer; it is considered that the nightclub would be able to operate with minimal amenity impacts on the future residents of the development. The proposed smoking area on Wentworth Mews would be similarly located to the existing. The level of comings and goings would increase with any increase in capacity. This is considered acceptable within this relatively busy town centre located around a large junction.
- 8.22 The residential scheme that would essentially be built above the existing nightclub is what the Draft SPD terms the 'agent of change'. The onus is therefore on the developer to remove the prospect of neighbour complaints coming from residents of the future development. Sensitivity from this development should be managed with appropriate acoustic, vibration and sound insulation treatments which will be conditioned.
- 8.23 The re-provision offered by the applicant is bespoke to this operator prior to occupation. The club will be provided for the Backstreet only. Following occupation by the existing operator, if it folds or moves the use will be retained as a nightclub generally.

- 8.24 In the event the existing nightclub operator decides they do not wish stay at the location whether it is prior to occupation, or if at a point in time, or after the commencement of the superstructure works or where the redevelopment is taking longer than 18 months for completion of the development's shell, then the applicant has committed to working with the present night club operator to help relocate the nightclub to suitable premises within the borough.
- 8.25 The relocation strategy would be included in the S106 Heads of Terms. As part of the relocation strategy the applicant would contribute towards the operator's relocation costs such as estate agent and legal fees (up to a cap of £10,000.00 exclusive of VAT). In such a case the scheme would revert back to that which was seen by members at the April committee.

#### Re-provision of commercial space

- 8.26 In addition to the nightclub, the scheme would also remove three existing commercial units on Burdett Road, however, in terms of the proposed non-residential uses at the site, the scheme would provide a night club at basement level measuring 240sqm, 467.6 sqm gross internal area for retail (use class A1), financial and professional (A2) and business (B1) floorspace across 5 units. Concern was raised in a representation received that the commercial floorspace would remain vacant. In order to allow flexibility for market conditions to ensure occupation the total commercial space could either be used in combination of these use classes or one of the use classes could be used for all of the commercial units.
- 8.27 Regarding the proposed commercial uses, a re-provision of high quality floorspace and range of units within the designated Mile End neighbourhood centre is supported in accordance with the SP01 (4a) of the Core Strategy which looks to direct additional retail and business uses to town centres.
- 8.28 In terms of employment floorspace, the site is within a local office location. Policy DM16 of the MDD states that the redevelopment of Local Office Locations (LOLs) to include residential uses will be supported if the existing office floor space is re-provided on-site and where it provides separate access and servicing for commercial uses and residential uses, ensures the provision of residential uses does not jeopardise the function and viability of the office uses, provides high quality flexible working space which is usable and provides a range of flexible units including units less than 250 square metres and less than 100 square metres to meet the needs of Small and Medium Enterprise (SMEs). The four units proposed would comply with this policy providing a range of unit sizes at 242.8sqm, 220.1sqm, 192.6sqm and 84.6sqm.

#### **Housing**

- 8.29 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" 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.
- 8.30 As mentioned in the Land Use section of this report, delivering new housing is a key priority both locally and nationally.

## Residential density

- 8.31 Policy 3.4 of the London Plan seeks to optimise the density of development with consideration for local context and public transport capacity. The policy is supported by Table 3A.2 which links residential density to public transport accessibility and urban character. Policy SP02 of the Core Strategy while reiterating the above adds that density levels of housing should correspond to the Council's town centre hierarchy and that higher densities should be promoted in locations in or close to designated town centres.
- 8.32 Guidance on the implementation of London Plan Policy 3.4 is provided by the Mayor's 'Housing' SPG 2016. 'Optimisation' is defined as 'developing land to the fullest amount consistent with all relevant planning objectives.' (Para. 1.3.1).
- 8.33 The SPG states further that '*It is essential, when coming to a view on the appropriate density for a development, that proper weight is given to the range of relevant qualitative concerns*' (Paragraph 1.3.9) and that '*Conversely, greater weight should not be given to local context over location or public transport accessibility unless this can be clearly and robustly justified. It usually results in densities which do not reflect scope for more sustainable forms of development which take best advantage of good public transport accessibility in a particular location.*' (Paragraph 1.3.10).
- 8.34 The density ranges should be considered a starting point not an absolute rule when determining the optimum housing potential. London's housing requirements necessitate residential densities to be optimised in appropriate locations with good public transport access. Consequently, the London Plan recognises the particular scope for higher density residential and mixed use development in town centres, opportunity areas and intensification areas, surplus industrial land and other large sites. The SPG provides general and geographically specific guidance on the exceptional circumstances where the density ranges may be exceeded.
- 8.35 SPG Design Standard 6 requires development proposals to demonstrate how the density of residential accommodation satisfies London Plan policy relating to public transport access levels and the accessibility of local amenities and services, and is appropriate to the location.
- 8.36 Schemes which exceed the ranges in the matrix must be of a high design quality and tested against the following eight considerations:
- *local context and character, public transport capacity and the design principles set out in Chapter 7 of the London Plan;*
  - *the location of a site in relation to existing and planned public transport connectivity (PTAL), social infrastructure provision and other local amenities and services;*
  - *the need for development to achieve high quality design in terms of liveability, public realm, residential and environmental quality, and, in particular, accord with housing quality standards;*
  - *a scheme's overall contribution to local 'place making', including where appropriate the need for 'place shielding';*
  - *depending on their particular characteristics, the potential for large sites to define their own setting and accommodate higher densities;*
  - *the residential mix and dwelling types proposed, taking into account factors such as children's play space provision, school capacity and location;*

- *the need for the appropriate management and design of refuse/food waste/recycling and cycle parking facilities; and*
- *whether proposals are in the types of accessible locations the London Plan considers appropriate for higher density development including opportunity areas.*

- 8.37 As stated earlier in this report, the site has an excellent public transport accessibility level (PTAL) of 6b, the very highest level. The London Plan defines “Urban” areas as those with predominantly dense development such as, for example, terraced houses, mansion blocks, a mix of different uses, medium building footprints and typically buildings of two to four storeys, located within 800 metres walking distance of a District centre or, along main arterial routes. The site and surrounding area has a character that fits this definition of an “Urban” area given in the London Plan.
- 8.38 Table 3.2 of the London Plan sets out an indicative density range for sites with these characteristics and transport accessibility of 200 to 700 habitable rooms per hectare (hrph) and with an average of just over 3 habitable rooms per unit: 70 to 260 units/hectare (uph).
- 8.39 The proposed density has been reduced from 1,671hbph from the scheme as was submitted to 1,465hrph. This is just over double the upper end of the density ranges set out in this table, for both habitable rooms per hectare and unit’s pre hectare and as such particular care has been taken to ensure that this density can be appropriately accommodated on site.
- 8.40 The Housing SPG (2016) states that “in appropriate circumstances, it may be acceptable for a particular scheme to exceed the ranges in the density matrix, providing important qualitative concerns are suitably addressed.” Schemes that exceed the density matrix must be of a high quality design and should be tested against the following considerations:
- the factors outlined in Policy 3.4, including local context and character, public transport capacity and the design principles set out in Chapter 7 of the London Plan;
  - the location of a site in relation to existing and planned public transport connectivity (PTAL), social infrastructure provision and other local amenities and services;
  - the need for development to achieve high quality design in terms of liveability, public realm, residential and environmental quality, and, in particular, accord with the housing quality standards set out in Part 2 of this S PG;
  - a scheme’s overall contribution to local ‘place making’, including where appropriate the need for ‘place shielding’;
  - depending on their particular characteristics, the potential for large sites to define their own setting and accommodate higher densities;
  - the residential mix and dwelling types proposed in a scheme, taking into account factors such as children’s play space provision, school capacity and location;
  - the need for the appropriate management and design of refuse/food waste/recycling and cycle parking facilities; and
  - Whether proposals are in the types of accessible locations the London Plan considers appropriate for higher density development (e.g. town centres, opportunity areas, intensification areas, surplus industrial land, and other large sites).
- 8.41 The following report will go on to demonstrate that the scheme, on balance, meets the above criteria. Officers have sought to weigh up the proposal’s impacts against

the benefits of the scheme and in particular the significant provision of housing in a highly sustainable location.

#### Affordable housing

- 8.42 In line with section 6 of the NPPF, the London Plan has a number of policies which seek to guide the provision of affordable housing in London. Policy 3.8 seeks provision of a genuine choice of housing, including affordable family housing. Policy 3.9 seeks to encourage mixed and balanced communities with mixed tenures promoted across London and specifies that there should be no segregation of London's population by tenure. 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. Policy 3.13 states that the maximum reasonable amount of affordable housing should be secured.
- 8.43 The LBTH Community Plan identifies the delivery of affordable homes for local people as one of the main priorities in the Borough and Policy SP02 of the Core Strategy 2010 sets a strategic target of 35-50% affordable homes on sites providing 10 new residential units or more (subject to viability).
- 8.44 Policy SP02 requires an overall strategic tenure split for affordable homes from new development as 70% social rent and 30% intermediate.
- 8.45 The scheme that was originally submitted in April 2016 offered a total of 15 of the 52 residential units to be provided as affordable units, which represented a total on-site provision of 35% affordable housing based on habitable rooms. However the tenure split was 40% affordable rent to 60% intermediate which failed to comply with the LBTH policy of 70% affordable rent to 30% intermediate. Following negotiations a revised tenure split was put forward in January 2017 of 69.6% affordable rented and 39.4% intermediate which closely aligned with policy. This was presented at Strategic Committee in February.
- 8.46 Following the decision by committee to reject the application in February the height and massing of the building has been reduced which has put increased pressure on the housing offer.
- 8.47 The current scheme would provide 46 units (35% affordable) in the following mix, the figure in the brackets represents the change from the earlier scheme:

	Units	% Units	Hab Rooms	% Hab Rooms
Affordable Rent	8 (-2)	17%	25 (-7)	23%
Intermediate	4 (-1)	9%	13 (-1)	12%
<b>Total Affordable</b>	<b>12 (-3)</b>	<b>26%</b>	<b>38 (-8)</b>	<b>35%</b>
<b>Market Sale</b>	<b>34 (-3)</b>	<b>74%</b>	<b>70 (-12)</b>	<b>65%</b> (at a tenure split of 66:34 Rented: Intermediate)
TOTAL	46 (-6)	100%	108 (-20)	100%

Table 1 - Affordable Housing Mix

8.48 The proposed delivery of 35% affordable housing meets the Council's minimum policy target. The tenure split within the affordable housing however moves from the preferred 70:30 to 66:34 affordable rented to intermediate. The housing offer has been independently scrutinised by viability consultants appointed by the Council who consider that what is offered is the maximum reasonable amount of affordable housing that can be provided whilst ensuring the scheme remains viable. The profit margin for the applicant has been reduced in order to achieve policy targets.

8.49 The affordable rented accommodation would be provided at 50% London Affordable Rent and 50% LBTH Living Rents based upon LB Tower Hamlets most up-to-date rental policy.

8.50 The affordable rent levels are:

2017-18 Borough wide figs.	1 bed	2 bed	3 bed	4 bed
London Affordable Rent (excl. service charge)	144.26	152.73	161.22	169.70
TH Living Rent (inc. service charge)	202.85	223.14	243.42	263.71

Table 2 - Rent Levels

8.51 The intermediate properties are to be provided as shared ownership and would accord with affordability levels of the London Plan.

8.52 Overall, the provision of affordable housing has been maximised, the proposal meets policy targets and the overall tenure mix on site would assist in creation of a mixed and balanced community.

#### Dwelling mix

8.53 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.

8.54 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 homes to be for families.

8.55 Policy DM3 (part 7) of the Managing Development Document requires a balance of housing types including family homes.



8.56 The proposed dwelling mix for the revised scheme is set out in the table below:

		affordable housing						market housing		
		Affordable rented			intermediate			private sale		
Unit size	Total units	scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %
studio	9	0	0	0%	0	0	0%	9	26	0%
1 bed	17	2	25	30%	0	0	25%	15	44	50.00%
2 bed	15	3	38	25%	3	75	50%	9	26	30.00%
3 bed	5	3	38	30%	1	25	25%	1	3	20%
4 bed+	0	0	0	15%	0	0		0	0	
<b>Total</b>	<b>46</b>	<b>8</b>	<b>100%</b>	<b>100%</b>	<b>4</b>	<b>100%</b>	<b>100%</b>	<b>34</b>	<b>100%</b>	<b>100%</b>

Table 3 - Dwelling Mix

8.57 In terms of affordable Rented Housing:- there are 25% one beds against a policy target of 30%, 38% two beds against a 25% target, a 38% provision of three beds against a 30% target and no provision of 4 beds or larger for which there is a 15% target. It can be seen that there is an under provision of rented family sized units (3 beds and larger), at 38% it falls slightly below the Council's 45% requirement. It is appreciated that as the total rented only equates to 8 units, the percentage within the tenure mix is easily skewed.

8.58 In terms of intermediate/shared ownership: - there are no one beds against a policy target of 25%, 75% two beds against a target of 50% and 25% provision of three beds against a target of 25% for three beds or larger. The intermediate mix provides more 2 bed units at the expense of 1 bed units but meets the target for 3 bed units. Again the small amount of units means the percentages are skewed.

8.59 It can therefore be seen that within the affordable rented and intermediate tenures of the proposed development the dwelling mix generally accords with the policy targets.

8.60 Within the private element of the scheme 26% are studio units against no policy target, 44% of one beds are provided against a policy requirement of 50%, 26% of two bed units against our policy requirement of 30%, 3% of three bed units are provided against a policy requirement of 20%.

8.61 Within the private element of the scheme it can be seen that there is a very slight under-provision of 1 and 2 bed flats. A large percentage of studio units and an under provision of 3 bedroom units skews the percentages away from the policy targets for these sizes of units. Family units are considered less appropriate on the upper floors of this tower development which is considered to be a mitigating factor in the mix. This mix also has been designed to maximise the viability of the scheme and therefore allowed it to provide more affordable housing. It is considered that although there is this divergence from the policy targets, having generally accorded with policy

in the other tenures including providing 38% of affordable units as family-sized, it is considered that the housing mix is acceptable.

#### Standard of residential accommodation

- 8.62 London Plan policy 3.5, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document seek to ensure that all new housing is appropriately sized, high-quality and well-designed. Specific standards are provided by the Mayor of London Housing SPG to ensure that the new units would be “fit for purpose in the long term, comfortable, safe, accessible, environmentally sustainable and spacious enough to accommodate the needs of occupants throughout their lifetime.”
- 8.63 All of the proposed units would meet or exceed the baseline internal floorspace standard. In line with guidance, the detailed floor plans submitted with the application demonstrate that the proposed dwellings would be able to accommodate the furniture, storage, access and activity space requirements.
- 8.64 The large majority of the proposed units would be at least double aspect and none of the units that would be single aspect would be north facing. These would either be oriented west or south.
- 8.65 It is considered that the proposal would meet and exceed the relevant design standards and would represent an exemplary standard of living accommodation and amenity to the future occupiers of the scheme.

#### Safety and security

- 8.66 The site has been design to high security standards. The proposed entrances on Burdett Road and fenestration to the ground floor would result in a high proportion of active frontage. This would result in a high level of passive surveillance and have a positive effect on actual and perceived safety and security.
- 8.67 A condition would be attached to the permission for secure by design standards to be secured.

#### Inclusive Access

- 8.68 Policy 3.8 of the London Plan and Policy SP02 of the Core Strategy require that all new housing is built to Lifetime Homes Standards and that 10% is designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- 8.69 Four wheelchair accessible homes are proposed which amounts to 9% of the total units. These would be spread across all tenures with 1 unit to be located within the affordable rented tenure, 1 within the intermediate tenure and 2 within the private tenure.
- 8.70 The rented unit will be “wheelchair accessible” as opposed to “adaptable”. This 3 bed wheelchair unit for rent will also benefit from a large private amenity space by way of a 57.5sqm terrace.
- 8.71 The detailed floor layouts and locations within the site for the wheelchair accessible homes will be conditioned. One disabled accessible parking space would be provided on Wentworth Mews while one space would be allocated to be converted to accessible spaces should there be demand within the scheme.

- 8.72 All of the units would meet the new Building Regulations standards which have replaced the Lifetime Homes Standards.

Private, Communal and Child Play Space

- 8.73 London Plan policy 3.5, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document require adequate provision of private and communal amenity space for all new homes.
- 8.74 All of the proposed units would have a private balcony or terrace that is at least 1500mm wide and would meet the minimum space standards set out in the MDD. These would all have level access from the main living space.
- 8.75 For all developments of 10 units or more, 50sqm of communal amenity space plus 1sqm for every additional unit should be provided. As such, a total of 86sqm of communal amenity space is required across the development.
- 8.76 In addition to the private and communal amenity space requirements, policy 3.6 of the London Plan, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document require provision of dedicated child play space within new residential developments. The Mayor of London's SPG 'Shaping Neighbourhoods: Play and Informal Recreation' sets a benchmark of 10sqm of useable child play space per child. The GLA child yield calculator is used to project the number of children for the new development. Play space for younger children should be provided on-site, with older children being able to reasonably use spaces off-site, within short walking distances. The proposed scheme is anticipated to accommodate 12 children using the GLA yield calculator, translating to a policy requirement of 120sqm.
- 8.77 The combined total space across the scheme to meet the policy requirement for communal and child play space would therefore be 206sqm. Two communal terraces would be provided, one on the 5<sup>th</sup> floor (119sqm) and one on the 8<sup>th</sup> floor (130sqm) that would combine to provide 249sqm. As such the scheme overall would exceed the policy requirement by 43sqm.
- 8.78 However, the 5<sup>th</sup> floor terrace would be exclusively for the affordable rented units and the 8<sup>th</sup> floor terrace would be shared between the intermediate and market units. As such it is considered appropriate to calculate the policy requirement for space separately according to the tenures and mix of the units that will be using each terrace.
- 8.79 To take communal space first, the 5<sup>th</sup> floor terrace would serve 25 habitable rooms (23%) and the 8<sup>th</sup> floor terrace would serve 83 habitable rooms (77%). By dividing the overall policy requirement of 86sqm proportionately by habitable room the 5<sup>th</sup> floor terrace should provide 20sqm and 8<sup>th</sup> floor terrace should provide 66sqm.
- 8.80 In terms of child play space the 5<sup>th</sup> floor terrace would serve affordable rented units that have a much higher child yield than intermediate and market units.

	GLA Child Yield		Proposed within scheme
Under 5	4	40sqm	99sqm
5-11 year olds	3	30sqm	
12+	2	20sqm	0sqm
Total	9	90sqm	99sqm
Excess in play space			9sqm

Table 4 - Child Play Space - 5<sup>th</sup> Floor Terrace

	GLA Child Yield		Proposed within scheme
Under 5	2	20sqm	35sqm
5-11 year olds	1	10sqm	
12+	0	0sqm	0sqm
Total	3	30sqm	35sqm
Excess in play space			5sqm

Table 5 - Child Play Space - 8<sup>th</sup> Floor Terrace

- 8.81 To meet policy the 5<sup>th</sup> floor terrace should provide 20sqm communal amenity space and 90sqm child play space, a total of 110sqm. At a total 119sqm the terrace exceeds this by 9sqm. 20sqm would be provided for communal amenity space, meeting the policy target and 99sqm would be provided for play space exceeding the policy target by 9sqm.
- 8.82 The 5<sup>th</sup> floor terrace would include 2m high timber trellis verticals that would match building cladding to define the space; play equipment such as play panel, climbing frame/slide and soft spheres; wetpour safety surfacing; benches, decking and planting around the edge of the space and in the undercroft area.
- 8.83 There would be an excess provision of playspace in both parts of amenity areas. The 20sqm requirement for older playspace is considered too small to create a genuinely useable space for older children. As such it is envisaged that this excess space would be used for younger children and older children would be able to use Mile End Park, a high quality and large open space that is less than 30m from the site. London Mayor's Play and Informal Recreation SPG sees 800m as an acceptable distance for young people over the age of 12 to walk for recreation.
- 8.84 The 8<sup>th</sup> floor terrace should provide 66sqm of communal amenity space and 30sqm of child play space, a total of 96sqm. At a total of 130sqm this terrace exceeds policy by 34sqm. The space would be divided as 35sqm of child play space, exceeding the policy by 5sqm and the remaining 95sqm would be communal amenity space, exceeding policy by 29sqm.
- 8.85 The 8<sup>th</sup> floor terrace would include a contemporary pergola providing a framework for climbing plants, evergreen planting in contemporary planters, hardwood benches on top of low retaining walls to the edges of the space, slate paving, decking and wetpour safety surfacing. There would also be two play structures provided.
- 8.86 The proposed landscaping is considered to be well thought out and would be of a high quality. Overall, the proposed provision of private, communal and play space

would make a significant contribution to the creation of a sustainable, family friendly environment. It is considered that the proposal would provide an acceptable play environment for children.

## **Design**

- 8.87 The National Planning Policy Framework attaches great importance to the design of the built environment.
- 8.88 In accordance with paragraph 58 of the NPPF, new developments should:
- function well and add to the overall quality of the area,
  - establish a strong sense of place, creating attractive and comfortable places to live,
  - respond to local character and history, and reflect the identity of local surroundings and materials,
  - create safe and accessible environments, and
  - be visually attractive as a result of good architecture and appropriate landscaping.
- 8.89 Chapter 7 of the London Plan places an emphasis on robust design in new development.
- 8.90 The Council's policy SP10 sets out the broad design requirements for new development to ensure that buildings, spaces and places are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds. Further guidance is provided through policy DM24 of the Managing Development Document. Policy DM26 gives detailed guidance on tall buildings and specifies that building heights should be considered in accordance with the town centre hierarchy, and sensitive to the context of its surroundings. Policies SP09 and DM23 seek to deliver a high-quality public realm consisting of streets and spaces that are safe, attractive and integrated with buildings that respond to and overlook public spaces.
- 8.91 The placemaking policy SP12 seeks to improve, enhance and develop a network of sustainable, connected and well-designed neighbourhoods across the borough through retaining and respecting features that contribute to each neighbourhood's heritage, character and local distinctiveness.
- 8.92 Responding to members concerns at the February 2017 Strategic Development committee the height and massing of the building has since been reduced. The building has come down from 15 to 12 storeys and the shoulder element on the north side of the building has been reduced by a storey. In addition to the overall lowering of the massing by three storeys, the roof level parapet has been reduced to a standard safety barrier height. The three-storey element would also be finished in red brick rather than Mystique.
- 8.93 The 12 storey height of the building has been considered by Officers and a balanced view has been arrived at taking into account the clear planning gains of the development.
- 8.94 Policies on tall buildings within the London Plan (7.7) and the Local Plan (SP10 of the CS, DM26 of the MDD) have been thoroughly assessed in relation to the scheme.
- 8.95 Given the level of housing and employment growth in Tower Hamlets there is pressure for tall buildings across the borough. DM26 of the MDD provides the basis to manage this pressure by considering tall buildings within the wider Core Strategy

objective of refocusing on our town centres and providing detailed criteria to ensure all tall buildings are designed to the highest standards with any negative impacts appropriately mitigated.

#### Mile End Town Centre

- 8.96 The site is within a designated town centre, Mile End, where larger commercial and residential development that takes advantage of higher accessibility is sought to be focused. Policy DM26 states that proposals for tall buildings will be required to be of a height and scale that is proportionate to their location within the town centre hierarchy.
- 8.97 Within the town centre hierarchy Mile End is designated as a neighbourhood centre. Neighbourhood centres would tend to have a lower tolerance for tall buildings than the three higher types of town centre. However, the specific characteristics of the site and Mile End neighbourhood centre are considered to offer the site opportunities that allow greater flexibility for the scale of development than that which would usually be appropriate in a neighbourhood centre.
- 8.98 The Mile End neighbourhood centre is a transport hub. The site is located at a prominent corner of the two major roads, Mile End Road and Burdett Road that the Mile End neighbourhood centre is focused around. Mile End Road has recently been redeveloped to provide separate cycle lanes along its length that provide convenient and sustainable access to central London or Stratford. It is also located within 2 minute walk from Mile End Underground station and 6 separate bus routes cross the junction. These attributes give the centre unusually high transport accessibility for a neighbourhood centre, with the site having a PTAL of 6b, the highest level.
- 8.99 The Mile End neighbourhood centre is also unusual in that it is adjacent to a first class higher education institution (Queen Mary University) and a significant open space (Mile End Park).
- 8.100 The Core Strategy identifies Mile End as a strategic location for intensifying housing growth on infill sites and to support an upgraded mixed-use town centre that supports the university. It is considered that a tall building will optimise the potential of the site to deliver housing growth and a high-quality commercial offer.
- 8.101 The current political direction to address the housing crisis in London is set out by The Mayor of London in A City for All Londoners (2016), in which he states that “intensifying development around well-connected transport nodes will form an important part of my vision for the city, and I will explore the potential of areas around a number of stations as locations for significant and much higher-density housing development.” The intense pressure for housing in Tower Hamlets must be borne in mind when assessing the proposal.

#### Height, Scale & Massing

- 8.102 Part 2c of DM26 states that tall buildings need to 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 water bodies, or other townscape elements.

- 8.103 Part 2d states that tall buildings should 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.
- 8.104 Part 2e states that tall buildings should not adversely impact on heritage assets or strategic and local views, including their settings and backdrops.
- 8.105 The streetscape around the junction of Mile End Road, Burdett Road and Grove Road is generally between 2-4 storeys in height. There are two larger buildings around the site, the telephone exchange which is adjacent and makes up most of the urban block but is set back from the main roads and 1-36 Wentworth Mews, a 9 storey post-war slab block that is south of the site. On the north side of Mile End Road is the Tredegar Square conservation area and the Clinton Road conservation area. To the east and to the south of the site there are two nearby conservation areas: Tower Hamlets Cemetery conservation area and Ropery Street conservation area. These conservation areas all have a similar Victorian scale of 2-4 storeys and a fine urban grain. Other than 1-36 Wentworth Mews, the post-war development in the surrounding area and more recent development also maintain this scale, albeit with a more open grain than the Victorian conservation areas.
- 8.106 As previously the proposal would be comprised of three elements, a 3 storey element on Mile End Road, a central taller element which would now be 12 storeys and an 8 storey element to the south.
- 8.107 The 3 storey element would be sensitive to the fine grain Victorian scale of the buildings on Mile End Road and Grove Road. It would match the height of the neighbouring 564 Mile End Road completing the street frontage and addressing the corner at this scale. During the course of the application amendments were gained for the building to properly complete this corner, rather than there being a single storey element and terrace at the corner. The resulting scale, form and massing of this 3 storey element is considered a robust and elegant treatment that respects the scale of the adjacent conservation areas.
- 8.108 The 8 storey element to the south of the proposal is considered to relate well with the larger scale presented by the adjacent Telephone Exchange and 1-36 Wentworth Mews to the south, being only slightly higher than these buildings. This element knits with the mid-rise scale in this location and provides a step in height towards the central tower element.
- 8.109 The central tower element is 12 storeys and the parapet has been reduced in height. Although it would still be somewhat taller and have a greater massing than neighbouring buildings the reduction in height of the central element and shoulder element has clearly brought the building much more in line with the immediate scale of the Telephone Exchange and 1-36 Wentworth Mews. The height of the tallest element would just be 3 storeys taller than 1-36 Wentworth Mews. As such it would remain a prominent landmark building within the surrounding area and be proportionate to the local scale.



Figure 3 – Comparison CGI View West on Mile End Road - Original (left) and Current (right)

- 8.110 The shoulder element to the north, which was reduced by a further storey since the February committee, creates a mediating step in the height of the building; at 10 storeys, that is midway between the 8 storey southern element and the 12 storey central element.
- 8.111 With regards height, scale and massing it can be seen that the various levels of the building correspond to different heights of surrounding buildings and create a stepped increase in height as you move up the building that allows the building, which is clearly of a larger scale, to nonetheless suitably respond to the immediate surrounding area.
- 8.112 The height and massing of the development would provide a landmark building at the location of this town centre, busy road junction and Mile End underground station. It would also provide a visual marker that would help people orientate themselves and navigate in the local area.

#### Elevation Design & Materials

- 8.113 The building has a contemporary appearance achieved with a vertical linear pier grid that is expressed on all elevations. The contemporary lines of the building are combined with a traditional material treatment and high quality detailing and finish.
- 8.114 The proposal would have a simple and high-quality material palette. The central taller element would be of Mystique or buff brick construction with flush joints in stretched bond. The 8 storey elements to the south and following the February 2017 committee, the northern 3 storey element would be finished in a red multi-stock ('Weston Red' Multistock or similar. The sills/coping would be made from light coloured reconstituted stone. The windows would be quartz grey aluminium. The balconies would be of a simple glass design with grey aluminium railing and boxed frame bases. It is considered that the materials are robust and would age well.



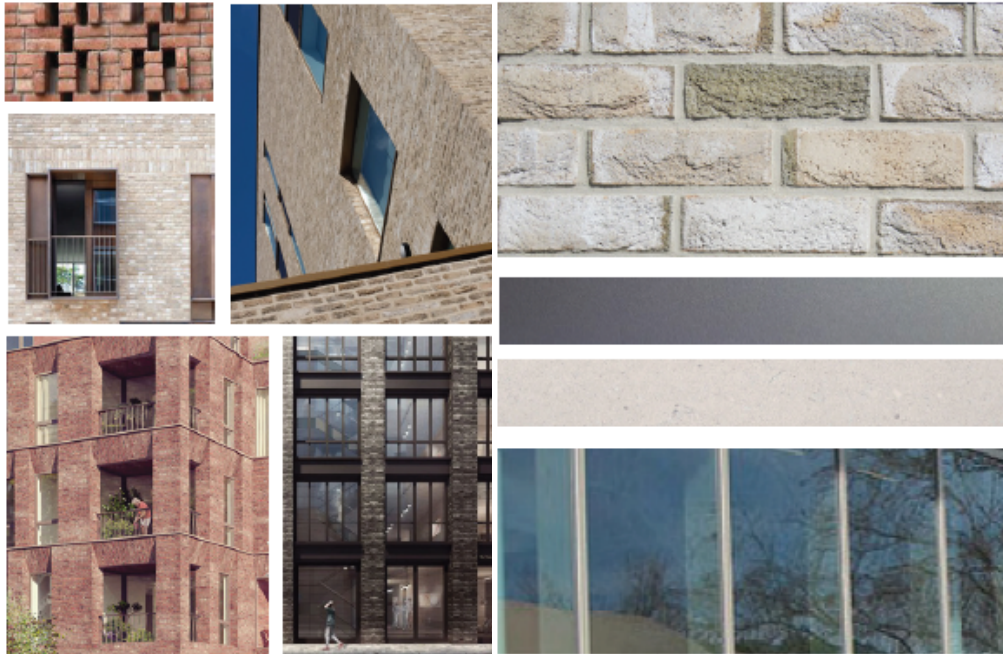


Figure 4 – Precedents (left) & Material Palette (right)

- 8.115 The ground level commercial space provides a 4.5 floor to floor slab height offering commercial units a substantial ceiling height and providing a clear base level to the building that is light and transparent. This commercial part of the building would activate Mile End Road and Burdett Road.
- 8.116 Of the three elements of the building the same architectural style and palette is used albeit with slight variations in the detailing and treatment of the elevations. This will serve to break up the massing and provide visual interest.
- 8.117 The 3 storey block to the north mirrors the proportion of the neighbouring 364 Mile End Road. The fenestration also aligns with this building. The fenestration is articulated with a double storey recessed panels that group the windows vertically.
- 8.118 A strong vertical emphasis would be achieved for the tower element on all elevations, with tall brick piers and recessed panels that run the height of the building. These vertical columns of windows would then be linked more subtly in vertical pairs with stone coping/sill detail at top and bottom. Further interest would be added to the north and west elevations with the position of the windows alternating on which side they are within the columns every two storeys. Corbelled brick design comprised of alternating courses of protruding bricks within the recesses would also be used. The south and east elevations element windows would be simply vertically aligned.
- 8.119 The use of the red brick for the 8 storey southern element the 3 storey northern element, would relate to other red brick finishes in the immediate surroundings on Burdett Road. It is considered that the variation in colour would assist in breaking up the perceived massing of the western elevation and highlighting the central taller element as a more slender visual element.
- 8.120 The balconies for the residential units would be inset on the north and west elevations. The southern elevation would have protruding balconies, providing variation to this elevation and maximising the amenity benefits of a southern orientation. The two roof terrace communal amenity spaces are located to the south side of the building, to maximise daylight and sunlight.

- 8.121 Decorative brickwork, in line with the glazing columns, would appear on the parapets of the 8 storey element and neatly finish the upper parts of the building.
- 8.122 The simple material palette and ordered vertical pier grid with brick, stone and fenestration detailing is considered to provide the building with a strong and pleasing elevation design befitting a prominent landmark building.
- 8.123 In terms of public realm landscaping, at the front of the development on Burdett Road near to the corner with Mile End Road there would be evergreen tree planting on a raised bed. This would also help to mitigate the impact of wind. On Wentworth Mews, 4 street trees would be planted and there would be granite, concrete and New Yorkstone paving in addition to 3 new stainless steel seats. The trees here would also help to mitigate wind impacts.

#### Heritage

- 8.124 No buildings on the site are listed and the site is not within a conservation area. The buildings on the site have some limited heritage value. As outlined above, the site is adjacent to two conservation areas to the north: Clinton Road and Tredegar Square. The proposal would also be visible from the Ropery Street conservation area. The setting of certain listed buildings within these conservation areas will also be affected by the proposal.

#### *Loss of Existing Buildings*

- 8.125 The existing buildings of 562 Mile End Road is comprised of three parts. Firstly, a 2 and 3 storey Victorian building facing Mile End Road. Secondly, an extension to the rear of these Victorian properties was built in the early 1920s to create La Boheme Dance Hall. Thirdly, next to this is 1 Burdett Road which was built in the early 1930s. These buildings have some local historical value in maintaining the Victorian grain and exhibit some attractive architectural features but are relatively simple in design and appear tired and neglected. A long blank elevation is presented to Burdett Road. They do not make a significant contribution to the townscape of the area. Given their limited heritage value their loss is considered acceptable as an opportunity to enhance the appearance of this prominent corner location.

#### *Impact of Proposed Building*

- 8.126 The applicant submitted a Heritage Statement and Townscape and Visual Impact Assessment with the application. The visual impact assessment provides verified views to consider the proposal's visual impacts on the townscape. Some of the views have been identified as causing a significant visual change where the proposed tower would be visible from certain parts of the surrounding Tredegar Square, Clinton Road and Ropery Street conservation areas.
- 8.127 Within the Tredegar Square conservation area the proposal would be readily visible from Aberavon Road, looking south. Following the reduction in height the building would not be visible from Tredegar Square itself. The proposal would however still be visible from Aberavon Road over the roofline of a group of Grade II listed buildings on its western side, shown in the photograph below.



Figure 5 – Comparison CGI View South on Aberavon Road – Original (left) and Current (right)

8.128 Within this conservation area there is a rare quality of uniform rooflines, which requires careful consideration when high rise development is proposed on its periphery. This is also the case for listed terrace groups, in particular the group located on the west side of Aberavon Road. The proposed 12 storey development would still rise above the parapet line of this listed terrace group but would be a less prominent addition to the skyline that is considered to cause some minor harm to the background setting of the listed buildings and conservation area from these views looking south.

8.129 Clinton Road also includes uniform terraces although these are Victorian and are not listed, and the proposal would again be clearly visible when looking south, representing a substantial change to the skyline at the end of the street. From the photo shown below both the Mile End and Burdett Road elevations would be visible. Following the reduction in height and massing the building would appear less dominant in the background of this view causing a marginal level of harm to the setting of this conservation area from this view looking south.

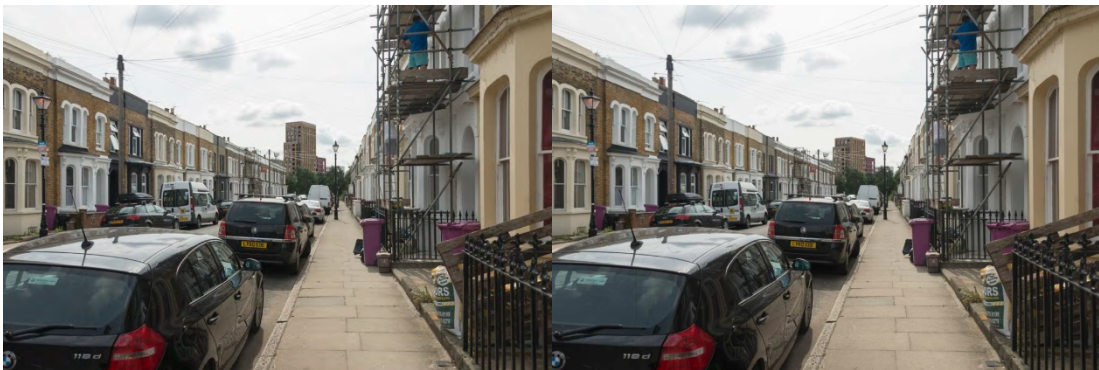


Figure 6 - Comparison CGI View South on Clinton Road – Original (left) and Current (right)

8.130 The Ropery Street conservation area is characterised by the horizontal lines of the wide road and low-rise buildings. The reduced proposal would not follow this horizontal uniformity when looking north from the conservation area but would instead relate to the more mixed heights of the immediate built environment around the site.



Figure 7 - Comparison CGI Views North on Burdett Road – Original (left) and Current (right)

- 8.131 The reduction in the height and massing of the proposal has clearly reduced the level of minor harm caused by the proposal. Notwithstanding this it is still considered to cause a minor degree of harm to the three surrounding conservation areas and a listed terrace group.
- 8.132 Notwithstanding the prominence of the building and its vertical emphasis that is a variation to the horizontal emphasis of the surrounding areas, it is considered that this minor harm is clearly mitigated by a number of factors. The robust brick construction is considered to correspond well with the materiality of the conservation areas and the high-quality contemporary architectural design provides a clear distinction between the surrounding historic styles and the proposal. The proposal is located in a town centre where larger development is sought to be located and there are already some larger buildings located there. It also must be noted that the site itself is not within a conservation area and the views of the building, although important, would be in the background from specific parts of the surrounding conservation areas. This is considered to be commonplace in an inner London borough. It is rare that larger newer development will be completely absent from the background of conservations areas. The building would also not be visible from many other parts and approaches within these conservation areas.
- 8.133 Given the above, the harm to the significance of these heritage assets is considered to be minor and less than substantial. According to the NPPF less than substantial harm should be weighed against the public benefits of the proposal. The provision of a significant amount of housing and commercial space for the town centre must be weighed in the proposal's favour.

#### Design and Heritage Conclusions

- 8.134 The site is currently comprised of somewhat neglected buildings with a long blank façade facing Burdett road. The site occupies a highly visible corner location on a wide busy junction and the redevelopment of the site is an opportunity to enhance the visual amenity of the area. The reduced size of the proposed building would remain larger in scale than the immediate area but has reduced the prominence and is more in-keeping with the local scale. It is considered that it would still have some minor harmful impacts on certain background views from surrounding conservation areas but these have been reduced by the amendments following the committee in February 2017.

- 8.135 The stepped massing allows the building to relate to the different surrounding scales in the immediate context and the central taller element also sets its own scale as a landmark building that is still proportionate to the local area. It is considered that the traditional materiality of brick and stone will relate well to the buildings of the surrounding area. The excellent architectural quality and finish of the proposal would allow the building to be a landmark for Mile End town centre that would be commensurate with the size of the junction and takes advantage of the site's transport accessibility. It is considered that the building will aid in creating a sense of place that signifies the regeneration of the town centre and may stimulate further investment. In addition to this it will aid in the legibility of the city, marking the town centre and Mile End underground and as such helping way-finding.
- 8.136 The limited harm to certain views from conservation areas and to the setting of listed buildings is considered acceptable given the public benefits of the scheme including provision of much needed housing, provision of upgraded commercial space in a town centre location and the potential wider regenerative benefits of the scheme.

### **Amenity**

- 8.137 In line with the principles of the National Planning Policy Framework the Council's policies SP10 of the Core Strategy and DM25 of the Managing Development Document aim to safeguard and where possible improve the amenity of existing and future residents and building occupants, as well as to protect the amenity of the surrounding public realm with regard to noise and light pollution, daylight and sunlight, outlook, overlooking, privacy and sense of enclosure.

### Overlooking and privacy

- 8.138 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 enable an unreasonable level of overlooking between habitable rooms of adjacent residential properties, schools or onto private open 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. Within an urban setting, it is accepted that be lower distances could be acceptable reflecting the existing urban grain and constrained nature of urban sites such as this.
- 8.139 The building would have a close relationship with 564 Mile End Road, a 4 storey building adjacent to the site facing Mile End Road. It is retail on ground floor with flats above. There would be localised inter-visibility impacts between certain windows in the northern part of the development and the windows serving bedrooms on the rear of this building.
- 8.140 There would be oblique views between the first floor bedroom window of 564 Mile End Road and the living room of Unit 4 at a distance of 5.4m. There would be views between the second floor bedroom windows of 564 Mile End Road and the living room of unit 8 at a distance of 8.2m and 8.9m. The views from the third floor bedrooms windows of 564 Mile End Road would have the same relationship as the second floor but with unit 13. Windows on the east of the northern elevation of the development serving the living rooms were removed on the second and third floors over the course of the application in order to reduce the impact. It is considered that the oblique angle of these windows would suitably mitigate privacy impacts.

- 8.141 Directly to the south of the development is Beckett Court on the corner of Wentworth Mews and Burdett Road. This 4 storey property also has commercial on ground floor and residential on the upper floors. On each of the first, second and third floors there would be small secondary windows on the north elevation on Wentworth Mews. These serve the kitchen part of a combined kitchen/dining/living space. The closest separation distance between windows in the proposal and these kitchen windows would be 11m on the lower floors of the development. There would also be a window on the recessed northern elevation facing into the balcony space. These provide a secondary window for bedrooms. These would be set back from the main Wentworth Mews elevation and be heavily shaded by the balconies above. The closest separation distance between windows in the proposal and these windows would be 15m on the lower floors of the development. This is tighter than optimal but it is considered acceptable within this type of urban environment. A relationship of this distance is typical for habitable rooms that face each other across a street. As such the relationship between the proposal and Beckett Court is also considered acceptable.
- 8.142 All other aspects to surrounding residential buildings: 1-36 Wentworth Mews, Butcombe House and buildings on the north side of Mile End Road would comfortably exceed the 18m policy target.

#### Outlook and sense of enclosure

- 8.143 The distance between the development proposal and habitable rooms of adjoining properties would follow the separation distances mentioned in the above section and the proposed massing generally would not result in an overbearing appearance or sense of enclosure. The relationship of the proposed development on the bedroom windows of 364 Mile End Road is most relevant here. The outlook from these windows would be reduced on the west side creating a corridor effect. However, any meaningful development of the site is likely to lead to a similar sense of enclosure and the outlook is already similarly affected by the telephone exchange building. The impact would also be limited to the rear aspect of the building; there would still be a very good quality outlook from the living space to the front of this building out across Mile End Road, this being the principal aspect of the affected residential accommodation.

#### Daylight, Sunlight and Overshadowing

- 8.144 Guidance relating to daylight and sunlight is contained in the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight'. The primary method of assessment is through calculating the vertical sky component (VSC). BRE guidance specifies that reductions in daylighting materially affect the living standard of adjoining occupiers when, as a result of development, the VSC figure falls below 27 and is less than 80% times its former value.
- 8.145 In order to better understand impact on daylighting conditions, should the VSC figure be reduced materially, the daylight distribution test (otherwise known as the no skyline test) calculates the area at working plane level inside a room that would have direct view of the sky. The resulting contour plans show where the light would fall within a room and a judgement may then be made on the combination of both the VSC and daylight distribution, as to whether the room would retain reasonable daylighting. The BRE does not set any recommended level for the Daylight Distribution within rooms but recommends that where reductions occur more than 20% of the existing they will be noticeable to occupiers.

- 8.146 The applicant submitted a Daylight and Sunlight Assessment originally prepared in line with the BRE methodology, which looks at the impact of the development on the neighbouring properties. This was been reviewed by independent consultants appointed by the Council and there assessment is discussed below. In addition to this, following the reduction in the height and massing of the scheme following the February 2017 committee an addendum has been submitted.
- 8.147 The reductions in height and massing will clearly result in less obstruction to skylight access of neighbouring dwellings post development when compared to the original 15 storey tower, which was previously considered acceptable in daylight/sunlight terms. The following section and figures remains the same as in the originally submitted scheme but it should be noted that these will have improved marginally in some cases due to the reduction in bulk of the building. As such, they represent a worse case scenario.
- 8.148 The Council's daylight/sunlight consultants stated that "The daylight/sunlight impact should be slightly less for the new scheme because of the reduced height of the tallest element. Overall our conclusions should be unchanged."
- 8.149 The new development would affect daylight to only a limited number of residential properties. The following most sensitive surrounding buildings are discussed in terms of how they would be impacted in terms of daylight, sunlight and overshadowing: Beckett Court to the south, 1-36 Wentworth Mews to the south and 564 Mile End to the east.

*Beckett Court, Wentworth Mews*

- 8.150 There are small secondary windows that would directly face the development. These are visible on the left side of the image below. The Council's consultant's review states that there would be a large loss of daylight to these windows but they are secondary windows; the main windows (with balconies in front of them) look out onto Burdett Road and would be scarcely affected by the new development. Accordingly these rooms would retain sufficient daylight with the new development in place.



Figure 8 - Beckett Court

8.151 There would be one more window for which the loss of vertical sky component would be outside the BRE guidelines this is on the top floor looking onto the balcony area. However the same room has another window which is virtually unobstructed so that the overall loss of light from both windows would be acceptable.

*1-36 Wentworth Mews*

8.152 1-36 Wentworth Mews is a 9 storey post-war slab block located further south than Beckett House. The windows on the northern elevation directly face the development. At the time of the site visit the block was undergoing refurbishment and was covered in netting, as can be seen in the image below.





Figure 9 - 1-36 Wentworth Mews

- 8.153 There are residential windows on the first floor and above. The odd numbered floors incorporate an access deck; there are doors to the flats, and a window to each flat that has been taken to light a kitchen. The even numbered floors project outward and have been taken to contain bedrooms (either one or two per flat).
- 8.154 The loss of daylight to all bedrooms would be within the BRE guidelines. The kitchens however would have their vertical sky components reduced by between 20% and 55%. The Council's consultant has advised the main reason for the large relative loss of light is the projecting elements above the kitchen windows. As such the kitchen windows already do not receive much light. The figures are not given but it follows that the impact without the projecting elements would almost all be policy compliant. Because all of the bedrooms would be within the BRE guidelines, it is deduced that all of the kitchens above 2<sup>nd</sup> floor level would also receive reductions of less than 20%.
- 8.155 As such it can be seen that the site has been designed with an over-reliance on light from the development site. The relative loss on the more obstructed first floor might still be greater but these windows receive such a little amount of light at present the figures are easily skewed. It should also be noted that the flats of 1-36 Wentworth Mews are dual aspect with south-facing living rooms which would not be impacted by the development. Lighting would often be used in a kitchen for food preparation most parts of the day. It is considered that the daylight impact to these flats is not substantial given that both bedrooms and living rooms would be unaffected.
- 8.156 Prior to the February 2017 committee, in addition to this building the daylight/sunlight impacts of the nearby Butcombe House and Coopers Court to the south east of the development were also assessed and found not have any unduly negative daylight/sunlight impacts
- 8.157 In terms of sunlight impacts to these above mentioned properties to the south of the proposal site, they would all have windows facing within 90 degrees of due south and therefore loss of sunlight would not be an issue for these units.

### *564 Mile End Road*

- 8.158 The rear bedrooms of the three flats of 564 Mile End Road, adjacent to the east, would experience significant losses in daylight and sunlight.
- 8.159 In terms of daylight, the vertical sky component relative losses would range from 31% for the 1<sup>st</sup> floor windows, to 57% and 58% for the 2<sup>nd</sup> floor windows and 55% for both the 3<sup>rd</sup> floor windows. For context all of the bedrooms would comply with the 1% minimum standard for ADF, a standard usually only applied to new dwellings, and would retain adequate daylight distribution.
- 8.160 In terms of sunlight, the average total loss would range from 41% to 68%. The BRE guidelines place less importance on bedrooms as opposed to living areas and conservatories however this impact is noted.
- 8.161 As the bedrooms still receive the minimum ADF in terms of daylight and there will be good daylight levels to rooms to the front of the property the overall impact from the development to these properties is considered acceptable.
- 8.162 The BRE guidelines state that account should be taken of the constraints of the site and the nature and character of the surrounding built form which in this location is characterised by dense development in relatively close proximity. Officers consider that there are some localised amenity impacts especially to 564 Mile End Road; however the benefits of the scheme outweigh those impacts given the nature of the area.
- 8.163 In response to neighbour concerns relating to potential overshadowing of buildings to the north, a shadow analysis was submitted that took a sample of buildings on Aberavon Road, Nos.13-25. The position of the sun was set to specific times and dates; 9am, 12pm, 3pm and 6pm on the 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September and 21<sup>st</sup> December to ensure that accurate information was portrayed for the shortest, longest and mean hours of sunlight throughout the year. It was found that the development would not impact these properties on any of the dates tested.

### *Daylight/Sunlight Impacts on Proposed Development*

- 8.164 DM25 of the MDD seeks to ensure that new development optimises the level of daylight and sunlight for the future occupants of new developments.
- 8.165 For calculating daylight to new developments, the BRE Handbook advises that average daylight factor is the most appropriate method of assessment.
- 8.166 The application is supported by a Daylight and Sunlight Assessment (DSA) and subsequent addendums to this. The robustness of the methodology and conclusions has been appraised by the Council's independent daylight and sunlight consultants.
- 8.167 The original GVA report provides tables of daylight and sunlight provision on level 1 of the new development. The daylight provision would be good with rooms within the development receiving the required ADF.
- 8.168 In terms of sunlight to the proposed development, again the 1<sup>st</sup> floor has been tested as a worst case scenario. On the 1<sup>st</sup> floor only 1 of 4 living rooms tested would achieve the BS sunlight recommendations. The Council's consultant's state that this is partly due to site constraints with obstruction by surrounding buildings. As you

move up the building the sunlight levels would improve, particularly for the rooms at the south of the building which are most affected by surrounding buildings. The Council's consultant's state that overall sunlight provision is expected to be reasonable given the site constraints.

- 8.169 Following the recent amendments to the scheme in the south-east corner, the revised living room has been made smaller and features an extra window. These will have the combined effect of increasing natural light amenity. In the same area, one of the north facing bedrooms has been removed, meaning better sunlight provision to the proposed dwellings overall.

Along the western elevation, the overall number of habitable rooms has been reduced, which has had the effect of introducing a second window to one bedroom, whereas previously all bedrooms only featured a single window. It is therefore considered that the daylight/sunlight situation for the proposed building would be acceptable and marginally improved by the amended proposals.

#### *Sunlight to Gardens and Open Spaces*

- 8.170 The Council's consultant's state there are no existing gardens and open spaces that would experience a significant loss of sunlight as a result of the new development. The nearest open space is Mile End Park. While the new development could cast a shadow over the park in the morning, there would be enough sunlight at other times of day for the BRE guidelines to be met.

#### Noise and Vibration

- 8.171 Policy 7.15 of the London Plan (2015), Policies SP03 and SP10 of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013) seek to ensure that development proposals reduce noise by minimising the existing and potential adverse impact and separate noise sensitive development from major noise sources.
- 8.172 The proposed development will experience high levels of noise from local road traffic along Mile End Road and Burdett Road which has a significant number of HGV and bus movements. There is also possible vibration from underground trains that run under the north part of the site. The most recent amendment to the scheme, responding to members concerns, is to re-provide the Backstreet nightclub in the basement. Noise and vibration from music in addition to comings and goings will need to be appropriately mitigated.
- 8.173 With commercial units above on ground floor that would be constructed with solid concrete floors providing a buffer; it is considered that the nightclub would be able to operate with minimal amenity impacts on the future residents of the development. The comings and goings and a smoking area on Wentworth Mews would be considered acceptable within this already very noisy town centre location.
- 8.174 The residential scheme that would essentially be built above the existing nightclub is what the Draft Culture and Night-time Economy SPD terms the 'agent of change'. The onus is therefore on the developer to remove the prospect of neighbour complaints coming from residents of the future development. Sensitivity from this development should be managed with appropriate acoustic, vibration and sound insulation treatments which will be conditioned.

- 8.175 A Noise and Vibration Assessment by Sharps Redmore accompanied the original application. The contents of the report takes into account the glazing specification required to achieve good noise insulation from the high levels of traffic noise. Noise and vibration surveys have been undertaken at the site and daytime and night-time noise levels were determined. In order to mitigate the high levels of noise, measures relating to glazing, ventilation, plant noise, building fabric and vibration have been recommended for the proposed building.
- 8.176 All of these specialist mitigation measures will ensure that internal and external noise/ levels will meet the recommended acoustic criteria based on the guidelines set out in BS 8233: 2014. To ensure that the traffic noise and any potential noise and vibration from the nightclub are taken into account, a condition will be imposed for an updated noise and vibration survey to be undertaken and for the measures to be strictly implemented.
- 8.177 In addition to the above condition, additional conditions are recommended to protect the amenity of residents.
- 8.178 Firstly, a further condition requiring post completion testing to ensure the noise standards have been met will be imposed. These will need to cover any services and ducts running up the building to ensure noise does not travel to the residential above.
- 8.179 Secondly, the hours of operation for the night club use will be limited to hours no later than the current hours of operation. For the purposes of condition 19 the hours to be conditions are:
- Monday to Thursday 6pm to 11pm  
Friday and Saturdays 10pm to 3am  
Sundays and Bank Holidays 6 to 11pm
- 8.180 Whilst it is acknowledged the hours of operation are also governed by licensing, and include hours that fall within what are termed 'noise sensitive hours' given the sites town centre location and busy transport node, they are considered acceptable in this instance. Furthermore, by conditioning them within the planning permission they provide additional certainty to any future prospective residential occupiers over the maximum hours of operation.
- 8.181 Lastly, in terms of patrons leaving the venue, it is expected they would travel to Burdett Road and Mile End Road where Mile End Station is located and is currently part of the night tube (running on Fridays and Saturdays). The main difference from the current scenario will be the additional residential uses above. Whilst some noise will be inevitable from patrons leaving the venue, as can also be expected from the sites location, it is considered reasonable to include an additional condition requiring a customer dispersal management strategy for the club.
- 8.182 It is considered that the quality of the build and these appropriate measures would guard against a significant impact on the amenity of the occupants of the proposed development.

#### Air Quality

- 8.183 The air quality assessment shows that the development is located in a highly polluted area. The results show that the NO<sub>2</sub> annual objective will be exceeded at the site up to the 4th floor. In line with advice from the Council's Air Quality team appropriate mitigation measures, in the form of mechanical ventilation for all facades and floors

where the objective is reported to be exceeded will be secured by condition. The scheme will also be conditioned so that the Nox emission rate meets the air quality neutral requirements too. This will have the added benefit of protecting the residential uses from additional noise from patrons leaving the club and general traffic on Burdett Road and Mile End Road.

- 8.184 A balanced decision has been arrived at with regards the provision of balconies overlooking Burdett Road and Mile End Road on the lower floors. Although the lower air quality is noted, the benefit of these units having outdoor private amenity has been prioritised.

### **Transport, Access and Servicing**

- 8.185 The National Planning Policy Framework emphasizes the role transport policies have to play in achieving sustainable development and stipulates that people should have real choice in how they travel. Developments should be located and designed to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities, create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and consider the needs of people with disabilities.
- 8.186 The London Plan seeks to shape the pattern of development by influencing the location, scale, density, design and mix of land uses such that it helps to reduce the need to travel by private vehicle by making it safer and easier for people to access jobs, shops, leisure facilities and services by public transport, walking and cycling. Strategic Objective SO20 of the Core Strategy states that the Council seeks to: "Deliver a safe, attractive, accessible and well-designed network of streets and spaces that make it easy and enjoyable for people to move around on foot and bicycle." Policy SP09 provides detail on how the objective is to be met.
- 8.187 Policy DM20 of the Council's Managing Development Document reinforces the need to demonstrate that developments would be properly integrated with the transport network and would have no unacceptable impacts on the capacity and safety of that network. It highlights the need to minimise car travel and prioritise movement by walking, cycling and public transport. The policy requires development proposals to be supported by transport assessments and a travel plan.
- 4.16. The site benefits from excellent access to public transport, being located approximately 50 metres to the west of Mile End underground station to the north east. Bus stops are located on Mile End Road, Burdett Road and Grove Road a few minutes walk away serving different 8 routes. The proposed development site has a Public Transport Accessibility Level (PTAL) of 6b, the highest level.
- 4.17. Transport for London (TfL) have also recently completed a large scale upgrade of the cycle infrastructure along Mile End Road providing separated lanes leading in and out of central London.
- 4.18. The frontage to the majority of the site, Burdett Road and Mile End Road is on the TLRN, for which TfL is the highway authority. Overall, the proposal's likely highways and transport impact are considered to be acceptable to the Transport for London and Council's Transportation & Highways section. The relevant issues are discussed below.

### Cycle Parking

- 8.188 The London Plan (FALP 2016) cycle parking standards require 66 cycle parking spaces to be provided for use by residents. The development provides 74 covered secure cycle parking spaces in two locations. Core A, serving the affordable rented units would have a store to the east of the building at ground floor level with 19 cycle spaces. Core B would have a basement store accessed by a cycle lift with 55 spaces. Both stores would also include wider spaces. The relative number in each store exceeds the policy target and these are provided in a mixture of double stacked and Sheffield stands.
- 8.189 There would also be 16 visitor spaces, 8 to north of the proposal on Mile End and 8 to the south of the development on Wentworth Mews. These would be for use by shoppers and visitors to the homes.
- 8.190 A further 9 covered and secure cycle parking spaces would be provided across the commercial space for staff to utilise.

### Car Parking

- 8.191 The development would be subject to a 'car free' planning obligation restricting future occupiers from obtaining residential on-street car parking permits.
- 8.192 One accessible space is proposed which is accessed from the eastern arm of Wentworth Mews (the western arm is closed with bollards at either end). Vehicles using this bay will be required to use the existing turning head at Wentworth Mews to allow vehicles to enter and exit the site in forward gear. This road is not heavily trafficked and the movement, utilising an existing space dedicated to turning is considered acceptable by TfL and the Council's Highways team. Further swept path analysis was undertaken to demonstrate that a larger car could safely access the space. This is considered satisfactory. The parking bay will be managed by means of demountable Telescopic bollard which the disabled driver would be able to control to stop unauthorised access to this space.
- 8.193 An additional on-street parking bay is proposed on Eric Street that would be in lieu of a pay and display bay. The Councils Highway team suggest that the applicant enter in a S106 to provide a commuted sum, for a period of three years after occupation, to fund any on street changes which may be required should there be demand for the accessible space, rather than losing a pay and display bay immediately (which are well used for the local shopping area).
- 8.194 Two accessible spaces would be under the policy target of 5, representing 1 for each accessible unit within the development, however owing to the site constraints the offer of 1 on site and one on-street space is considered acceptable.

### Servicing and Refuse Storage

- 8.195 As previously the servicing is proposed from an existing bay on Burdett Road, immediately adjacent to the site. TfL have confirmed that this approach is supported providing a delivery and servicing plan is conditioned that demonstrates that loading can be accommodated within the loading bay restrictions that currently exist and where TfL are consulted. Given the proximity to the cycle infrastructure the number of servicing vehicles attending the site must be regulated to ensure the safety of other road users, especially cyclists and pedestrians. A delivery and servicing management plan will be attached to the permission. It should be noted that that the number of

properties that rely on the loading bay is relatively low as an additional longer bay is provided approximately 100 metres to the south, outside East London Tabernacle Baptist Church.

- 8.196 Further to policy SP05 of the Core Strategy which requires provision of adequate waste storage facilities in all new development, policy DM14 of the Managing Development Document sets out the Council's general waste and recycling storage standards. The proposed capacity of the waste storage has been calculated is in accordance with current waste policy.
- 8.197 The refuse strategy currently aims for the residential recycling and non-recycling refuse to be dropped off by residents in bin stores at ground floor and basement level. A managed system will collect the refuse at one point within the basement to bring the refuse to the collection point at ground floor level via a service lift to allow for easy access during refuse collection days.
- 8.198 All public realm alterations would be secured as part of a wider S.278 agreement reserved by condition.

### **Sustainability and Environmental Considerations**

#### *Energy efficiency and sustainability standards*

- 8.199 The National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The NPPF also notes that planning supports the delivery of renewable and low carbon energy and associated infrastructure.
- 8.200 At a strategic level, the climate change policies as set out in chapter 5 of the London Plan, London Borough of Tower Hamlets Core Strategy (SO24 and SP11) and the Managing Development Document Policy DM29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.
- 8.201 In line with London Plan policy 5.6, the Core Strategy policy SP11 seeks to implement a network of decentralised heat and energy facilities that connect into a heat and power network. Policy DM29 requires development to either connect to, or demonstrate a potential connection to a decentralised energy system.
- 8.202 The Managing Development Document policy 29 includes the target for new developments to achieve a 50% reduction in CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy. However, following the adoption of the Building Regulations 2013 (April 2014) the London Borough of Tower Hamlets have applied a 45 per cent carbon reduction target beyond Part L 2013 of the Building Regulations as this is deemed to be broadly equivalent to the 50 per cent target beyond Part L 2010 of the Building Regulations.
- 8.203 The submitted proposals have followed the energy hierarchy (use less energy- Be Lean; supply energy efficiently - Be Clean; and use renewable energy - Be Green), and seek to minimise CO2 emissions through the implementation of energy efficiency measures, use of a centralised CHP system and a PV array. The CO2 emission reductions proposed are anticipated to result in a circa 35.2% reduction against the Building Regulations falling short of the 45% target.

- 8.204 The Planning Obligations SPD includes the mechanism for any shortfall in CO2 to be met through a cash in lieu contribution for sustainability projects. This policy is in accordance with Policy 5.2 (E) of the London Plan 2015 which states:
- 8.205 ‘...carbon dioxide reduction targets should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere.’
- 8.206 It is proposed the shortfall in CO2 emission reductions will be offset through a cash in lieu payment. The current identified cost for a tonne of CO2 is £1,800 per tonne of CO2. This figure is recommended by the GLA (GLA Sustainable Design and Construction SPG 2014 and the GLA Planning Energy Assessment Guidance April 2014.
- 8.207 For the proposed scheme it is recommended that a figure of £12,780 is sought for carbon offset projects as identified in the submitted Energy Statement.
- 8.208 With the shortfall in CO2 emissions met through carbon offsetting S106 contribution, the current proposals are considered appropriate for the development and meet policy requirements for energy and sustainability.

#### Microclimate

- 8.209 Tall buildings can have an impact upon the microclimate, particularly in relation to wind. Where strong winds occur as a result of a tall building it can have detrimental impacts upon the comfort and safety of pedestrians and cyclists. It can also render landscaped areas unsuitable for their intended purpose. DM26 of the Local Plan requires that the microclimate of the new development surrounding areas is not adversely affected by the proposal.
- 8.210 The application was originally supported by a microclimate study in accordance with the widely accepted Lawson Comfort Criteria. The criteria reflects the fact that sedentary activities such as sitting require a low wind speed for a reasonably level of comfort whereas for more transient activities such as walking, pedestrians can tolerate stronger winds.
- 8.211 The wind conditions in and around the proposed development site, within the context of existing surrounds, were considered largely suitable, in terms of both safety and comfort, for their intended usage throughout the year. However, there were areas where wind conditions deteriorate, such as along the southern façade of the development, and the southern region of the first floor terrace.
- 8.212 In response to the modelling a new raised planter was proposed for the northern corner of the site to mitigate any wind effects for pedestrians crossing the road and walking along the footways in this location. Similarly, an additional tree has been included to the Wentworth Mews public realm improvements to mitigate effects of wind on pedestrians in that area. At 8th floor level, an additional glazed balustrade has been introduced to the south and west facades to ensure the comfort of users of the amenity space. Minor amendments to the first floor terrace were also included, making the private terrace more comfortable.
- 8.213 With the inclusion of these further soft landscaping and wind mitigation measures conditions were improved such that all measured locations were considered suitable for their intended use, both in terms of comfort and safety.



8.214 Following the amendments to the scheme, the microclimate consultants stated the changes would have a minor beneficial impact on the results of the original testing. They advised that the above mentioned mitigation measures were retained in order to ensure the positive microclimatic situation is maintained.

#### Biodiversity

8.215 Policy DM11 of the MDD requires developments to provide net benefits for biodiversity in accordance with the Local Biodiversity Action Plan (LBAP).

8.216 The plans include roof gardens on the 5th and 8th floors. Proposed planting in both of these includes a good diversity of nectar plants, which will contribute to a LBAP objective to provide more forage for bumblebees and other pollinators.

8.217 The biggest opportunity for biodiversity enhancement would be biodiverse green roofs on the non-amenity levels. This would be compatible with the proposed photovoltaics (PVs), and would enhance the efficiency of the PVs by lowering ambient temperature. The application will be conditioned to provide green roofs on the roof of the 3 storey element and 15 storey element. designed in accordance with best practice guidance published by Buglife.

8.218 Other opportunities to enhance biodiversity would be the inclusion of nest boxes for birds such as swifts, house sparrows and house martins in the fabric of the building. Biodiversity enhancements would be secured by condition.

#### Land Contamination

8.219 The site has been identified as having potential historic contamination. In accordance with the Environmental Health Contaminated Land Officer's comments a condition will be attached which will ensure the developer carries out a site investigation to identify potential contamination and remediate the land as appropriate.

#### Flood Risk

8.220 The NPPF, London Plan policy 5.12 and Core Strategy policy SP04 make clear that there is a need to consider flood risk at all stages in the planning process.

8.221 The development falls within Flood Risk Zone 1 indicating low risk. The application is supported by a flood risk assessment.

8.222 There is no in principle objections to the proposal, subject to the imposition of suitable sustainable urban drainage conditions which would be attached if planning permission was granted. The proposal complies with the NPPF, London Plan policy 5.12 and Core Strategy Policy SP04.

#### **Health Considerations**

8.223 Policy 3.2 of the London Plan seeks to improve health and address health inequalities having regard to the health impacts of development proposals as a mechanism for ensuring that new developments promote public health within the borough while the Council's policy SP03 of the Core Strategy seeks to deliver healthy and liveable neighbourhoods that promote active and healthy lifestyles, and enhance people's wider health and well-being.

8.224 Part 1 of Policy SP03 in particular seeks to support opportunities for healthy and active lifestyles through:

- Working with NHS Tower Hamlets to improve healthy and active lifestyles.
- Providing high-quality walking and cycling routes.
- Providing excellent access to leisure and recreation facilities.
- Seeking to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles.
- Promoting and supporting local food-growing and urban agriculture.

8.225 The application proposal would result in the delivery of much need affordable housing. A proportion of housing on site would also be provided as wheelchair accessible or capable of easy adaptation.

### **Planning Obligations and CIL**

8.226 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) Fairly and reasonably related in scale and kind to the development.

8.227 Regulation 122 of 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.

8.228 Securing appropriate planning contributions is supported by policy SP13 of the Core Strategy which seeks to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate impacts of the development.

8.229 The proposed heads of terms are:

#### Financial Obligations:

- a) A contribution of **£18,696** towards employment, skills, training for construction job opportunities
  - b) A contribution of **£21,850.95** towards employment, skills, training for unemployed residents
  - c) A contribution of **£12,780** towards Carbon Off-Setting.
  - d) Commuted sum to secure an accessible space on Eric Street should there be demand
  - e) **£4,000** towards monitoring fee (£500 per s106 HoT's)
- Total £57,326.95**

8.230 The following non-financial planning obligations would also be secured:

- a) Affordable housing 35% by habitable room (12 units)  
66% Affordable Rent (8 units)  
34% Intermediate Shared Ownership (4 units)
- b) Access to employment  
20% Local Procurement  
20% Local Labour in Construction  
20% Local Labour in End User Phase  
6 Apprentices

- c) Car free agreement
- d) Securing public realm as accessible
- e) Option agreement for an operator catering for the specific existing nightclub use to take basement unit, with an obligation to ensure the existing operator is consulted;
- f) Re-provision strategy for existing nightclub including financial assistance up to £10,000, if the existing nightclub operator decides not to take the unit when consulted under obligation 'e' above.
- g) Any other planning obligation(s) considered necessary by the Corporate Director of Place.

### **Local Finance Considerations**

8.231 Section 70(1) of the Town and Country Planning Act 1990 (as amended) provides: "In dealing with such an application the authority shall have regard to:

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

Section 70(4) defines "*local finance consideration*" as:

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

8.232 In this context "grants" might include the Government's "New Homes Bonus" - a grant paid by central government to local councils for increasing the number of homes and their use. The Community Infrastructure Levy would be the London Mayor's CIL and Tower Hamlets CIL.

8.233 Using the DCLG's New Homes Bonus Calculator, this development is estimated to generate approximately £72,445 in the first year and a total payment £434,668 over 6 years.

8.234 Tower Hamlets CIL liability would be £42,175 and the London CIL liability would be £69,440

8.235 The Committee should take these estimates into consideration when determining the application.

### **Human Rights Considerations**

8.236 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:

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

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

8.239 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with Article 8 rights will be legitimate and justified. 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. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

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

8.241 The balance to be struck between individual rights and the wider public interest has been carefully considered. Having taken into account the mitigation measures governed by planning conditions and the associated section 106 agreement, officers consider that any interference with Convention rights is justified.

### **Equalities Act Considerations**

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

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.243 The proposed contributions towards, commitments to use local labour and services during construction, apprenticeships and employment training schemes, provision of a substantial quantum of high quality affordable housing and improvements to permeability would help mitigate the impact of real or perceived inequalities and would serve to support community wellbeing and promote social cohesion.

8.244 As discussed within the Land Use section above, it is considered that the nightclub could be considered as community infrastructure for the purpose of the aforementioned policies, being a meeting place and a social & leisure facility for a certain section of the LGBT+ community.

## **9.0 IMPLICATIONS ARISING FROM A DECISION TO REFUSE THE APPLICATION**

9.1 At 25<sup>th</sup> April Strategic Development Committee, members were minded not to accept officer recommendation for the following reasons:

1. Height, bulk and massing and impact on townscape
2. Density and overdevelopment of the site
3. The servicing provision
4. Loss of the community facility
5. Design of the proposal
6. Air Quality issues

9.2 Given these reasons are largely similar to the committee of 16<sup>th</sup> February 2017 officers consider it appropriate to provide wording for reasons for refusal (see appendix 2) and provide commentary on the detailed reasons for refusal on the application.

### Reason for refusal 1- Height, bulk and massing and impact on townscape

9.3 In relation to height, bulk and massing and impact on townscape, officers consider this to be subjective to an extent. The building will be taller than it's neighbours and therefore more visible from a number of vantage points. Therefore as outlined within this report, there would be an impact and in some cases less than substantial harm when referring to the NPPF assessment.

9.4 However, whilst officers have concluded this limited harm is outweighed by the benefits of redeveloping a brownfield site, provision of housing including much needed affordable housing and the townscape benefit of continuing and repairing the street pattern, a reason for refusal on this ground could be defended at appeal.

### Reason for refusal 2 – Density and overdevelopment of the site

9.5 Density and overdevelopment are typically measured by their impacts as opposed to whether they meet the density ranges set out within the London Plan. Sections 8.31

onwards of this report outlines factors that help inform whether a density above the London Plan can be considered.

9.6 Adverse symptoms of overdevelopment can 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 the surrounding area.*

9.7 As such, it is considered it will be difficult to defend an appeal solely on overdevelopment and reference would need to be made to the impacts of overdevelopment.

9.8 In this case, of the above six reasons for refusal, it is considered that 1, 3, 4 and 5 could collectively could form symptoms of overdevelopment of the scheme. However, given officers consider grounds 3, 4 and 6 to be difficult to defend at appeal, it is recommended reasons 1, 2 and 5 are amalgamated into a single reason as stated within Appendix 2.

#### Reason for refusal 3- The servicing provision

9.9 Officers would like to refer members to the consultation responses received by Transport for London (TfL). The proposal seeks to use an existing servicing bay of Burdett Road. This is shown in the photograph below:



9.10

9.11 TfL have confirmed that this approach is supported providing a delivery and servicing plan is conditioned that demonstrates that loading can be accommodated within the loading bay restrictions that currently exist and where TfL are consulted. As such, given the lack of evidence to suggest otherwise, officers would strongly advise

against including this as a reason for refusal, and as such, have not offered any suggested wording within appendix 2.

#### Reason for refusal 4 -Loss of night club/community facility

- 9.12 Since the previous committee the applicant has sought to retain the night club/community use within the development. Should members still consider it reasonable to refuse the application on this ground the suggested wording is appended. However, in light of the measures proposed by the applicant and secured within this report, the night club community use is being incorporated within this development. Therefore, officers would find it difficult to defend this reason at appeal.

#### Reason for refusal 5- Design of the proposal

- 9.13 The concern relating to design, as officers understand is to do with separation distances to neighbouring buildings. The impacts of which are based on a subjective assessment. How this is covered is suggested within paragraph 9.8 above.

#### Reason for refusal 6- Air Quality

- 9.14 The final suggested reason related to Air Quality matters. Members were concerned about the air quality impact from the proposal. In light with the comments made by the specialist Air Quality officer, who considers the applicants assessment to be acceptable and subject to mitigation raises no objection on Air Quality matters. As such, given the lack of evidence to suggest otherwise, officers would strongly advise against including this as a reason for refusal, and as such, have not offered any suggested wording within appendix 2.

#### Post committee –options to the developer.

- 9.15 In the event that the Committee resolves to refuse the application, (and the application is not taken over by the Mayor of London) the following options could be exercised by the applicant.
- 9.16 The applicant could withdraw the application and later approach the Council for further pre-application advice on an amended proposal and thereafter submit new applications.
- 9.17 The applicant could exercise their right to appeal to the Secretary of State against the Council's decision and lodge an appeal for costs. The appeal would be determined by an independent inspector appointed by the Secretary of State.
- 9.18 The National Planning Policy Guidance (NPPG) advises local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. The NPPG provides a list of grounds of where costs could be awarded. The following grounds could be seen as arguable in relation to some of the reasons and as such, members are advised to have regard to them.
- The failure to produce evidence to substantiate each reason for refusal on appeal
  - Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead

9.19 If the Committee do resolve that the application should be refused mentioned above, officers will seek to defend the Council's position.

9.20 However, if Members are minded to refuse planning for this scheme, then the proposed refusal reasons based on 25<sup>th</sup> April 2017 are listed in appendix 2. Members are able to refuse the application on other grounds and it is suggested the wording for refusal would be delegated to the Corporate Director of Place should this occur.

## **10.0 CONCLUSION**

10.1 All other relevant policies and considerations have been taken into account. Planning permission should be GRANTED for the reasons set out in the EXECUTIVE SUMMARY and MATERIAL PLANNING CONSIDERATIONS sections and the details of the decision are set out in the RECOMMENDATION at the beginning of this report



# Appendix 1 SITE MAP



## **Appendix 2 – Suggested reasons for refusal based on 25 April SDC consideration**

The officer recommendation is to **GRANT** planning permission. However, the Committee has on two previous occasions indicated that it was not prepared to accept the recommendation, the most recent being the meeting on 25 April 2017.

In the event that the Committee resolves not to accept the officer recommendation, possible reasons for refusal are set out below. The Committee are invited to consider the reasons and delegate the decision to officers to issue.

### Reason 1 – Overdevelopment

The proposal amounts to overdevelopment that seeks to maximise not optimise the development potential of the site. There would be conflict with London Plan 2016, Policy 3.4 '*Optimising housing potential*' (including Table 3.2 - '*Sustainable residential quality density matrix*'), the symptoms of this include the proposed height, mass and scale, which would be excessive in relation to local character and harm the visual amenities of the area. As such, the scheme would not be consistent with NPPF Chapter 7 '*Requiring good design*' paragraphs 58 and 59, Chapter 12 '*Conserving and Enhancing the Historic Environment*,' London Plan Policy 7.4 '*Local character*', Policy 7.7 '*Location and design of tall and large buildings*', Tower Hamlets Core Strategy Policy SP10 '*Creating distinct and durable places*' and the Managing Development Document Policy DM24 '*Place sensitive design*,' Policy DM26 '*Building heights*'. Whilst the proposal would result in public benefits by bringing a long vacant site back to beneficial use, by the provision of new housing including affordable homes; it is not considered these would outweigh the harm that would be caused.

### Reason 2 - Loss of the nightclub / community facility

The proposed measures to re-provide the nightclub would be insufficient to secure the long term retention of a facility which serves the gay community. As such, the proposal fails to accord with policy 3.1 of the London Plan and policy DM8 of the Managing Development Document 2013.