

<b>Committee:</b> Development Committee	<b>Date:</b> 11 <sup>th</sup> October 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Corporate Director of Place	<b>Title:</b> Planning Application
<b>Case Officer:</b> Gareth Gwynne	<b>Ref No:</b> PA/17/00250
	<b>Ward:</b> Weavers

## 1. APPLICATION DETAILS

**Location:** 114 -150 Hackney Road, London, E2 7QL

**Proposal:** Mixed use redevelopment of site including part demolition, part retention, part extension of existing buildings alongside erection of complete new buildings ranging in height from four storeys to six storeys above a shared basement, to house a maximum of 9 residential units (Class C3), 12,600 sqm (GEA) of employment floorspace (Class B1), 1,340 sqm (GEA) of flexible office and retail floorspace at ground floor level (falling within Use Classes B1/A1-A5) and provision of 316 sqm (GEA) of Public House (Class A4), along with associated landscaping and public realm improvements, cycle parking provision, plant and storage

**Additional Drawings and Documents:**

- Drawing 16091 (00)P100 Rev P04 (*Ground Floor Plan*), replacing Drawing 16091 (00)P100 Rev P02 (
- Noise Attenuation Note prepared by Sharps Gayle, dated 8<sup>th</sup> September:
- Initial Estimate Cost Plan for Fit Out of A4 Unit (prepared by Rosewood)
- GVA Daylight Analysis - Additional Information (23 August 2017)
- Outdoor Screening Options

## 2 Background

2.1 The application for planning permission for the proposed development was considered by the Development Committee on 9<sup>th</sup> August 2017. The original report incorporating the 9<sup>th</sup> August Update report is attached and an Equality Analysis has been prepared to accompany this report (Appendix 1)

2.2 Following consideration of the application at the 9<sup>th</sup> August Development Committee, the Committee resolved to defer the application to undertake a site visit and to receive further information about:

- (a) the future viability of the Public House (A4 Venue) serving the LGBT+ venue,
- (b) the fit out of the A4 unit and the applicants contribution towards that; and

- (c) the daylight impact to neighbouring properties, specifically upon homes at No 1-14 Vaughan Estate.
- 2.2 Following the resolution to defer the application, officers convened a round table meeting on 4<sup>th</sup> September between the applicant, representatives of Friends of the Joiners Arms, the New Joiners Arms, Officers of the Council and the Culture at Risk Officer from Greater London Authority.
- 2.3 This meeting gave a further opportunity for the Friends of the Joiners Arms and New Joiners Arms to set out their outstanding concerns with the proposed A4 unit within the scheme. Discussions were wide ranging but included:
- a) the applicant's amended offer (as set out later in this report), in respect of a financial contribution to the Public House fit out costs;
  - b) the choice of location within the scheme of the replacement Public House;
  - c) design measures to contain noise from the A4 unit;
  - d) steps to create enhanced noise attenuation and sense of defensible space to the pub/ bar outside forecourt area; and
  - e) securing the Public House as a venue with late night opening hours to serve the LGBT+ community.
- 2.4 Following the meeting both the Friends of the Joiners Arms and the New Joiners Arms were invited to provide written representations on the physical amendments to the scheme discussed at the meeting and to comment on the revised Heads of Terms to the Section 106 legal agreement, were consent granted for the scheme. No comments to date have been received from New Joiners. The Friends of the Joiners (a) welcomed the £130, 000 contribution from the developer to help meet fit out costs, (b) commented on the new configuration and size of the A4 unit as a definite positive step, (c) also stated the proposed interior acoustic breakout measures were a very positive step forward and (d) in principle were positive about the acoustic and landscaping measures to the proposed Public House A4 front forecourt in terms of: helping to control noise; enhance customer security, with a sense of the creation of a stand-off space from Hackney Road itself.
- 2.5 The Friends sought more clarity on the costs of the acoustic breakout measures and whether this was included within the developers agreed fit out cost contribution. They also raised concerns regarding the acoustic consultant's report and whether the noise control measures would be comparable with a late night license nightclub.
- 2.6 In summary Friends of the Joiners have, in the round, positively received the changes made and additional detail provided for the scheme since the 9<sup>th</sup> August Development Committee. However, the Friends of the Joiners maintain an objection to the scheme if a planning condition is imposed in respect of opening hours of the A4 as they feel it curbs the opportunity for the Public House to serve as a late venue for the LGBT+ community – the late night aspect, reflecting in their group's views, is a key attribute to the community infrastructure value of the now closed Joiners Arms.
- 2.7 Separately the Friends of the Joiners Arms have written to officers in respect of the Equality Assessment (EA) in regards to:
- a) lack of due acknowledgement of the impacts of the development upon the trans community;

- b) the conclusions reached within the EA on the impacts upon protected characteristic groups; and
- c) the EA failure to have regard to the equality impacts that the Friends consider follows from the scheme not being secured as a late night venue.

*(Officer Comment: An amended Equality Assessment has been prepared. The EA acknowledges the significance and impact of the Joiners Arms as an LGBT+ late night venue and the degree of adverse impacts the control of opening hours has in that regard).*

### **3. REVISED OFFER / AMENDMENTS TO SCHEME**

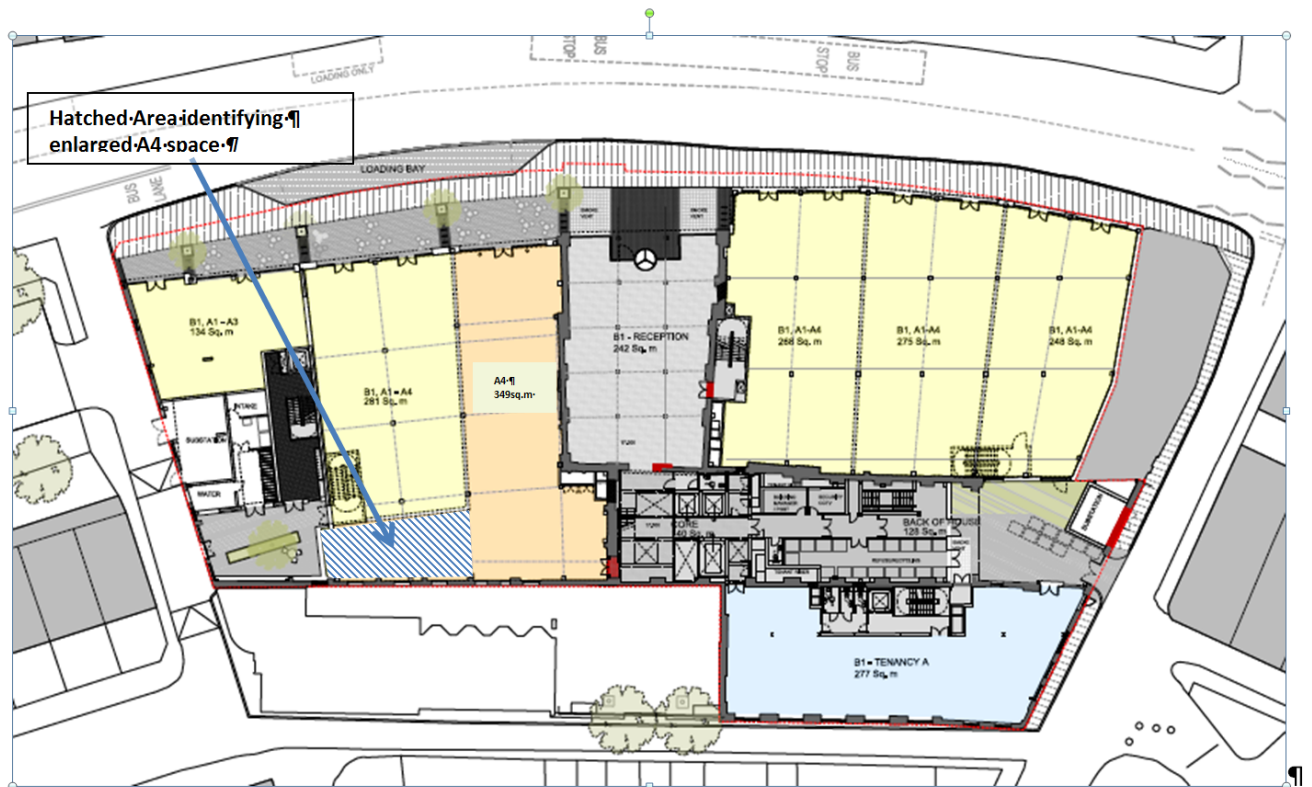
- 3.1 Following discussions with officers the applicant has submitted a series of amendments to the scheme and provided additional supplementary information which is considered below in detail.

#### **Planning Obligations**

- 3.2 With respect to the Section 106 legal agreement the main change set out in the Head of Terms prepared by the Borough and agreed by the applicant, is
  - (a) An agreement to make a financial contribution towards fit out cost for the A4 Unit, set up to a maximum of £130,000, standing alongside an existing agreed obligation to provide 12 months' rent free from the lease commencement date (to allow the LGBT+ lessee to complete their fit out costs).
  - (b) In addition the applicant has set out in fuller detail what completion of the A4 Unit to a "shell and core: specification means namely the structure and building envelope will be completed to relevant building regulations with capped mains services for gas, electricity, water and provision of duct for telecommunications. This detail would be captured within a schedule to the s106 Agreement, were consent granted.
  - (c) The applicant has also agreed, which would be secured within the s106 legal agreement, that the minimum lease length for a future LGBT+ operator for the A4 Unit should be increased from 12 to 15 years. Furthermore should an LGBT+ operator terminate the lease within those 15 years, the applicant is required to repeat the Right of First Refusal procedure in the legal agreement to allow for another LGBT+ operator to seek to take up the A4 unit.

#### **Amended Layouts**

- 3.4 The planning application has been amended to enlarge the internal floor area to the defined A4 Unit within the scheme from 262sq.m to 348sq.m (all located at ground level).



**Figure 1: Amended Ground Floor Plan with enlarged Public House (A4 Unit)**

#### 4 OFFICER'S RESPONSE to ISSUES RAISED BY MEMBERS

##### Fit Out Costs

- 4.1 Members expressed concerns that the fit out costs associated with re-providing the Public House use may place its viability at risk and therefore the delivery of a replacement LGBT+ venue. The applicant has prepared an initial cost plan for fit out costs and has agreed (secured within the confines of the legal agreement) to meet any fit out costs incurred by a future LGBT+ operator, up to a maximum £130,000.
- 4.2 Officers consider this obligation represents a substantive and positive material change to the scheme since 9<sup>th</sup> August Development Committee to address Members concerns that fit out costs could imperil the delivery of the replacement Public House intended to serve the LGBT+ community. This amendment is considered to better serve the planning objective of the Borough's Managing Development Document Policy DM8 (3) – *Community Infrastructure* by ensuring the fit out costs do not act as a financial drag on re-provision of the Public House as a community facility and would pay due regard to the Equalities Act and the promotion of equality of opportunity by assisting the practical implementation of the right of first refusal of the A4 unit to a LGBT+ operator.
- 4.3 Officers also consider the applicant's willingness to extend the lease to an LGBT+ operator to 15 years, secured within the s106 legal agreement, would provide: (a) further comfort that long term business plans for the A4 Unit can be made by a prospective LGBT+ operator, and; (b) underlines the applicant's commitment to such a venture within their wider vision for the future occupancy of the regeneration scheme post completion.

## **Design and Layout of the A4 Unit**

- 4.4 In terms of the future viability of the proposed A4 unit, Members expressed concerns about the size of the proposed A4 unit - echoing concerns raised by CAMRA, New Joiners and Friends of the Joiners Arms amongst others. In particular, concerns were raised about adequate space for storage (e.g. beer barrels and other drink supplies in particular) and the lack of a contained private external smoking area set away from Hackney Road.
- 4.5 During the round table meeting the applicant set out that the need for large storage space within public houses is less pressing than it once was as breweries and other drink suppliers are now much more comfortable making once or twice weekly deliveries when in yesteryears fortnightly deliveries may have been more the norm.
- 4.6 The amended plan increases the floor area of proposed A4 Unit by 22%. This is achieved by the proposed A4 unit occupying an area previously serving the neighbouring flexible use commercial unit. Officers consider the expanded floor area a welcomed development. The alteration increases the internal ground floor area of the premises significantly above that of the former Joiners Arms which provides greater flexibility on how an operator might use and sub-divide the internal space. The increased floor area provides opportunities to improve total customer capacity and with it the reasonable prospect of greater sales and improved turnover, improving the potential viability of the Public House.

## **Possible Relocation of Proposed Public House**

- 4.7 Both heard at the 9<sup>th</sup> August Development Committee and set out in representations received before the Committee there were calls for more radical alterations to the proposed scheme including moving the proposed Public House to the ground floor commercial unit occupying the corner with Strout's Place and/or to relocate the replacement A4 unit within the footprint of the closed Joiners Arms. Officers remain of the considered opinion this would not represent a positive change as it would only bring the proposed Public House closer to residential properties (both within the development and elsewhere) and with it introduce a greater potential degree of conflict, in amenity terms, between these two land uses. Whilst the Mayor of London's 'Agent for Change' principles of imposing upon the development '*sensitivity testing*' for the new residential units proposed within the scheme is recommended, such Agent for Change principles/ reverse sensitivity obligations cannot be imposed upon existing homes and already consented residential schemes.

## **Residential Amenity – noise breakout and disturbance.**

- 4.8 Officers acknowledge that the opening hours of the proposed A4 unit remains a key point of discussion. Given the surrounding context Officers are recommending a planning condition limiting the opening hours to no later than midnight (with an additional half an hour 'drinking' up time). It has been suggested by the Friends of the Joiners Arms that such a limit of opening hours would render a future LGBT+ venue unviable. Furthermore the GLA's 'Agent of Change' agenda seeks to protect the closure of late night venues which make a positive contribution to the late night economy and also acknowledges the specific need to resist the closure of LGBT+ venues in light of a significant loss of such venues across London in recent years.

Noise breakout from the proposed A4 unit (e.g. from amplified music within the venue)

- 4.9 Since the deferral of the application, Officers have explored the possibility of noise mitigation, and other measures to allow a late night music venue to be compatible, in land use terms, with the changing and existing context of the local area. The following measures are now proposed:
- internal independent wall and ceiling linings if necessary (although the concrete shell of the building is likely to provide adequate sound break-out control),
  - enhanced acoustic glazing
  - A lobby door system to minimise openings in the façade.
  - Music noise limiters to a set decibel level
  - compliance testing is also undertaken to demonstrate that the actual situation achieves the required limits levels.
- 4.10 Subject to securing the above mitigation, Officers do not consider that noise from within the A4 unit would have an undesirable effect on the residences within the development itself or existing or future residents. The proposed residential units are well separated from and do not share a common structure with the A4 unit (i.e. the proposed homes are not above or adjacent to the A4 unit).

Noise breakout from the proposed external smoking area on Hackney Road

- 4.11 To minimise noise breakout, localised acoustic screening around this external area, such as framed or frameless glass balustrading, or more solid timber screening can be included. If the smoking area is to operate beyond midnight, it is recommended that a noise management plan is provided which will include a risk based approach to the control of patron noise. It is important to note that Hackney Road is a busy route at all times of day and night and the noise surveys show typically high sound level as a result. The properties on the opposite side of the road (part of a new development in Hackney, No 96-137 Hackney Road) have been designed with a high specification of acoustic glazing and ventilation for that reason.

Proposed opening hours

- 4.12 Notwithstanding the above, to protect residential amenity a planning condition is recommended to restrict the hours of operation of the proposed A4 unit to open no later than midnight on Friday and Saturday night and 23:00 hours for the remaining days of the week, allowing for an additional half an hour to close and clear the Public House of customers. The London Borough of Hackney have imposed a planning condition limiting opening hours to no later than 23:00 hours for any A3/A4 unit occupied within the mixed use scheme located opposite at No 96-137 Hackney Road.
- 4.10 Officers have and continue to recognise this proposed restriction of hours of opening by planning condition restricts the ability of the proposed A4 Unit to serve as a late night venue and this needs to be given weight in respect of giving due regard to the Council's equality duty set within a broader context of a sustained trend of LGBT+ night time venues closing in London.
- 4.11 Officers remain of the considered view it is important to distinguish between the proposed A4 being able to operate as a viable Public House serving the LGBT+ community and the separate material consideration of whether, in light of the changing site context, the Public House can benefit with opening hours consistent

with the previous licensing hours of the closed Joiners Arms and, as such, function on first opening following completion of the development as a late night Public House venue serving the LGBT+ community.

- 4.12 In terms of breakout noise from amplified music within the A4 unit, the acoustic reports confirmed that this would be adequately dealt with by conditions; however, the proposal still has the potential to create noise disturbance. Indeed, once patrons leave the site it is out of the control of the applicant/ operator to monitor or supervise. It is however acknowledged that, in this specific location, Hackney Road is a busy and relatively noisy route at all times,
- 4.13 Given the capacity of the venue, a significant number of visitors could be both arriving and leaving the site late at night which could give rise to unacceptable noise and disturbance to neighbouring residents throughout the night that cannot be controlled through conditions or through the management of the site. Conversely, it acknowledged that there is cross over with the Licensing regulatory regime in terms of protecting nearby residents from disturbance and anti-social behaviour associated with the operation of a drinking establishment and night-time venue. Notwithstanding this, officers maintain the previous recommendation to impose a control of opening hours within the confines of the planning system.
- 4.14 Officers acknowledge it is Members prerogative to remove or amend this recommended planning condition. Should Members wish to remove or amend the recommended restrictions of open hours of the A4 unit, it is recommended that a noise management scheme is secured by planning condition. An example of such a condition would be as follows:

*A Noise Management Plan (NMP) shall be submitted to and approved by the Local Planning Authority four weeks prior to the venue to which the application refers opening. The NMP shall include as a minimum, written details of the following information;*

*i. Statement of Intent*

*ii. Organisational responsibility for noise control*

*iii. Hours of operation and music production*

*iv. Imposed planning conditions controlling noise/disturbance*

*v. Physical and managerial noise controls processes and procedures*

*vi. Music noise level controls including music noise limiter settings and any external noise limits and monitoring locations.*

*vii. Patron noise controls including management and physical controls such as modular screening.*

*viii. Details of how compliance with control limits is achieved and procedure to address non-compliance*

*ix. Details of review of NMP*

*x. Details of community liaison and complaints logging and investigation*

## Daylight Impacts

- 4.15 As set out in the original 9<sup>th</sup> August Development Committee, officers acknowledge there are a significant set of major and moderate adverse impacts upon 1-14 Vaughan Estate. Following a request from Members for a fuller understanding of the implications of these impacts, notably in terms of the layouts of the maisonettes at 1-14 Vaughan Estate. The applicant has provided additional information that illustrates the maisonettes are dual aspect with the primary living room and indeed the main bedroom within these properties set away from the development and those facing Diss Street are set dual aspect. Further photographs were provided showing how the existing architectural features on the properties act as a significant constraint on rooms achieving good natural light, especially to rear windows (facing the development) at ground floor with proximity of the properties boundary walls, overhanging platform, raised external staircase and solid balustrade.
- 4.16 Officers, on balance, consider these impacts are acceptable when due weight is given to the public and regeneration benefits of the scheme and consideration is given that the adverse daylight impacts do not impact upon the main living rooms or master bedrooms of the affected homes.

## 5 RECOMMENDATION

- 5.1 As per previous recommendation planning permission should be **approved**.

That the Committee resolve to GRANT planning permission subject to:

- a) Prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure the following planning obligations:

### 5.2 Financial Obligations:

- a) A £130,000 capped financial contribution to help meet the fit out costs of an A4 Unit operated by an LGBT+ operator
- b) A contribution of £57,444 towards employment, skills, training for construction job opportunities;
- c) A contribution of £339,680 towards employment, skills, training for end phase job opportunities;
- d) Monitoring fee £1,500 (£500 per 106 Head of Terms)

Total: £528,624

### 5.3 Non-financial Obligations:

- e) Right of First Refusal Option for LGBT+ operator to take up a commercial lease upon the consented Public House (A4 Use Class) unit including provision for a 15 year lease for such an Operator
- f) Owner agreeing to enter into a Section 278 Highways Agreement to gain improvements for pedestrians on footways surrounding site, and highway reconstruction.



- g) Owner ceding for highway adoption under Section 72 of the Highways Act
- h) Access to employment, involving:-
  - Reasonable endeavours to gain minimum 20% local procurement.
  - Reasonable endeavours to gain minimum 20% local labour in Construction.
- i) Delivery of 7 newly created apprenticeships on-site during construction phase.
- j) Delivery of 3 newly created on site apprenticeships at end phase
- k) Reasonable endeavours to keep existing architects as project architects through to building completion; and
- k) Car Free Agreement

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

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

5.6 **Conditions**

Compliance Conditions

1. Three year time limit
2. Development to be built in accordance with approved plans
3. Requirement to maintain a Public House (A4 Land Use) at ground floor.
4. Limits on total quantum of A1 operation on site, A2, A3, and A4 and cap on maximum size of any individual A1, A3 or A4 and total number of A3 and A4 units
5. Flexible Use (B1/A1-A4) shall be closed and cleared of customers by 23:30 (except for 23:00 on Sundays and bank holidays) and shall not open before 7:00 every day. The A4 use class unit shall be closed and cleared of customers by 00:30 on Fridays and Saturdays and 23:30 on all other days.
6. No rooftop plant shall be visible from ground level
7. Noise limit on plant
8. Noise Breakout maximum limits and music noise limiters (compliance to noise rating NR40 (Leq, linear) outside affected neighbouring residential dwellings)
9. No mechanical externally ventilated extract system for A3 or A4 units without prior submission of details and written agreement
10. During hours of daylight, all occupants of the consented B1 spaces shall have access to Level 5 roof top terrace
11. Compliance with GLA Non Road Mobile Machinery Requirements
12. Bin Storage Areas to be designed in accordance with BS5906:2005 and Bins to BS EN 840
13. Flexible Use (B1/A1-A4) units to store all refuse within units and only present bins to pavement at time of collection
14. Maintain a minimum 60% of the approved glazed frontage with unobstructed views into the individual flexible use units

### Pre-commencement

15. Land contamination investigations study
16. Piling Method Statement
17. Construction Environmental Management Plan, including details of opportunities for a co-ordinated approach to CEMP strategies in relation to the scheme at No 96-137 Hackney Road
18. Recording and salvage of materials / features for reuse
19. Building Historic Recording Survey including photographic survey

### Pre-commencement excluding demolition phase

20. Impact studies upon existing water supply
21. Details of drainage and sustainable water management strategy
22. Landscaping including details of all external lighting, CCTV, external street furniture, samples of all public realm hard landscaping materials
- 23: Detail of Clean Air Mechanical Ventilation to residential Units
24. Safe storage of historic directors Board Room panelling

### Prior to commencement of relevant works

25. Details of secure cycle stands, changing room/shower and locker facilities for cyclists
26. Samples of all external materials and (1:20 minimum) façade detail construction level drawings including detail of the junction of materials
- 27 Noise Mitigation Implementation Strategy

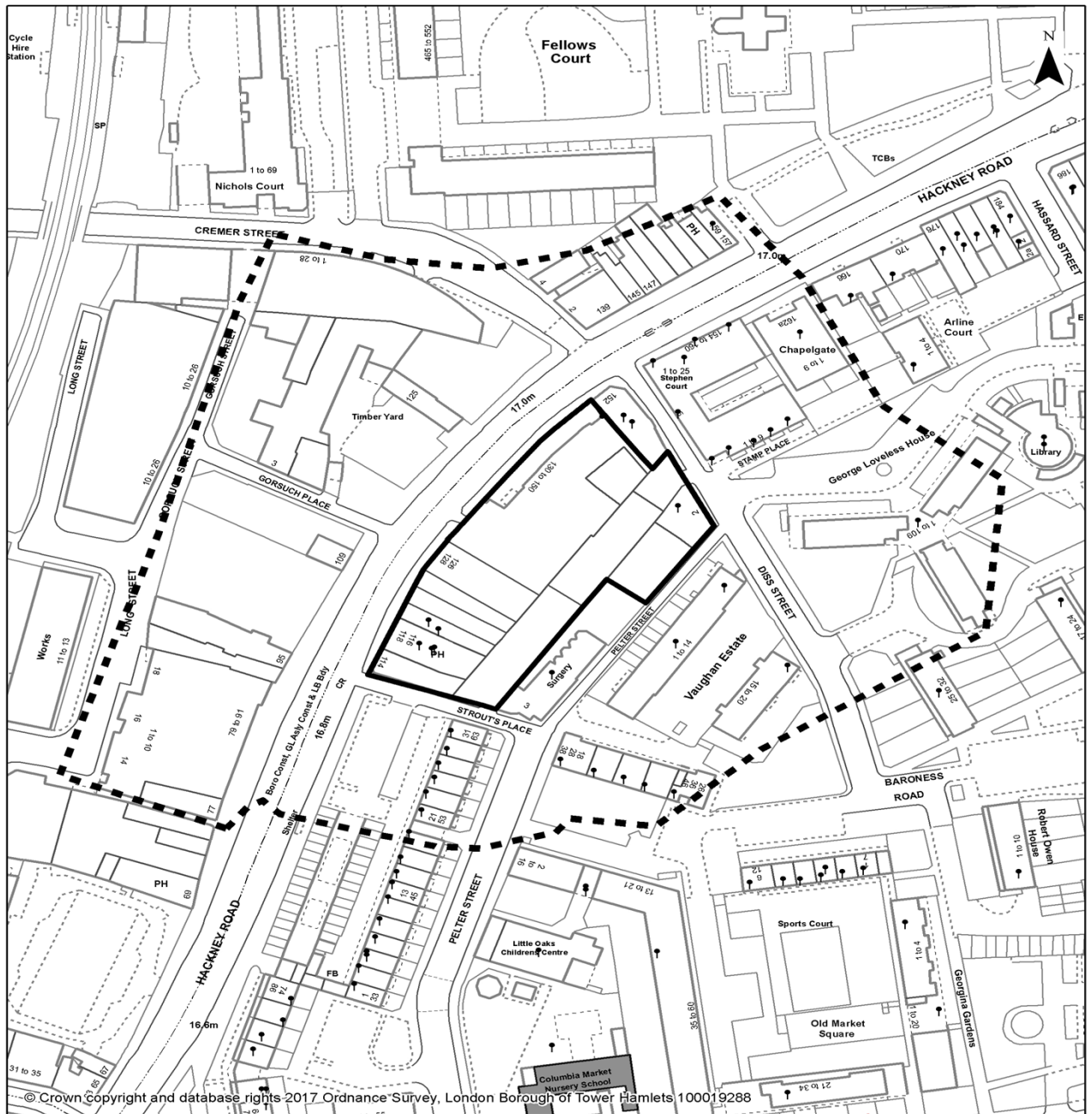
### Pre-Occupation

28. Achievement of BREEAM Excellence rating
29. Details of residential privacy design measures
30. Management Plan for roof top terraces including control on hours
31. Facsimile copies or return of Joiners Arm decorative panel to front façade
32. Achievement of Secure by Design Accreditation for all residential units, to the commercial units and A4 Public House
33. Prior to occupation of each of the ground floor flexible use units details of 'shopfront' strategy and signage
34. Prior to occupation of each of the ground floor flexible use units Delivery and Service Management Plan (including waste collection)
35. Operational Management Plan for A4 including noise breakout mitigation strategy and A4 customer management plan
36. Travel Plan for B1 spaces
37. Delivery and Service Management Plan (including waste collection) for the B1 office spaces
38. All residential units shall be built in accordance BS 8233 (2014) acoustic and noise insulation standard, with results of compliance testing provided pre-occupation
39. Evidence the wheelchair adapted residential unit has achieved Building Regulations M4 (2) and the communal lift is also fully consistent with wheelchair accessibility, prior to occupation of residential units
40. Approval of Public Art commission for site with art installation installed prior to occupation of site

### Post Completion

41. Submission of 'as built' calculations for energy reduction
42. Submission of an acoustic compliance assessment

# Site Location Map



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

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

## Planning Application Site Map PA/17/00250

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



GIS for Place Directorate  
 LONDON BOROUGH OF TOWER HAMLETS  
 Date: 28/07/2017



## Appendix 1

### Approved Drawings:

16091_(00)_P001	Rev P01
16091_(00)_P099	Rev P02
16091_(00)_P100	Rev P02
16091_(00)_P101	Rev P01
16091_(00)_P102	Rev P01
16091_(00)_P103	Rev P02
16091_(00)_P104	Rev P02
16091_(00)_P105	Rev P02
16091_(00)_P106	Rev P03
16091_(00)_P200	Rev P02
16091_(00)_P201	Rev P02
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16091_(00)_P305	Rev P01
16091_(00)_P306	Rev P02
16091_(01)_P099	Rev P01
16091_(01)_P100	Rev P01
16091_(01)_P101	Rev P01
16091_(01)_P102	Rev P01
16091_(01)_P103	Rev P01
16091_(01)_P104	Rev P01
16091_(01)_P200	Rev P01
16091_(01)_P201	Rev P01
16091_(01)_P202	Rev P01
16091_(01)_P203	Rev P01

### Documents

- Transport Assessment (January, 2017)
- Geo-Environmental Investigation (January, 2017)
- Noise and Vibration Impact Assessment (January, 2017)
- Air Quality Assessment (January, 2017)
- Design & Access Statement (January, 2017)
- SuDS Strategy (January, 2017)
- Energy Statement, Issue 5 (July 2017)
- Typical Facade Treatments Drawing (received 11 July 2017)