

<b>Committee:</b> Strategic Development Committee	<b>Date:</b> 15 <sup>th</sup> February 2018	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Place	<b>Title:</b> Applications for Planning
<b>Case Officer:</b> Simon Westmorland	<b>Ref No:</b> PA/17/01920
	<b>Ward/s:</b> Spitalfields and Banglatown Ward, St Peters Ward and Bethnal Green Ward

## 1.0 APPLICATION DETAILS

**Location:** Sainsbury Foodstore, 1 Cambridge Heath Road, London, E1 5SD

**Existing Use:** Supermarket, supermarket car park, Crossrail works site

**Proposal:** Demolition of the existing store and decked car park to allow for a replacement Sainsbury's store (Use Class A1) of 5,766 sqm (net sales area), 11,414 sqm (GIA) to include a Use Class D1 'explore learning' facility (118 sqm GIA); 871 sqm (GIA) of flexible retail/office/community floorspace (Use Class A1, A2, A3, B1 and D1); 471 residential units arranged in 8 blocks ranging from six to 14 storeys in height (up to a maximum height of 58.9m AOD); an energy centre and plant at basement level; 240 'retail' car parking spaces and 40 disabled car parking spaces for use by the proposed residential units; two additional disabled parking bays proposed at Merceron street; creation of an east-west public realm route from Cambridge Heath Road to Brady Street and public realm provision and enhancements; associated highway works to Brady Street, Merceron Street, Darling Row and Collingwood Street, and Cambridge Heath Road.

**Drawings & Documents:** See Appendix 2

**Applicant:** Sainsburys Supermarkets Ltd

**Ownership:** Sainsburys Supermarkets, Transport for London, London Borough of Tower Hamlets, Bloomfield Ltd, London Underground Ltd, London Power Network PLC

**Conservation Area:** A small section of land on the southern edge of the site falls within the Whitechapel Market Conservation Area

**Historic Building:** None on site

## **2.0 EXECUTIVE SUMMARY**

- 2.1 On the 14 December 2017, the Planning Inspectorate notified the Council that an appeal has been submitted under Section 78 of the Town and Country Planning Act 1990 (as amended) because the statutory period for determining the application has expired and no decision has been made. This is described as a non-determination appeal.
- 2.2 As such the powers to determine the planning application have been taken away from the Council and now lie with the Secretary of State (Planning Inspectorate).
- 2.3 The Strategic Development Committee is advised to consider the application in the same manner as it would have done if the decision to determine application had not been removed from the Committee i.e. by having regard to all the planning policies, material considerations and representations received in respect of the application.
- 2.4 The resolution the Strategic Development Committee takes will determine the position that the Council will adopt at the Appeal.
- 2.5 The recent planning history of the site includes the refusal of planning application PA/15/00837 in May 2017. This refusal is also subject to a planning appeal to be heard at a conjoined Public Inquiry with the appeal for non-determination. The Public Inquiry will begin on 9<sup>th</sup> October 2018 and is scheduled to sit for 10 days.
- 2.6 In land use terms the principle of the development is consistent with relevant development plan policies and the Key Place Transformation land use objectives set for the site within the Borough's Whitechapel Vision Masterplan SPD. These objectives include: the delivery of a larger supermarket site; meeting the additional demand for convenience retail provision in Whitechapel; the provision of high density housing above the supermarket; the provision of a new pedestrian route through to Cambridge Heath Road from Brady Street and; the creation of a new public space at the junction of Durward Street and Brady Street.
- 2.7 In retail terms, the scheme is considered consistent with the NPPF and development plan policies through concentrating retail floorspace in an identified town centre, subject to securing a planning obligation to mitigate potential trade diversion in respect of comparison goods from street market stalls to the supermarket. This would ensure that the retail proposal complements and enhances the street market with its role in adding retail variety, promoting local enterprise, and local character so as to accord with Policy SPO1(4.c) of the Core Strategy and Policy 4.8(e) of the London Plan
- 2.8 The scheme would provide 471 new homes that on balance accord with London Plan and Local Plan policy objectives for delivering new housing of a good residential standard.
- 2.9 The application proposes 17.5% affordable housing by habitable room (122 units) on a 80:20 split between rented and intermediate housing per habitable room to be delivered on site. Whilst the proposals and accompanying viability information have been independently assessed on behalf of the Council and by the Greater London Authority (GLA), the application was appealed for non-determination prior to an agreed position being reached on the viability of the scheme. In light of this, the scheme is not considered to demonstrate that it provides for the maximum

reasonable amount of affordable housing as per Borough and London wide policy requirements. The Mayor of London's Stage 1 Referral report describes the affordable housing offer as "*wholly unacceptable*". It is noted that the figure of 17.5% falls significantly below the development plan policy requirements for 35 to 50 per cent affordable housing provision.

- 2.10 The scheme would result in less than substantial harm to the setting of the Grade II listed Albion Yard Building and to the character and appearance of the Whitechapel Market Conservation Area.
- 2.11 The scheme would provide for public benefits including additional housing and a re-provided supermarket, an improved public realm, the creation of new public open spaces and better pedestrian connectivity to the Whitechapel Town Centre. However, given that the affordable housing offer fails to accord with the policy target and has not been established to be the maximum reasonable amount the development can support, this public benefit, whilst remaining an important consideration falls significantly short of the level of public benefit that should be provided for a major development such as this. "Less than substantial harm" to heritage assets is required by policy and statute to be given significant weight against the grant of planning permission. Officers consider that on balance, the scale of the public benefits which the scheme delivers would not outweigh the less than substantial harm to the Albion Yard Brewery and the Whitechapel Market Conservation Area.
- 2.12 The development would result in reductions to daylight and sunlight levels to neighbouring residential properties. Whilst these impacts are considered moderate adverse for the development as whole, there are a number of surrounding properties which receive major adverse impacts – in excess of 40% reductions in existing levels of daylight/sunlight. Properties particularly affected include Albion Yard, Kempton Court and Grindall House.
- 2.13 In highway, servicing and transportation terms the scheme is considered acceptable and would not prejudice the future redevelopment of the Crossrail 2nd entrance and associated ticket hall, or result in an unacceptable impact on congestion or traffic flows to surroundings roads, subject to securing a planning obligation to provide traffic calming measured on surrounding roads, including an option to introduce one way on southern section of Collingwood Street.
- 2.14 The loss of the existing trees, including high amenity value streets trees on Brady Street, Merceron Street and Collingwood Street would result in some harm to the character and appearance of the area. The proposed landscaping strategy would help to alleviate this, nevertheless, this does involve off-site tree planting to help mitigate the loss. No protected trees are proposed to be removed.

### **3.0 RECOMMENDATION**

That the Committee resolves to inform the Planning Inspectorate that were it empowered to determine the application for planning permission the Council would have REFUSED permission for the reasons set out below:

- 1) The affordable housing offer of 17.5% within the proposed development would fail to meet the minimum requirement of the adopted Tower Hamlets Local

Plan. The offer has not been justified in financial viability terms and would fail to provide an adequate amount of affordable housing to meet strategic targets.

The development consequently fails to accord with a number of material considerations, including but not limited to: the Borough's adopted Development Management Document policy DM3, the Borough's adopted Core Strategy policy SP02, the adopted London Plan including policies 3.8, 3.11 and 3.12, the National Planning Policy Framework and supplementary planning guidance as set out in LBTH's Development Viability SPD (October 2017), LBTH Planning Obligations' SPD (2016) and the Mayor of London's Affordable Housing and Viability SPG (August 2017).

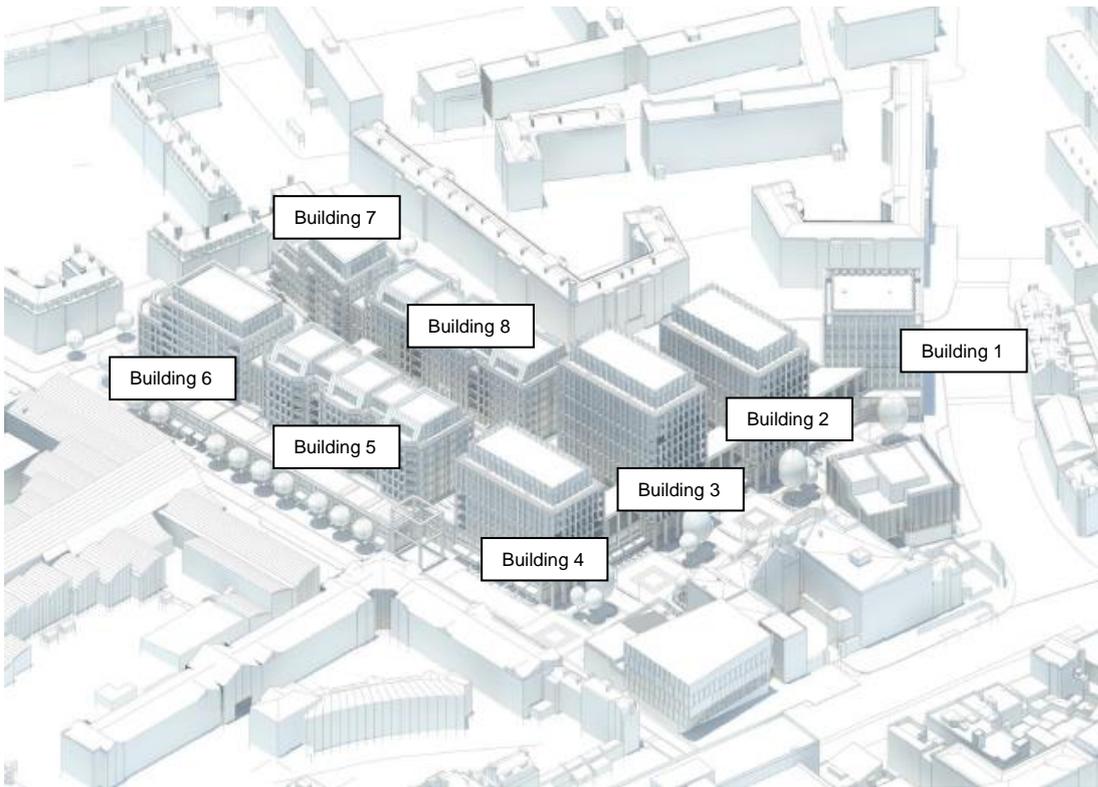
- 2) The proposed development within the setting of the Grade II listed Albion Yard Brewery would cause less than substantial harm to the significance of the heritage asset and would fail to preserve or enhance the character or appearance of the Whitechapel Market Conservation Area, by reason of the adverse impacts of the development upon townscape views of Albion Yard Brewery from Whitechapel Road.

As such, the proposal fails to provide a sustainable form of development in accordance with paragraphs 17, 56 and 61 of the NPPF and fail to be consistent with the guidance set out in Chapter 12 of the NPPF in respect to conservation and enhancement of the historic environment. The proposal is also contrary to policies 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2016), SP10 and SP12 of the Tower Hamlets Core Strategy (2010) and policies, DM24, DM26 and DM27 of the Tower Hamlets Managing Development Document (2013).

- 3) The development would unacceptably impact on the amount of daylight and sunlight that would be received by surrounding properties namely, Albion Yard, Blackwood, Berry, Collingwood and Grindall Houses, Kempton Court, Key Close breaching guidance in the Building Research Establishment Handbook 'Site Layout Planning for Daylight and Sunlight' 2011. The extent and severity of the impacts are such that the development would not be consistent with the Mayor's London Plan Policy 7.6 B(d) and the Borough's 'Managing Development Document' Policy DM25 Amenity.
- 4) In the absence of a legal agreement to secure financial and non-financial contributions including affordable housing, street market enhancements, highway works, land allocated for Transport for London bike station, employment, skills, training and enterprise, and energy, the development fails to maximise the delivery of affordable housing and fails to mitigate its impact on highways, local retail sector, local services and amenities. This would be contrary to the requirements of Policies SP01, SP02, SP09, SP12, and SP13 of the LBTH Core Strategy, Policy DM1, DM3, DM20, DM21 of the LBTH Managing Development Document and Policies 2.15, 3.11, 3.12, 4.7, 6.3 and 8.2 of the London Plan and the LBTH Planning Obligations SPD 2016.

## **4 PROPOSAL SITE AND SURROUNDINGS**

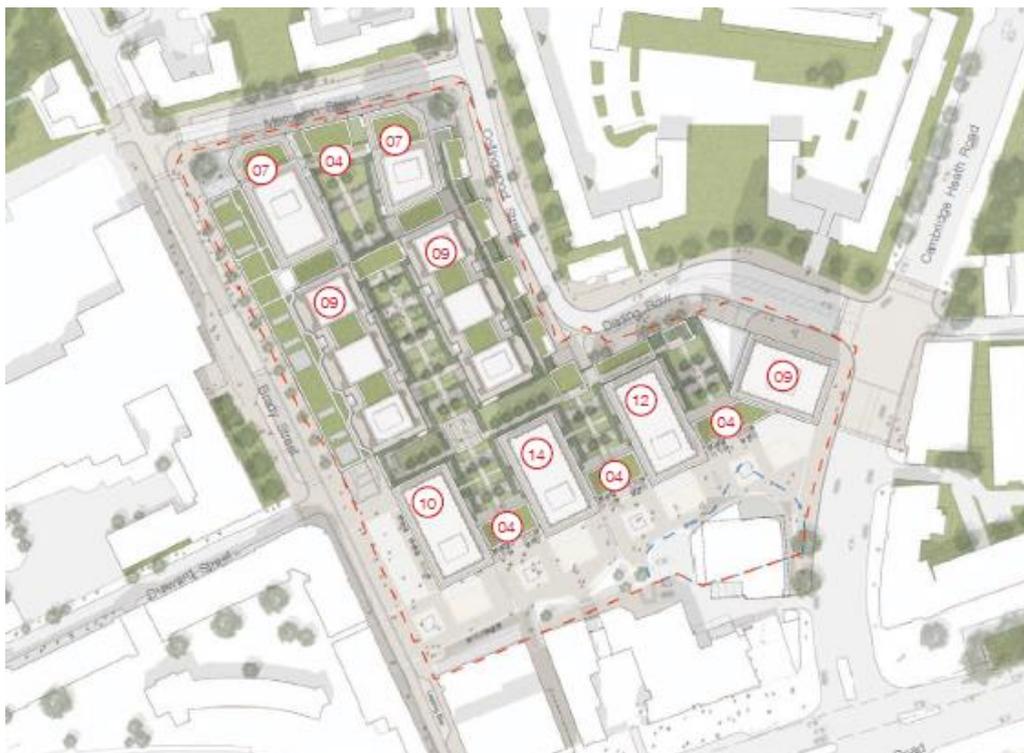
### **Proposal**



**Figure 1: Massing Overview**

- 4.1 The proposed scheme includes the:
- Demolition of the existing retail store and temporary car park with the erection of a new supermarket and construction of 471 residential units arranged within 8 blocks ranging from 8 to 14 storeys in height.
  - Erection of 7 townhouses built at street level fronting onto Collingwood Street.
  - Construction of 4 flexible use retail type spaces (A1/A2/A3/A3/B1/D1 Use Classes) opening onto a new east-west public pedestrian route; this new route is known as Albion Walk in the application documentation and would create a link from the southern end of Brady Street with Cambridge Heath Road. Albion Walk would also serve as a potential future public entrance to the safeguarded second entrance to Whitechapel Crossrail Station.
  - Construction of a D1 Use space designed with the intention of being occupied by an 'explore learning' facility (of 118sq.m GIA) on the corner of Merceron Street and Brady Street, set adjacent to a 5<sup>th</sup> smaller flexible use retail type unit.
- 4.2 The applicant's planning statement states that the existing retail store is 7,949sq.m (GIA) whilst the new supermarket would be 11,414sq.m with a net sales are of 5,766sqm.
- 4.3 The supermarket entrance for shoppers would be from Brady Street with the customer car park located at basement level with vehicular access from Darling Row onto Cambridge Heath Road. The scheme would provide 240 retail car parking spaces and 40 residential car parking spaces, the latter for use by Blue Badge Holders. The customer car park would be linked to the supermarket via travellers, lifts and stairs.

- 4.4 With the exception of Building 1, the remaining 7 residential blocks would be set on a two storey podium above the new supermarket. Building 1 would be located towards Cambridge Heath Road and would rise to 9 storeys in height (43.1m AOD). This was the location of the 28 storey tower within the previous refusal on site - ref PA/15/00837. Buildings 2, 3 and 4 would run along the southern edge of the proposed podium on the north side of Albion Walk. Building 3 the middle of these three blocks would be the tallest and would rise to podium level plus 12 storeys (58.9m AOD), Building 2 set immediately to the west of Building 3 would rise to podium level plus 10 storeys (52.9m AOD) and Building 4 located on the corner of Brady Street and Albion Walk would rise to podium level plus 8 storeys (46.9m AOD).



**Figure 2: Proposed block heights**

- 4.5 Buildings 5 and 8 would rise to podium level plus 7 storeys (43.40m maximum AOD) and would be set centrally within the site with buildings 6 and 7 at the northern end of the site rising to podium plus 5 storeys. The podium would provide the main external amenity space to the scheme broken into spine running between Buildings 5 and 6 (facing Brady Street) and Building 7 and 8.
- 4.6 With the exception of Building 1 the height, building envelope and handling of the treatment of the facades to the other seven buildings is identical to the refused scheme.
- 4.7 The long north-south axis podium level external space would be divided into two separate spaces through the inclusion of a two storey residential block built east-west across the width of the podium. To the north of the two storey block the podium space would provide the main communal amenity and playspace for the rented tenure affordable homes, the intermediate units, and a small number market

units. To the south of this building the podium level external space would provide the main communal amenity and playspace for the remaining market units.

4.8 The proposed residential mix by unit size is summarised in Table 1 below. By habitable room the scheme would provide 17.5% of the housing as affordable housing, with affordable units split 51/49 between London Affordable Rents and Tower Hamlets Living Rents.

**Table 1: Summary of housing units by unit bed spaces by residential tenures**

Unit Size	Tenure			Total
	Market	Affordable	Intermediate	
<b>1b/1p</b>	36	0	0	<b>36</b>
<b>1b/2p</b>	145	5	6	<b>156</b>
<b>2b/3p</b>	66	1	1	<b>68</b>
<b>2b/4p</b>	131	13	7	<b>151</b>
<b>3b/5p</b>	28	30	2	<b>60</b>
<b>Total</b>	<b>406</b>	<b>49</b>	<b>16</b>	<b>471</b>

### Site and Surroundings



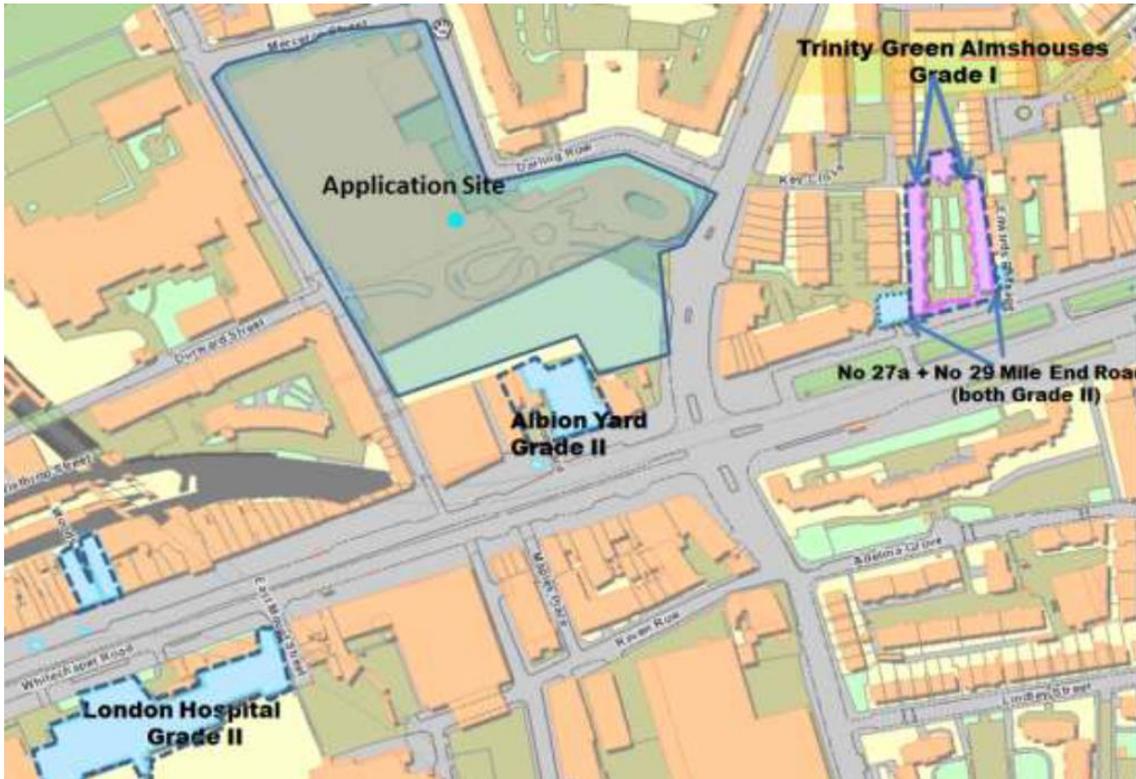
**Figure 3: Aerial photograph of site**

4.9 The application site occupies approximately 3.1 hectares of land.

4.10 The site is bound by Merceron Street, Collingwood Street and Darling Row to the north and north-east, by Cambridge Heath Road to the east and Brady Street to the west. The site is bound to the south by a mix of uses including the Crossrail temporary construction site and a permanent Crossrail ventilation shaft, and a set of significant buildings including the Whitechapel Idea Store, the Grade II listed Albion Yard Brewery buildings, and Blind Beggar Public House. All the above buildings to the south of the site (that front onto Whitechapel Road) lie within the Whitechapel Market Conservation Area.

- 4.11 Swanlea Secondary School lies immediately to the west of the site. Brady Street Jewish Cemetery to the north west, the Collingwood Estate (a local authority housing estate) lies to the north and east of the site with Harvey House and Blackwood House immediately to the north of the site and set to the east of the site Grindall House and Collingwood House.
- 4.12 The site contains the Sainsbury's supermarket, and a temporary decked car park containing 258 car parking spaces built to replace the original Sainsbury's car park site that is occupied by temporary development in connection with the construction of Crossrail.
- 4.13 The site is located within the defined boundary of Whitechapel District Shopping Centre. Whitechapel falls within the City Fringe/Tech City Opportunity Area (OAPF) which is identified as an area with potential to become a business hub of major international significance.
- 4.14 Within the London Plan and the Local Plan Whitechapel is identified as a location likely to experience strategically significant levels of growth with strong demand and/or large scale retail, leisure or office development in the pipeline. This is reinforced within the Whitechapel Vision Masterplan Supplementary Planning Document (SPD) (2013) which supports the intensification and rejuvenation of the centre with new town centre uses, public spaces and activity on both sides of Whitechapel Road and beyond.
- 4.15 A small southern section of the site lies within the Whitechapel Market Conservation Area. The Stepney Green Conservation Area is set to the east of the site edging the east side of Cambridge Heath Road, London Hospital Conservation area lies approximately 95m to the south west and beyond that to the south west Myrdle Street Conservation Area, Ford & Sidney Square Conservation approximately 280m south of the site, and to north west St Peter's Conservation Area at approximately 390m and Bethnal Green at approximately 410m.
- 4.16 The Grade I Listed Trinity Green Almshouses are located approximately 94 metres to the east of the site to the east of Cambridge Heath Road, accessed from Mile End Road. Additionally, the Grade II listed Albion Yard Brewery is located at the southern boundary of the site along Whitechapel Road

**Figure 4: Neighbouring Statutory Listed Buildings**



4.17 The majority of the site is located in and Archaeological Priority Area. The site is in Flood Zone 1 and has a Public Transport Accessibility Level of 6.

## 5.0 RELEVANT PLANNING HISTORY

### On Site

- 5.1 **TH215/BG/93/81** 15<sup>th</sup> October 1996 planning permission granted for the redevelopment of the land to rear of Nos 319-337 Whitechapel Road to provide a retail superstore, petrol filling station, access servicing and a customer car park.
- 5.2 **PA/03/00563** 28<sup>th</sup> October 2003 planning permission granted “for erection of single storey front and side extensions to enable the enlargement of the existing store (by an additional 1,593sqm), together with associated works including the repositioning of the existing pedestrian entrances (from Brady Street and Darling Row), and the reconfiguration of customer car park layout and service yard area.
- 5.3 **PA/06/02010** 8<sup>th</sup> January 2008 an amendment granted to planning permission (Ref: PA/03/00563) including revised front elevation, site entrance and revised car park entry configuration.
- 5.4 **PA/09/02421** 10<sup>th</sup> February 2010 planning permission granted for installation of temporary car park to maintain existing customer car parking levels (258) during Crossrail works on adjacent site.
- 5.5 **PA/14/01736** 24<sup>th</sup> September 2014 planning permission granted to vary condition No 1 of planning permission Ref PA/10/00670, to

extend the timescale for the removal of the temporary multi-storey car park to 10th October 2019.

- 5.6 **PA/15/00837** 11<sup>th</sup> May 2017 planning permission refused for the demolition of the existing store and decked car park to allow for a replacement Sainsbury's store (Use Class A1) of 5,766 sqm (net sales area), (11,208 sqm GIA to include a Use Class D1 'explore learning ' facility (118 sqm GIA), 871 sqm (GIA) of flexible retail/office/community floorspace (Use Class A1, A2, A3, B1 and D1) and 559 residential units (Use Class C3) arranged in 8 buildings, including a 28 storey tower (101.375m (AOD)), an energy centre and plant (2,509 sqm (GIA)) is proposed at basement level with 240 'retail' car parking spaces and 40 disabled car parking spaces for use by the proposed residential units. 2 additional disabled parking bays are proposed at ground floor level at Merceron Street. The creation of an east-west public realm route from Cambridge Heath Road to Brady Street, including further public realm provision and associated highway works to Brady Street, Merceron Street, Darling Row, Collingwood Street and Cambridge Heath Road.

#### **Off Site**

#### **Safestore Site (also now known as Whitechapel Central site) bounded by Raven Row, Stepney Way Sidney Street**

- 5.7 **PA/15/01789** Planning permission granted 6<sup>th</sup> January 2017 for the demolition of existing buildings and erection of three buildings ranging from 4 to 25 storeys (91.70m AOD) in height including the provision off 564 residential units, 3505sq.m of B1. D2 and A3 floorspace and 70 off-street car parking spaces.

#### **100-136 Cavell Street**

- 5.8 **PA/16/00784** Application submitted 25<sup>th</sup> March 2016 for the demolition of existing building and erection of two buildings (rising to 95.20m and 42,80m AOD) to provide 6029sq.m of non-residential use and 113 residential units. Not determined to date.

#### **Whitechapel Estate - Site between Varden Street and Ashfield Street**

- 5.9 **PA/15/02959** Demolition of all existing buildings and redevelopment to provide 12 buildings ranging from ground plus 2 - 23 storeys (a maximum 94m AOD height), comprising 343 residential dwellings (class C3), 168 specialist accommodation units (Class C2), office floorspace (class B1), flexible office and non-residential institution floorspace (Class B1/D1), retail floorspace (class A1 - A3), car parking, cycle parking, hard and soft landscaping and other associated works. Refused 17<sup>th</sup> October 2016. Appeal decision expected end of February 2018.

## **6.0 POLICY FRAMEWORK**

- 6.1 The Council in determining this application has the following main statutory duties to perform:
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004);

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

6.2 For a complex application such as this one, the list below is not an exhaustive list of policies, it is intended to list the most relevant policies to the application:

6.3 **Core Strategy Development Plan Document (CS)**

- Policies:
- SP01 Refocusing 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
  - SP07 Improving education and skills
  - SP08 Making connected places
  - SP09 Creating attractive and safe streets and spaces
  - SP10 Creating distinct and durable places
  - SP11 Working towards a zero-carbon borough
  - SP12 Delivering Placemaking
  - SP13 Planning Obligations

6.4 **Managing Development Document (MDD)**

- Policies:
- DM0 Delivering Sustainable Development
  - DM1 Development within the town centre hierarchy
  - DM2 Protection local shops
  - DM3 Delivering Homes
  - DM4 Housing Standards and amenity space
  - DM8 Community Infrastructure
  - DM9 Improving Air Quality
  - DM10 Delivering Open space
  - DM11 Living Buildings and Biodiversity
  - DM12 Water spaces
  - DM13 Sustainable Drainage
  - DM14 Managing Waste
  - DM15 Local Job Creation and Investment
  - DM20 Supporting a Sustainable Transport Network
  - DM21 Sustainable Transport of Freight
  - DM22 Parking
  - DM23 Streets and Public Realm
  - DM24 Place Sensitive Design
  - DM25 Amenity
  - DM26 Building Heights
  - DM27 Heritage and Historic Environment
  - DM28 World Heritage Sites
  - DM29 Zero-Carbon & Climate Change

6.5 **LBTH Supplementary Planning Guidance/Documents**

- Development Viability Supplementary Planning Document (October, 2017)
- Planning Obligations Supplementary Planning Document (September, 2016)
- Whitechapel Vision Masterplan Supplementary Planning Document (2013)
- Community Infrastructure Levy (CIL) Regulation 123 List September 2016
- Whitechapel Market Conservation Area Character Appraisal and Management Guidelines (2009)
- London Hospital Conservation Area Character Appraisal and Management Guidelines (2007),
- Stepney Green Conservation Area Character Appraisal and Management Guidelines 2009)
- St Peter's Conservation Area Character Appraisal and Management Guidelines (2008)
- Ford Square & Sidney Street Conservation Area Character Appraisal and Management Guidelines (2007)
- Myrdle Street Conservation Area Character Appraisal and Management Guidelines (2007)
- Bethnal Green Conservation Area Character Appraisal and Management Guidelines (2009)
- LBTH Retail and Leisure Capacity Study (January 2009)
- LBTH Street Markets Strategy (August 2009)
- LBTH Town Centre Spatial Strategy 2009-2025 (July 2009)
- Tower Hamlets Local Biodiversity Action Plan 2014-19

6.6 **The London Plan (with MALP amendments March 2016)**  
**Policies**

- 1.1 Delivering Strategic vision and objectives
- 2.1 London Global European and UK Context
- 2.5 Sub-regions
- 2.9 Inner London
- 2.13 Opportunity Areas and Intensification Areas
- 2.14 Areas for Regeneration
- 2.15 Town Centres
- 2.18 Green infrastructure
- 3.1 Ensuring Equal Life Chances for All
- 3.2 Improving Health and Addressing Health Inequalities
- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.6 Children and Young People's Play and Informal Recreation Facilities
- 3.7 Large Residential Developments
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 3.10 Definition of Affordable Housing
- 3.11 Affordable Housing Targets
- 3.12 Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes
- 3.13 Affordable Housing Thresholds
- 3.14 Existing Housing

- 3.16 Protection and Enhancement of Social Infrastructure
- 3.17 Health and education facilities
- 4.1 Developing London's Economy
- 4.7 Retail and town centre development
- 4.8 Supporting a successful and diverse retail sector
- 4.9 Small shops
- 4.11 Encouraging a connected economy
- 4.12 Improving Opportunities for All
- 5.1 Climate Change Mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.5 Decentralised Energy Networks
- 5.6 Decentralised Energy in Development Proposals
- 5.7 Renewable Energy
- 5.8 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
- 5.16 Waste Capacity
- 5.18 Construction, excavation and demolition waste
- 5.21 Contaminated Land
- 6.1 Strategic Approach to Integrating Transport and Development
- 6.3 Assessing the Effects of Development on Transport Capacity
- 6.5 Funding Crossrail
- 6.9 Cycling
- 6.10 Walking
- 6.11 Congestion and traffic flow
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.1 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
- 7.9 Access to Nature and Biodiversity
- 7.10 Worlds Heritage Site
- 7.11 London View Management Framework (LVMF)
- 7.13 Safety, security and resilience to emergency
- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 7.18 Open space
- 7.19 Biodiversity and Access to Nature
- 8.2 Planning obligations
- 8.3 Community Infrastructure Levy

6.7 **London Plan Supplementary Planning Guidance/Documents**

- Homes for Londoners: Affordable Housing and Viability Supplementary Planning Guidance (August 2017)
- Housing Supplementary Planning Guidance (March 2016)
- Social Infrastructure (May 2015)
- All London Green Grid (March 2012)
- Shaping Neighbourhoods: Play and Informal Recreation SPG September 2012
- Sustainable Design & Construction SPG (April 2014)
- Accessible London: Achieving an Inclusive Environment SPG (October 2014)
- Control of Dust and Emissions During Construction and Demolition (2014) Best Practice Guide
- Shaping Neighbourhoods: Character and Context SPG (2014)
- Sustainable Design and Construction SPG (2014)
- City Fringe/Tech City Opportunity Area Planning Framework (adopted December 2015)
- London View Management Framework Supplementary Planning Guidance, GLA (2012)
- Mayor's Climate Change Adaptation Strategy

#### 6.8 **Government Planning Policy Guidance/Statements**

- The National Planning Policy Framework 2012 (NPPF)
- National Planning Practice Guidance
- National Housing Standards (October 2015)

#### 6.9 **Other relevant documents**

- Homes for Londoners: Affordable Homes Programme 2016-2021 Funding Guidance (November 2016)
- Tower Hamlets Local Biodiversity Action Plan
- Conservation Area Designation, Appraisal and Management – Historic England Advice Note 1 (2016)
- Managing Significance in Decision-Taking in the Historic Environment Historic England Good Practice Planning Advice Note 2 (2015)
- The Setting of Heritage Asset, Historic Environment Good Practice Advice in Planning Note 3 (2015)
- Tall Buildings – Historic England Advice Note 4 (2015)
- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment, English Heritage (2008)
- London Borough of Tower Hamlets Strategic Housing Market & Needs Assessment, DCA (2014)
- Building Research Establishment (BRE) "Site layout planning for daylight and sunlight: a guide to good practice" (2011)
- The Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2017 SI 2017 No. 571
- London Development Agency London's Retail Street Markets (June 2010)

#### 6.10 **Emerging Planning Policies**

#### 6.11 **The Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits**

Statutory public consultation on the 'Regulation 19' version of the above emerging plan commenced on Monday 2nd October 2017 and closed on Monday 13th

November 2017. Weighting of draft policies is guided by paragraph 216 of the National Planning Policy Framework and paragraph 19 of the Planning Practice Guidance (Local Plans). These provide that from the day of publication a new Local Plan may be given weight (unless material considerations indicate otherwise) according to the stage of preparation of the emerging local plan, the extent to which there are unresolved objections to the relevant policies, and the degree of consistency of the relevant policies in the draft plan to the policies in the NPPF. Accordingly as Local Plans pass progress through formal stages before adoption they accrue weight for the purposes of determining planning applications. As the Regulation 19 version has not been considered by an Inspector, its weight remains limited. Nonetheless, it can be used to help guide planning applications and weight can be ascribed to policies in accordance with the advice set out in paragraph 216 of the NPPF.

Below is a list of the emerging Local Plan policies considered relevant to the proposals:

- SG1 - Sustainable Growth in Tower Hamlets
- SG2 - Planning and Construction of New Development
- DH1 - Good Design and Local Character and Historic Environment
- DH2 - Attractive and Safe Streets, Spaces and Public Realm
- DH3 - The Historic Environment
- DH5 - Building Heights
- DH6 - Density
- DH7 - Amenity
- DH8 - Noise Pollution
- H1 - Delivering Housing
- H2 - Mixed and Balanced Communities
- H3 - Housing Standards and Quality
- TC1 - The Town Centre Hierarchy
- TC2 - Protecting and Enhancing Our Town Centres
- TC9 - Markets
- CSF1 - Supporting Community, Cultural and Social
- OS1 - Creating a Network of Open Spaces
- OS3 - Open Space and Green Grid
- ES1 - Protect and Enhance our Environment
- ES2 - Improving Air Quality
- ES3 - Urban Greening and Biodiversity
- ES6 - Achieving a Zero Carbon Borough
- ES9 - Waste Management in Development
- TR1 - Sustainable Travel
- TR2 - Assessing the Impacts on the Transport Network
- TR3 - Parking and Permit-free

## **6.12 Mayor of London Draft London Plan (December 2017)**

*Statutory public consultation on the draft London Plan commenced on the 1st of December 2017 and will close on 2nd March 2018. This is the first substantive consultation of the London Plan, but it has been informed by the consultation on 'A City for All Londoners' which took place in Autumn/Winter 2016. The current 2016 consolidation London Plan is still the adopted Development Plan. However the Draft London Plan is a material consideration in planning decisions. It gains more weight as it moves through the process to adoption, however the weight given to it is a matter for the decision maker*

## 7.0 CONSULTATION RESPONSES

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

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

### External

#### Historic England (HE)

##### Summary of Historic England's remarks

7.3 Historic England objected to an earlier application primarily on the basis of the harm caused to the setting of the Grade I listed Trinity Green Almshouses. In line with HE advice, that of other bodies and that of the Council, *"the previous schemes have now been substantially modified to remove any harmful impact to the setting of the Trinity Green Almshouses."*

7.4 It is noted that there remains a harmful impact on the setting of the Albion Yard Brewery. However, Historic England consider *"that the less than substantial harm that would be caused to the setting of the listed brewery will likely be outweighed by the delivery of the public benefits associated with the scheme as a whole."*

7.5 Historic England therefore withdraw any objection to this current proposal.

#### Greater London Authority

##### Principle of Land Use

7.6 The principle to include high density residential as part of a scheme providing a larger supermarket is supported, in line with the City Fringe OAPF and the Whitechapel Vision SPD.

##### Retail

7.7 The Whitechapel Vision identifies the redevelopment of the Sainbury's site with a new larger store as being a key place of transformation necessary for Whitechapel. Whitechapel is identified in the London Plan as a District Town Centre in need of regeneration. The store would remain one that is predominately used for sale of convenience goods notwithstanding increase in comparison goods. The level of increased retail floorspace does not raise any strategic issues and has significant potential to contribute towards the on-going regeneration of Whitechapel and benefit of the wider areas.

7.8 The additional retail units are supported helping to activate the new public realm to the south of the supermarket as well as strengthen and promote the retail offer and competitiveness of the town centre. The Mayor would welcome the consideration of providing some of these units as affordable shop units.

##### Housing

- 7.9 The affordable housing provision of 17.5% by habitable room is wholly unacceptable within this high density scheme within an opportunity area. This must be significantly increased.
- 7.10 The split between affordable and intermediate provision should be revised to provide at least 30% intermediate housing.
- 7.11 An initial appraisal of the applicant's viability assessment considers that the application could viably provide a higher level of affordable housing. Particular areas of concern relate to the overall methodology employed, and specific elements including, the food store valuation, abnormal cost, marketing and disposal costs, profit, benchmark.
- 7.12 Should the 35% affordable housing threshold not be met, the application must be subject to both a near end review mechanism and an early implementation review mechanism, which would be triggered if substantial implementation hasn't occurred within 2 years of approval. The applicant must also engage with Registered Providers in order to maximise affordable housing delivery and fully utilise possible grant funding options. Further engagement with GLA planning and housing officers is therefore required.
- 7.13 In the interests of transparency, the Council should note that draft London Plan Policy H6 and the Mayor's adopted Affordable Housing and Viability SPG strongly encourage local planning authorities (LPAs) to publish any submitted financial viability assessment, and any associated independent viability review.
- Urban Design
- 7.14 Albion Way is well proportioned and activated through day and night, that feature is strongly supported. The introduction of townhouses is also welcomed from streetscene and activity perspective. The height and massing does not raise a strategic concern. The residential quality is considered high.
- 7.15 It is noted that the podium level amenity spaces for private market is separate from the space identified for residents of the affordable rented accommodation. This is unjustified and the design should be amended to ensure that there is no physical segregation of amenity spaces purely on the basis of tenure.
- Heritage
- 7.16 Some of the upper elements of the development would be visible in the backdrop of Albion Yard and within the settings of the Whitechapel Road conservation areas, however, this is not considered to be substantially harmful because of the slender form of the building and the general high quality of the architecture. There are substantial public benefits including improvements to the District Centre, maximising the benefit to London of Crossrail and the delivery of affordable housing that considerably outweigh the less than substantial harm caused.
- 7.17 Energy  
Further information has been requested on the proposed energy centre, site wide heat network, and provision made for the residential units. Once all opportunities to provide on-site savings have been fully exhausted, any remaining regulated carbon dioxide emission reductions must be met through a contribution to the Borough's offset fund.
- 7.18 Transportation

Car parking provision for the retail element should be reduced in line with the draft London Plan standards and contributions secured in relation cycle hire provision and the local bus network. Further information is required with regards to cycle parking spaces. Travel Plans must be secured by s106 and a delivery & service plan, and construction & logistics plan secured by condition.

### Conclusion

- 7.19 The scheme does not comply with the London Plan in relation to level of affordable housing, urban design, climate change and transport.

## **Transport for London**

### Car Parking

- 7.20 The level of residential car parking along with blue badge spaces and electric vehicle charging points is acceptable. Car free agreement and car parking management plan should be secured by condition. The car parking provision for the commercial elements of the scheme are considered excessive in the context of the London Plan standard for 'Town Centre' and a PTAL of 6.

### Trip Generation

- 7.21 Assuming commercial car parking provision is reduced, the modelling for trip generation would need to be revised. At present, the junction design is focused on a high transport capacity resulting from the limited restraints imposed on retail based car parking.

### Highways impact

- 7.22 Concerns about queueing on approaches to proposed relocated junction. TfL would recommend modelling the proposed relocated junction with and without the development, which is currently absent from the Transport Assessment.

### Buses

- 7.23 Proposed relocation of Bus Stops R and M on Cambridge Heath Road should be revisited. Cumulative impact of development within an area will have impact on bus capacity. Section 106 contribution is sought in light of this.

### Walking

- 7.24 Contributions should be sought to improve pedestrian environment. Lack of storage space for stalls from Whitechapel Market leads to clutter on footways. The planning application represents an opportunity to alleviate this clutter.

### Cycling

- 7.25 General provision for cycling within the site is welcomed however layouts could be improved to facilitate better cyclist/pedestrian relationship.
- 7.26 Proposed small under-provision of cycle parking for non-residential uses slight over provision for residential uses. However these small imbalances could offset each other. Access to some cycle stands is unclear. New TfL cycle hire docking station accessed from Brady Street should be secured within a s106 agreement.

### Crossrail

- 7.27 Work with TfL to ensure the construction of buildings does not impact upon Crossrail tunnels and does not jeopardise the delivery of the second Crossrail station entrance. A contribution in line with the Crossrail SPG should be secured within the Section 106 agreement

Freight

7.28 A Delivery and Servicing Plan and Construction and Logistics Plan should be secured by condition.

**City of London**

7.29 No comments to make on the proposals.

**Crossrail**

7.30 The implications of the Crossrail proposals for the application have been considered No objection subject to planning conditions to secure:-

- Foundation design, noise, vibration and settlement
- Method Statement to address any concurrent working to avoid either impeding construction and operation of Crossrail

**Victorian Society**

7.31 Awaiting comments at time of report.

**Greater London Archaeology Advisory Service**

7.32 No objection subject to a pre-commencement condition to undertake a two stage process of archaeological investigation.

**London Borough of Hackney**

7.33 No objection.

**Royal Borough of Greenwich**

7.34 No comments received.

**London Underground Infrastructure**

7.35 No objection.

**London Fire and Emergency Planning Authority**

7.36 Require more information for purposes of compliance with Building Regulations with regard access to water supplies for fire services.

**Metropolitan Police Crime Prevention Design Advisor**

7.37 Taking into account Approved Document Q of the Building Regulations and the design and layout there is no reason why, with continued consultation with a DOCO and the correct tested, accredited and third party certificated products that this development would not be able to achieve Secured by Design award. A planning condition should be imposed to secure this accreditation..

**NATS**

7.38 No objection.

**National Grid**

7.39 No objection.

**Network Rail**

7.40 No objection.

7.41 **Collingwood Tenants' and Residents' Association**

The affordable housing offer is significantly below the Borough target. The developers argue that to provide more affordable housing would unduly cut into their profits. However, Sainsbury plc have owned this site for many years and the use of a

current land value as the basis for assessing profitability will hugely understate the profit margin.

The proposed height of buildings would still unduly impact on daylight and sunlight to existing properties.

The proposed routing to the car park, and increased intensity of use of Darling Row, is of concern.

#### **Thames Water**

7.42 No objection subject to planning conditions to provide:-

- Submission of a detailed drainage strategy given the existing waste water infrastructure lacks spare capacity for the development.
- Installation of non-return valve or other suitable devices to avoid the risk of waste backflow.

#### **Twentieth Century Society**

7.43 No comments received.

**Whitechapel Design Review Panel** (scheme for the site seen by the Review Panel at pre-application stage, prior to submission of the previous refused scheme)

7.44 Evolution of public realm proposals particularly in respect of Albion Walk welcomed. Success of the public realm will be reliant on appropriate management arrangements. Scheme would benefit from a site-wide tree strategy.

7.45 Concern was raised about the meanness and uniformity of the proposed podium amenity space. It was noted that the space would be somewhat cramped, and that the privacy buffers for ground floor units would eat into the communal space.

7.46 Queried child play space arrangements and noted that separate spaces were proposed for the market and affordable housing units foregoing the positive opportunity to integrate the play space between tenures.

7.47 The greenery and landscaping on the podium should be made visible from the public realm.

7.48 Concern was raised about the amount, and use, of brickwork and suggested may be increasing the perceived scale and mass of the buildings. Concerned could feel very oppressive in the podium spaces. The scheme's referencing of Georgian architecture is considered strained given Georgian architecture is of a very different smaller scale to the applicants proposal.

7.49 Much of the variety in the scheme would be achieved through subtle changes in detailing, hence need to not dilute design quality during the construction process.

7.50 The tower element of the scheme would be the tallest building in Whitechapel. Although it would be a landmark, it should not be central focus of the area. Need to understand the proposed heights in the wider context of emerging proposals.

#### **Internal Consultees**

##### **Biodiversity Officer**

7.51 The application site consists almost entirely of buildings and hard surfaces, with just a few fairly small trees. The buildings have no potential for bat roosts. The scheme

will have no significant adverse impacts on biodiversity. The amenity landscaping provides significant opportunities to increase biodiversity across the site.

7.52 Proposed biodiverse mitigation measures include formation of new meadow areas and nest boxes for birds including for swifts, black redstarts, house martins, house sparrows and peregrines. Green roofs are proposed. The proposed sedum roofs to the non-amenity areas should be replaced with biodiverse roofs.

7.53 No objections subject to biodiversity enhancements secured by condition including species rich bio-diverse non-amenity roofs, a nectar rich landscaping plan and inclusion of nesting boxes.

### **Environmental Health (EH)**

#### EH Contaminated Land Team:

7.54 No objection, subject to the imposition of a relevant planning condition should to identify extent of potential contaminated land and agree a remediation strategy.

#### EH Noise and Vibration Team:

7.55 No objection, subject to further details by planning condition:

- Noise from construction and operational plant
- Noise insulation – to meet BS guideline values for indoor ambient noise level
- Imposition of compliance condition in respect to vibration
- Details of sound from commercial to residential premises
- Details of ambient sound mitigation measures to external amenity spaces

7.56 Air Quality Team:

#### *Construction phase:*

- The submitted assessment concludes that the development is at medium risk development for dust impacts. The set out mitigation measures need to be included in a Construction Environmental Management Plan with active dust monitoring.

#### *Operational:*

- Mitigation measures to address air quality to lower storey residential floors avoided on the lower residential levels where the pollution levels are high and are close to exceed statutory set limits.

### **Energy Officer**

7.57 Carbon Reduction Requirements

The Managing Development Document Policy DM29 includes carbon reduction targets for new development and identifies that residential development should be zero carbon and that for non-residential developments the London Borough of Tower Hamlets have applied a 45% carbon reduction target beyond Part L 2013 of the Building Regulations.

7.58 The applicant must ensure that they comply with Policy 5.6 of the London Plan and install an energy system in accordance with the following hierarchy:

- 1) Connect to existing heating or cooling networks.
- 2) Site wide CHP
- 3) Communal heating and cooling.

7.59 The submitted energy strategy details how the design has sought to reduce emissions through the energy hierarchy and deliver emission reduction through energy efficiency measures, use of an onsite CHP (for 100% of hot water

requirements and 50% of space heating) and renewable energy technologies (PV array). The proposals are anticipated to achieve site wide CO2 emission reduction of 26% against a building regulation baseline which is significantly below the policy requirement.

7.60 Carbon Offsetting

The Planning Obligations SPD includes the mechanism for any shortfall in CO2 to be met through a cash in lieu contribution for sustainability projects. The submitted energy strategy identifies the shortfall to meeting zero carbon for the residential elements is: 426 tonnes CO2. The carbon emission reduction shortfall to meet the non-residential 45% requirement is identified as: 236 tonnes CO2

7.61 It is proposed that the shortfall in CO2 emission reductions could be offset through a cash in lieu payment. The current identified cost for a tonne of CO2 is £1,800 per tonne of CO2. Therefore for the proposed scheme the energy strategy identifies a carbon offsetting contribution of £1,191,645 would be made.

The calculation for this figure is as follows:

- Residential units – 426 tonnes CO2 x £1,800 = £767,606
- Non-residential element – 236 tonnes CO2 x £1,800 = £424,039
- £767,606 + £424,039 = £1,191,645 carbon offset payment to meet current policy requirements.

7.62 Sustainability

Policy DM29 also requires sustainable design assessment tools to be used to ensure the development has maximised use of climate change mitigation measures. At present the current interpretation of this policy is to require non-residential development to achieve BREEAM Excellent.

7.63 In relation to the foodstore the Sustainability Statement, notes that a 'Very Good' rating will be achieved. This is not considered appropriate for the development and the design should target a BREEAM Excellent rating in accordance with policy requirements. A BREEAM pre-assessment should be submitted, and where an excellent rating cannot be achieved a detailed justification should be presented in the Pre-assessment as to why the credits are not achievable.

### **Employment & Enterprise Team**

7.64 The developer should exercise reasonable endeavours to ensure that 20% of the construction and end phase workforce will be local residents of Tower Hamlets and 20% of goods/services procured during the construction phase should be provided through businesses located in Tower Hamlets. Subject to further clarification on the apportionment of the total GIA by proposed land use and in line with the Borough Planning Obligation SPD skills, training and apprenticeship contributions are sought in both the the scheme's construction phase and end-user phase.

7.65 The Council will seek to secure a financial contribution of £279,816.00 to support and/or provide the training and skills needs of local residents in accessing the job opportunities created through the construction phase of all new development. This contribution will be used by the Council to provide and procure the support necessary for local people who have been out of employment and/or do not have the skills set required for the jobs created.

- 7.66 The council seeks a monetary contribution of £432,531.00 towards the training and development of unemployed residents in Tower Hamlets to access either:  
i) Jobs within the uses A1 of the development  
ii) Jobs or training within employment sectors relating to the final development  
Monitoring for all obligations will be discussed and agreed with the developer prior to commencement of works.
- 7.67 During the construction phase of 38 phased apprenticeships are due to a minimum NVQ Level 2. During the end-use phase 5 apprenticeships are expected to be delivered over the first 3 years of full occupation, again to a minimum NVQ Level 2.

### **Transportation & Highways Team**

- 7.68 Highways matters for the revised scheme are largely the same as for the refused scheme. All conditions relating to highways should be retained and all contributions relating to highways and transport should be retained.
- 7.69 There is however an outstanding matter relating to the acceptability of the relocated northbound bus stop on Cambridge Heath Road. Currently, TfL have advised that this would not meet their updated bus stop accessibility requirements and any bid to meet these requirements would require the loss of a mature street tree. Inclusive design and operation for bus services should be a pre-requisite, especially where alterations are made due to new development. We are aware that removal of the mature tree will be of detriment to the street scene.
- 7.70 Car parking, we would again re-iterate that the residential car parking (42 spaces) is only acceptable for use by Blue Badge eligible parking and is not to be for general use. even if spaces become unused. Regards the commercial car parking, Sainsburys have committed to funding and installing high speed electric vehicle charging points. This is a positive element of the new scheme and should be secured by s106 agreement. I note TfL's comments to reduce the proposed level of commercial car parking significantly. Highways is always supportive of reducing the vehicle impact of schemes in the borough and would welcome such a reduction. However, this is on the grounds that such an objection can be supported by the weight of emerging London Plan policy that the GLA refer to in their response to the scheme.
- 7.71 A s106 financial obligation would be required for on-going future maintenance to Darling Way to mitigate the increased load of traffic upon this street and s106 commitment from the developer to fund the one way option, should the local highway authority deem it necessary following the opening of the new supermarket or nearer to the completion of the scheme.

### **Flood and Drainage Officer**

- 7.72 No objection subject to surface water drainage informed by an assessment of the hydrological and hydro geological context of the development. The drainage strategy shall also include (but not limited to) peak discharge rates and associated control measures for all storm events and details of agreed adoption, monitoring and maintenance of the drainage and SUDS features.

### **Waste Management Team**

- 7.73 The following issues should be addressed by the applicant.
- 7.74 Bins

Refuse bins should be 1100 litres as 1280 litre bins are only used for recycling to keep the standardisation of the service. Bulk bins are not used for compostable waste due the issues with weight.

7.75 The bin requirements for this proposed development should be:

27 x 1280 litre bins for recycling  
45 x 240 litre bins for food waste  
45 x 1100 litre bins for refuse

The above is needed in total for the whole development. The applicant should ensure these are distributed as required per block and details of this should be provided per block.

7.76 Individual town houses do not appear to have any storage space for compostable waste. There appears to be only bins for refuse and recycling.

All bins must meet the British Standard EN 840

7.77 Waste Collection Service

The applicant should provide dropped kerb from bin store to collection point where these do not exist to ensure waste collection operatives can service the bins safely.

The trolleying distance from Cambridge heath road proposed loading bay appears to be beyond 10 meters trolleying distance. The use of a tug on the public highway may not be suitable as it can affect pedestrians. The Council will not be providing twice a week collection

7.78 Access Roads

The applicant should ensure that private access roads have suitable foundations and surfaces to withstand the maximum payload of vehicles. Manhole covers, gratings etc. located on the highway must also be strong enough to withstand this weight.

7.79 Commercial Waste Storage

The waste storage area for each commercial unit should be designed in accordance to BS5906 and Building Regulations Part H6.

7.80 Timed Collection Service

This service was introduced for existing properties that have no storage space for waste / bins. The proposed developments have plenty of scope to design dedicated storage area for bins or alternative waste storage that does not require applying further pressure on presenting more waste on the public highway.

7.81 Swept Analysis

The applicant should provide a swept analysis using the Council's conventional waste collection vehicle specifications:

Length - 11 metres  
Width - 2.5 metres  
Height - 3.5 metres

Height with bin lift in operation - 3.7 metres  
Turning Circle (Diameter) - 17.5 metres (Overall)  
Maximum Weight - 17.5 tonnes  
Payload - 10 tonnes

## 8.0 LOCAL REPRESENTATIONS

- 8.1 1585 neighbouring properties were notified about the application and invited to comment. The application has also been publicised in the local press and via a number of site notices erected near the site.
- 8.2 33 written public representations received of which 4 are in favour and 29 against.
- 8.3 The 4 representations in favour consider that:-
- 1) Scheme includes much needed improvements to the public realm.
  - 2) Scheme addresses previous heritage concerns.
  - 3) Independent retailers should be encouraged within the new retail units.
- 8.4 The representations against the scheme raise concerns that can be summarised as follows:
- 1) Would cause daylight/sunlight issues to properties that have enjoyed unobstructed views for a number of years.
  - 2) The 14 storey tower would have detrimental impacts on views from surrounding residential areas.
  - 3) The proposed tower is still too high and is out of keeping with existing buildings.
  - 4) The affordable housing offer falls well short of the 35% target.
  - 5) The area, including the traffic network, will become overcrowded as a result of the scheme.
  - 6) Noise and pollution to residential properties at Albion Yard.
  - 7) Concerns about impacts on local services.
  - 8) Will devalue surrounding properties.
  - 9) The proposed buildings are poorly designed.
  - 10) The level of daylight/sunlight impacts to Kempton Court is unacceptable.
  - 11) Construction impacts to Kempton Court are difficult to ascertain, detailed management measures must be put in place to ensure no adverse effects.
  - 12) The entrances to the commercial units are too close to the residential units at Kempton Court and thus will harm amenity.
  - 13) Concerns about impacts on servicing to retail units on Cambridge Heath Road.
  - 14) Adverse noise, light pollution and security impacts upon Albion Yard.
  - 15) Compromise privacy to Albion Yard and its roof terrace.
  - 16) Inadequacy of the public consultation.
  - 17) Will worsen the already poor air quality in the area.
  - 18) Loss of store during construction period must be considered.
  - 19) Increased traffic stress on already busy Darling Row.
  - 20) The proposals will result in adverse wind impacts to neighbouring properties
  - 21) Development may result in subsidence for neighbouring properties.
  - 22) The supporting documents portray the existing site in unfavourable terms.
  - 23) There is a lot of private open space but minimal public open space included within the proposals.
  - 24) Will worsen already stretched parking provision in the area.
  - 25) The development will result in social division between the residents on the existing estates and those in the new properties.

## 9.0 ASSESSMENT OF APPLICATION

9.1. The main planning issues raised by the application that the committee must consider are set out below (with in brackets the chapter number of this report that deals with the consideration)

- Principle of Land Uses (10)
- Urban Design (11)
- Heritage (12)
- Housing including density (13)
- Neighbours Amenity (14)
- Highways & Transportation (15)

### **Other Considerations including**

- Environmental Impact Assessment (16)
- London View Management Framework (17)
- Archaeology (18)
- Noise and Vibration (19)
- Air Quality (20)
- Land Contamination (21)
- Flood Risk & Water Resources (22)
- Energy and Sustainability (23)
- Ecology, Biodiversity and Trees (24)
- Waste and Recycling (25)
- Wind (26)
- Planning Obligations, Socio Economic effects and impact upon local infrastructure/facilities (27)
- Other Local Financial Considerations (28)
- Human Rights (29)
- Equalities (30)

## 10.0 Principle of Development

### **Proposed Mix of Uses**

- 10.1 At a national level, the National Planning Policy Framework (NPPF - 2012) promotes a presumption in favour of sustainable development, through the effective use of land driven by a plan-led system, to ensure the delivery of sustainable economic, social and environmental benefits. The NPPF promotes the efficient use of land with high density, mixed-use development and encourages the use of previously developed, vacant and underutilised sites to maximise development potential, in particular for new housing. Local authorities are also expected boost significantly the supply of housing and applications should be considered in the context of the presumption in favour of sustainable development.
- 10.2 The London Plan shares the objectives of the NPPF for delivering sustainable development and supporting mixed use schemes with commercial/retail uses at ground floor level and residential above in sites of this type located in a districted shopping centre, with a high public transport accessibility area.
- 10.3 Policy 1.1 of the London Plan states “*the development of East London will be a particular priority to address existing need for development, regeneration and promotion of social and economic convergence with other parts of London and as the location of the largest opportunities for new homes and jobs*”. The London Plan identifies Opportunity Areas within London which are capable of significant

regeneration. Whitechapel falls within the City Fringe Opportunity Area and is identified as holding significant development capacity.

- 10.4 At the local level, the Borough Core Strategy set out a “vision” for Whitechapel as:  
*“a thriving regional hub, set along the historic and vibrant Whitechapel Road. It will be home to a bustling, diverse economy offering a variety of job opportunities for local people, and capitalising on the benefits brought about by the 2012 Olympic Games, the Royal London Hospital expansion, Crossrail and the London Overground. Whitechapel Road will maintain its important local function, providing services to the community through the offer of the market, shops, restaurants, café and the Idea Store”.*
- 10.5 Relevant to this application the Core Strategy provides the following priorities for Whitechapel for new development:
- To reinforce its regional role by providing more housing, and redeveloping identified areas
  - To deliver improvements to the market to better serve local communities
  - To improve the streetscape of Whitechapel Road and wider area
  - To improve the accessibility, crossings and streetscape quality of Cambridge Heath Road.
- 10.6 The Core Strategy also sets out for Whitechapel four urban design principles:-
1. *“Large development sites should provide improved connections.*
  2. *Medium-rise development will be focused in and around the Whitechapel transport interchange.*
  3. *The scale and design of buildings should frame and provide active frontages onto Whitechapel Road.*
  4. *Derelict buildings should be bought back into use and optimised by the use of all floors, particularly the upper-floors”.*
- 10.7 The Borough’s Whitechapel Vision Masterplan provides further supplementary planning guidance on realising the vision, priorities and design principles set out Local Plan of providing a regional hub.
- 10.8 The Whitechapel Vision Masterplan identifies the Sainsbury’s site as a *“Key Place Transformation’ centred around a future secondary entrance to the Crossrail station*
- *Potential to redevelop the existing Sainsbury’s site with a new larger store and a high density residential development above providing new homes especially affordable and family homes*
  - *Opportunities to provide new leisure facilities, education, skills and training space to benefit local residents and businesses on the site*
  - *Redevelopment of Sainsbury’s site should provide a new public space where Durward Street meets the site with a direct connection through to the new station and Cambridge Heath Road*

- *Active frontages should be provided along these spaces and to Cambridge Heath Road street frontage creating animated streets.”*

- 10.9 The proposed scheme in main land use terms consists of 47,991sq.m (GIA) of identified residential and 21,936sq.m of non-residential floor area. The bulk of the non-residential floor space would be occupied or serve the supermarket, with five individual flexible use retail type floor spaces occupying collectively 871sq.m (GIA) and a D1 space occupying 118sq.m.
- 10.10 Based upon relevant planning policy considerations the scheme is considered in broad principles of land use policy to be in accordance with the London Plan, the Borough Local Plan and associated planning guidance set out in the Whitechapel Vision Masterplan and City Fringe Opportunity Area Planning Framework SPD.

### **Retail Provision**

- 10.11 The NPPF requires planning policies to promote competitive town centre environments with NPPF stating Local Plan policies should recognise town centres as the heart of their communities and pursue policies, support their viability and vitality, promote competitive town centres that provide customer choice, a diverse retail offer and which reflect the individuality of town centres.
- 10.12 London Plan Policy 4.7 (B) sets out that retail development should be focused [where available] on sites within town centres and the scale of retail development should be related to the size, role and function of a town centre and its catchment.
- 10.13 Policy 4.8 (a) sets out that planning decisions should bring forward capacity for additional comparison goods retailing particularly in International, Metropolitan and Major Centres,
- 10.14 Policy 4.8B (b) sets out support for convenience retail development particularly in District, Neighbourhood and more local centre, to secure a sustainable pattern of provision and strong lifetime neighbourhoods.
- 10.15 Policy 4.8B (e) seeks planning decisions that support the objective of supporting London markets including street markets, complementing other measures to improve their management and enhance their offer and help markets contribute to the vitality of town centre.
- 10.16 Annex 2 to the London Plan (2016) identified Whitechapel District Centre as suitable/requiring retail regeneration.
- 10.17 Policy SP01 of the Core Strategy sets out the Borough’s policies to deliver a refocus on our town centres. Relevant to this scheme:-
- 10.18 Policy SP01 (1.d) supports the enhancement of existing district centres to meet the need of local communities.
- 10.19 SP01 (2) seeks to ensure that the scale and type of uses within town centres are consistent with the hierarchy, scale and role of each town centre. SP01 (2.d) promotes mixed use and multipurpose town centres with a mix of unit sizes and types to assist in creation of vibrant centres that offer a diversity of choice, and meet the needs of communities.

- 10.20 SP01 (3) promotes the good design of town centres, ensuring an appropriate and well integrated spatial layout which connects to surrounding areas.
- 10.21 SP01 (4) seeks to maintain, focus and increase town centre activity and retail floorspace in existing centres. Whitechapel is identified, amongst other town centres in the borough, as a priority for additional convenience retail floorspace.
- 10.22 Policy DM1 (2) states anchor uses, such as supermarkets will only be allowed within town centre boundaries. It also states development proposals should be mixed use schemes with active use at ground floor level with residential or office above.
- 10.23 Policy DM1 (7) of the MDD states “*development within a town centre where it does not have an adverse impact upon the function of a town centre use. In addition, town centre development will need to demonstrate that:*
- (a) *Adequate width and depth of floorspace has been provided for the town centre uses;*
  - (b) *A shop front has been implemented in the first phase of development; and*
  - (c) *Appropriate servicing arrangements have been provided.*
- 10.24 The proposed development would result in 5,766 sqm of supermarket trading retail floor space. This figure would represent a net 44% (1,771sq.m) increase in trading retail floorspace over the existing Sainsbury’s supermarket. In addition the scheme would provide an additional 871sq.m (GIA) of trading retail floorspace in the shape of five flexible use retail spaces. The scheme would provide within the new supermarket a 99% increase in comparison good trading retail floorspace (2,008sq.m in the new store against 1,022sq.m of comparison goods floorspace in the existing store).
- 10.25 Whitechapel is a designated district shopping centre in the Local Plan. The site is located within the designated town centre and therefore in broad land use policy terms is a preferable location for a major retail use and as such there is no reason to oppose the retail provision per se. However, planning policy consideration needs to be given to the scale of the development; any potential displacement effect the retail proposal may have upon other retail providers in Whitechapel centre and the store’s wider catchment area; and to assess the impact upon Whitechapel Market with specific regard to comparison good retail sector (as opposed to convenience goods sector).
- 10.26 The increase in the size of the supermarket would be consistent with that as proposed in the previous refusal on site, PA/15/00837. It also noted that the retail assessment submitted in support of the subject application, is largely identical to that submitted with PA/15/00837, this reduces therefore reduces the accuracy/reliability given that the time now elapsed from the findings of the applicant’s retail assessment report.
- 10.27 In assessing application PA/15/00837, the Council appointed an independent consultant, Peter Brett Associates (PBA), to review the submitted retail assessment report. PBA assessed the retail impacts of the scheme in the context of relevant retail and town centre policies as set out nationally (in NPPF), strategic planning authority level (in London Plan), and at the local level (in the adopted Local Development Framework).
- 10.28 The PBA report concluded that the expansion of the retail supermarket accords with Development Plan policy given its town centre location. The proposals would lead to

a modest uplift in turnover within the town centre, and would lead to wider benefits arising from the scheme's improvements to the public realm and enhanced pedestrian connectivity.

- 10.29 The submitted retail assessment and the Council's assessors also concluded that the proposals would have minimal impact on other town centres in the Borough, with only marginal trade diversion between shopping centres.
- 10.30 Finally, it was concluded that the expansion of the supermarket would result in some overlap with between the expanded comparison trading within the new supermarket and comparison goods sold on the market stalls and therefore some comparison good trade diversion from the market stalls to the new supermarket: although readily quantifying that trade diversion based on the information provided (in the submitted retail assessment) with any great degree of accuracy is not possible.
- 10.31 This finding is supported by the findings in the London's Retail Street Markets report which makes explicit reference to the '*the decline in traditional street markets in part reflects wider retailing trends, an increasing competition from supermarkets and discount stores.*'
- 10.32 However, it is recognised the existing local retail offer within the stalls and shops is, to a marked degree, different in kind to that provided by the existing and indeed proposed supermarket. Consequently, the Council's assessors found that "*this will serve to limit the extent of direct impact on the market*". Thus whilst there may be a limit to the impact upon the existing market stalls it needs to be recognised that there will remain some impact.
- 10.33 Given the similarity in the proposals in retail terms, the conclusions of the previous report for PA/15/00837 are shared here in that the local retail diversion impacts away from the comparison goods offer of the street market would require mitigation to make the scheme acceptable in retail policy terms. It is disappointing to note that the option to provide storage for market stall holders within the development has not been pursued as this would not only offer mitigation, but would also result in wider public benefits in terms of the quality of the surrounding public realm.

#### Concluding remarks on retail land use

- 10.34 The scheme proposes significant additional retail provision within a designated town centre. As such it complies with the NPPF retail sequential test criteria and related London Plan and Local Plan retail location policy objectives. A full package of retail mitigation measures for the street market should be secured through legal agreement.

## **11.0 Urban Design**

### **Policy Context for Urban Design**

#### NPPF

- 11.01 The NPPF is the key policy document at national level relevant to the assessment of individual planning applications. The parts relevant to design / appearance and heritage are Chapter 7 'Requiring good design' and Chapter 12 'Conserving and Enhancing the Historic Environment.' The NPPF promotes high quality and inclusive design for all development, optimising the potential of sites whilst responding to local

character. Matters of overall scale, massing, height and materials are legitimate concerns for local planning authorities (NPPF - paragraph 59).

- 11.03 Chapter 7 of the NPPF explains that the Government attaches great importance to the design of the built environment. It advises that it is important to plan for high quality and inclusive design. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness.
- 11.04 The National Planning Practice Guidance (NPPG) supplements the NPPF and sets out a list of criteria of “*What a well design place is?*” The guidance states:-

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

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

#### The London Plan

- 11.05 The London Plan addresses the principles of good design and preserving or enhancing heritage assets. Policy 7.4 ‘Local Character’ requires development to have regard to the pattern and grain of existing streets and spaces, make a positive contribution to the character of a place and be informed by the surrounding historic environment. Policy 7.5 ‘Public realm’ emphasise the provision of high quality public realm. Policy 7.6 ‘Architecture’ seeks the highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and for development to optimise the potential of the site. Policy 7.7 ‘Tall and large scale buildings’ provides criteria for assessing such buildings. Policy 7.8 requires new development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

#### Local Plan

- 11.06 The Borough Core Strategy Policy SP10 and Policy DM23 and DM24 of the MDD seek to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds.

#### Tall Buildings

- 11.07 Specific guidance is given in the London Plan and in the Borough’s own Managing Development Document (MDD) in relation to tall buildings, namely Policy 7.7 of London Plan and Policy DM26 of MDD. These policies allow tall buildings to come forward provided that a number of criteria as set out by both documents are met. The relevant criteria can be summarised as follows:
- Be limited to areas in the CAZ, opportunity areas, intensification areas and within access to good public transport;

- Relate well to the form, proportion, composition, scale and character of surrounding buildings, urban grain and public realm (including waterspaces) and improve the legibility of the areas;
- Should incorporate the highest standards of design and architectural quality, making a positive contribution to the skyline when perceived from all angles during both the day and night. Developments should also assist in consolidating existing clusters;
- Should not adversely impact upon heritage assets or strategic and local views;
- Present a human scale at street level and enhance permeability of the site where possible;
- Provide high quality private and communal amenity spaces for residents;
- Provide public access to the upper floors where possible; and
- Not adversely affect biodiversity or microclimates

#### Whitechapel Vision Masterplan

- 11.08 The site is located within the ‘Cambridge Heath Gateway’ Key Place Transformation Area as identified by the Whitechapel Vision Masterplan Supplementary Planning Document (December 2013) which includes an indicative layout for the redeveloped supermarket store with high density additional housing above.

**Figure 5: Illustrative layout plan from LBTH Whitechapel Vision Masterplan for identified *Cambridge Heath Gate - Key Place Transformation***



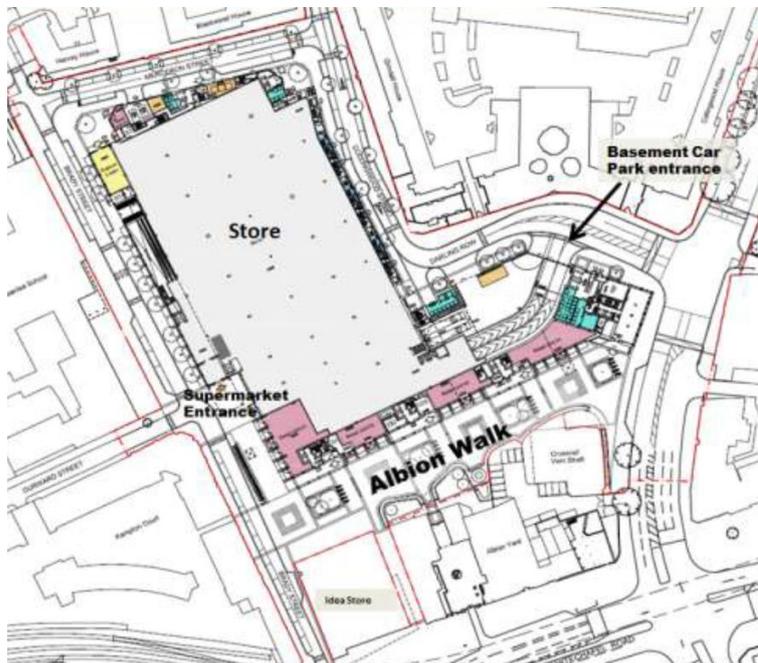
#### **Overview of scheme’s proposed design**

##### *Site Layout*

- 11.09 The scheme involves a site layout which is broadly similar to the illustrative building block plan set out in the Whitechapel Vision Masterplan for the site, in that it

responds to the aspiration to create a valuable new traffic free pedestrian east-west link between Cambridge Heath Road and Brady Street which in turn would provide a more convenient access to Durward Street where an entrance to the forthcoming Crossrail Station will be located.

- 11.11 The proposed layout also shares the ambition of the Whitechapel Vision Masterplan to provide active animated street frontages along Brady Street, along the proposed east-west link on the southern edge of the site and to Cambridge Heath Road.
- 11.12 The scheme is based around a new supermarket built at grade level set beneath a large podium that would form the base for seven residential blocks rising above the podium. The single podium would sit adjacent to a further residential block which would rise to 9 storeys in height and would face out onto the Cambridge Heath Road edge of the site.



**Figure 6: Annotated proposed ground floor layout plan**

- 11.13 The supermarket shop frontage would be on Brady Street with the customer entrance opposite the corner of Brady Street with Durward Street. The corner of Brady Street as it turns the corner Albion Walk would be generous in width and serve as a pedestrian plaza that is identified in the application documentation as “Albion Square” finished with granite setts. This new public realm space would be pedestrianized and contain public seating areas and ground based fountains.



**Figure 7: CGI image of store entrance and “Brady Square” on corner with Albion Walk (to right)**

- 11.14 The northern side of Albion Walk (at ground level) would be flanked by four retail units that would be set behind double height colonnades. These retail unit frontages would be interspersed by three residential lobby entrances (with cores rising directly into Buildings 2, 3, and 4). Set above the retail colonnades would be three double storey open pavilions that would mark the southern edge of three podium garden spaces. The southern edge of Albion Walk would be bounded by the rear of Albion Yard and the rear of the Whitechapel Idea Store. The proposed landscaping arrangements indicate how a suitable buffer could be formed between the new public space and the rear of Albion Yard. Albion Walk would display a generosity of street width that helps resolve the contrast in building scale and heights between the south side with the strong degree of enclosure provided by Buildings 2, 3 and 4 on the north side.



**Figure 8: Image of Albion Walk (looking east with Building 4 in foreground)**

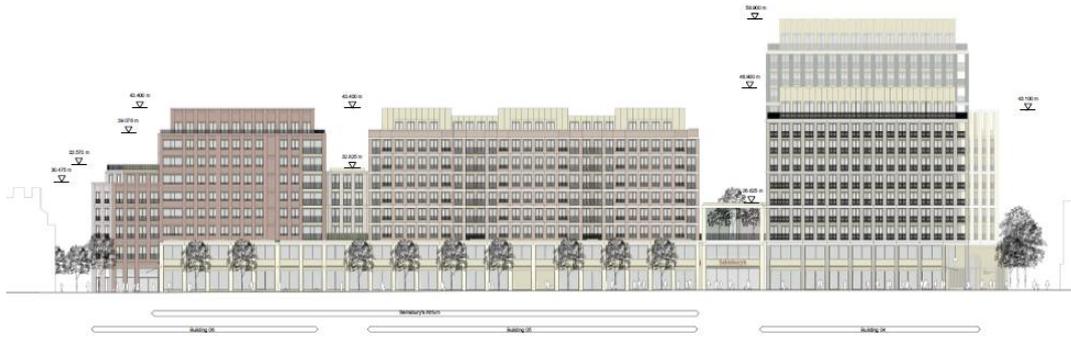
- 11.15 In appearance the individual residential buildings share some common architectural characteristics. A predominance of brick finish which is durable and would weather well, whilst different design elements and façade treatments to different buildings would simultaneously provide a greater degree of variety and visual interest.

- 11.16 Buildings 1 to 4 are ordered around a simple lattice frame architectural language involving expressed horizontal banding on every other storey helping to visually bind these buildings together in terms of being of the same architectural family, notwithstanding an intended variation in choice of facing materials between these blocks. Buildings 2 to 4 would feature set back top storeys with an ornate crown appearance whilst Building 1 would feature a double height colonnade element helping it to achieve a lighter weight and character than the building massing set below it.



**Figure 9: South facing elevation of scheme (Albion Walk)**

- 11.17 The southern edge of the proposed Albion Walk serves as the rear of the Idea Store and the Albion Yard development as well as the site of the built out Crossrail vent shaft and the site of the safeguarded Crossrail second entrance to Whitechapel Station.
- 11.18 Within the site's red line the applicant has proposed a new small enclosed garden and pedestrian entrance to serve the back of Albion Yard and a raised planted bed feature to the edge to the Crossrail ventilation shaft.
- 11.19 Proposed Buildings 5, 6, 7 and 8 that run north/south and flanking the north-south long axis of the podium are all designed to share a common linear form and maximum building height. Buildings 6 and 7 that would mark the northern end of the scheme would step down in height at their northern edge to help mediate the change in height of development within the scheme in respect to the heights of the Collingwood Estate residential blocks to the north of the site.



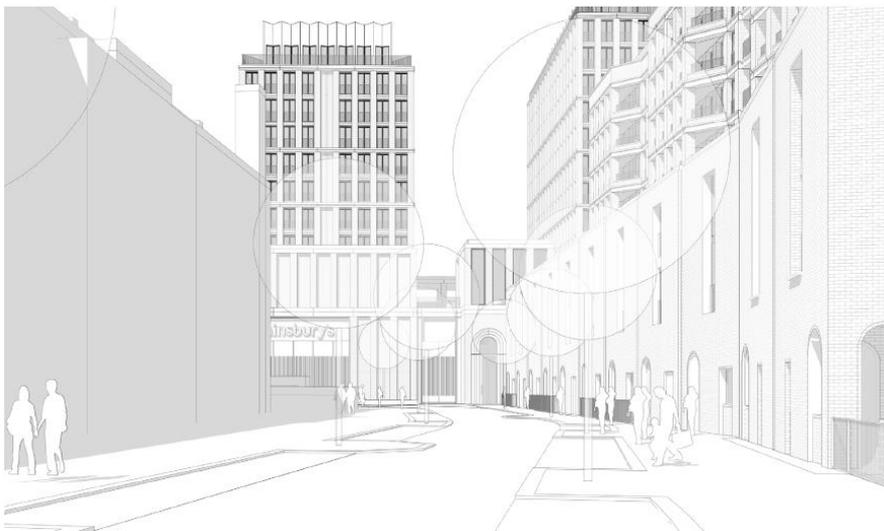
**Figure 10: West facing elevation of scheme (Brady Street)**

- 11.20 Buildings 5 and 8 would be brick finished and have pronounced outward facing chamfered edged protruding balconies that the Design and Access Statement describe as *mansion blocks*. The Design and Access Statement describe the north end of the scheme Buildings 6 and 7 as of a *'warehouse typology'*. The building envelope to these two end blocks would have a more pared-down visual quality, of solid brick punctured by the windows and recessed balconies.
- 11.21 A notable feature of Buildings 4, 5, 6 and 7, is they all would be built well back from western and eastern edges of the podium helping to avoid the scheme appearing unduly imposing and overbearing at pavement upon Brady Street and Collingwood Street. To these three street frontages at ground level the development seeks to provide activity and a smaller more human scale of development through the inclusion:
- Of back of the pavement three storey townhouses to Collingwood Street in a terrace type form;
  - On corner of Merceron Street and Collingwood Street an expanded pavement area set before the entrance lobby/building core to Building 7;
  - Of a double height arched entrance door and shopfront style lobby window to the lifts and stairs serving access the podium garden space serving Buildings 5 and 7;
  - On the corner of Brady Street and Collingwood Street a pocket public space flanked by a small retail unit and the entrance to a D1 space (the applicant is intending this D1 space is occupied by a children's tuition centre).



**Figure 11: CGI of entrance to Building 7 and Merceron Street (right edge of image) and Collingwood Street (left edge of image)**

- 11.22 The proposed terrace of townhouses on Collingwood Street would help to establish a lower rise street scale, more typical of the scale found elsewhere in Whitechapel. Whilst the taller and bulkier buildings on top of the store podium would still be clearly visible, the intervening lower rise structures reduce their overall impact by helping them to be read as elements of the background, rather than more dominant foreground features. Similarly, the store frontage along the western side of the proposed development provides a lower scale foreground element that helps to define the degree of enclosure of Brady Street and to some degree helps visually mitigate the impact of the larger building elements above.

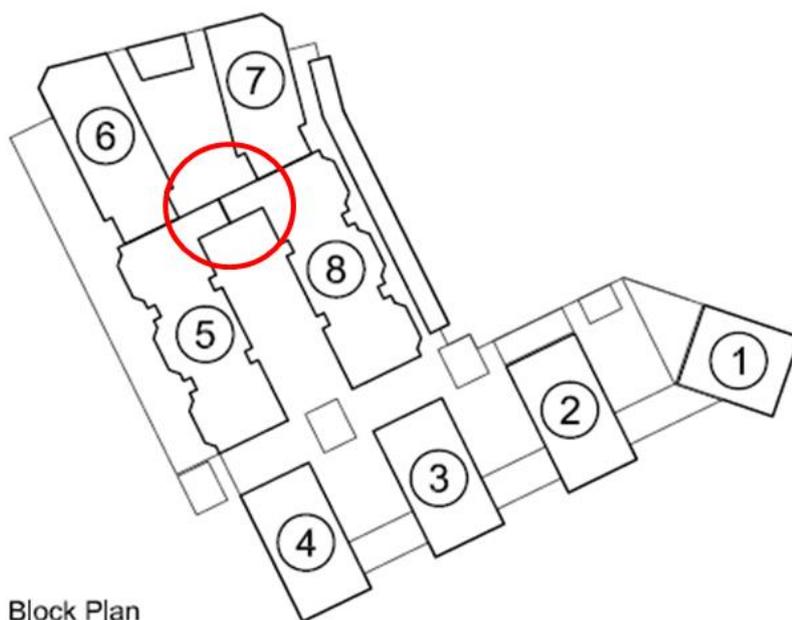


**Figure 12: Image of Collingwood Street looking south towards Darling Way**

- 11.23 Building 1 would be finished in a yellow terracotta tile, Building 2 in a soot washed brick, Building 3 in a green glazed brick, Building 4 in a London Stock brick. Buildings 6 and 7 and Buildings 5 and 8 would be in two respective shades of red

brick. The Design and Access Statement states the palette of materials chosen for each set of buildings responds to local building precedents.

- 11.24 The north, east and western edges of the site are bounded by streets that, all currently suffer from a lack of active frontages. The scheme would introduce active frontages, to varying degree, along all these street edges and as such the scheme is considered to integrate at street level better to the surroundings residential development than the existing supermarket. The Collingwood Street frontage is considered by the Borough Urban Designer the most successful frontage with the series of townhouses that would feature regular openings onto the street that would create a sense of rhythm to street. The least successful street edge would be Mercer Street, compromised by entrances to plant area, doors serving two parking spaces, and a refuse store. Similarly a section of Darling Way would also suffer with the entrance to the supermarket service yard, to a lorry loading bay and the access/egress to the scheme's basement car park.
- 11.25 Taken overall in broad urban design terms the architectural approach of the scheme in terms of both how the proposed individual buildings relate to each other and would function together is, with a few exceptions, generally supported as is the strong degree to which the scheme responds positively to its immediate neighbours in terms of better activating existing street frontages and providing a generously spaced, well-proportioned and valuable new pedestrian route in the centre, valuable to communities to the north and east of Cambridge Heath Road.
- 11.26 However, it is particularly disappointing to note that both the rented affordable housing and the intermediate housing are located in a more marginal and less attractive part of the scheme. This marginalisation is exacerbated by the insertion of the two storey block above the podium which serves to separate Buildings 6 and 7 (that would contain rented and intermediate housing) from the remaining residential blocks to the south (that contain market tenure homes), as is set out in detail in section 13 of this report. This 2 storey block creates uncomfortable relationships between units including daylight /sunlight failures to habitable rooms that are set at 90 degrees to the low storey block. The 2 storey block excludes ready sharing of external amenity playspace and communal amenity space between all tenures.



Block Plan

Figure 13: Awkward layout between Blocks 6 and 7 and blocks to south

11.27 The success of positive features of the scheme's design would be dictated by their detailed design and on-going management arrangements. As with the approach to elevational treatment and materials; it is important that the design of the scheme overall is delivered to a very high standard in order for the scheme to be successful. This would require very close attention to detail including but not exclusively with respect to the choice of finish materials, to landscaping and the 3D modelling of the small detailing of proposed facades, all of the aforementioned which could be managed via condition.

## **12.0 Heritage**

12.1 The Council's statutory duty to consider a proposal's impact to listed buildings and conservation areas and their setting is contained in Sections 66(1) and 72(1) (respectively) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), which is reflected in central, regional and local policy and guidance. The Court of Appeal's decision in *Barnwell Manor Energy Limited v East Northamptonshire District Council* [2014] is of relevance to the application of this statutory duty. This provides that where a decision maker finds that a proposed development would harm listed buildings or their setting and/or harm the character or appearance of a conservation area, it must give the desirability of avoiding that harm considerable importance and weight and it is not enough to ask whether the benefits of a development outweigh the harm. Indeed, the NPPF explains that any harm to the significance of a heritage asset must be given great weight. Development which would cause harm must therefore deliver public benefits which are substantial enough to outweigh the great weight to be given to such harm to significance.

12.2 Chapter 12 of the NPPF relates to the implications of development for the historic environment and provides assessment principles. It also identifies the way in which any impacts should be considered, and how they should be balanced with the public benefits of a scheme.

12.4 Paragraph 131 of the NPPF states that in determining planning applications local planning authorities need to take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of the heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

12.5 Paragraphs 132-135 of the NPPF require local authorities when assessing the effects of development on a heritage asset, to give weight to an asset's conservation in proportion to its significance. Heritage assets include, but are not limited to, designated heritage assets such as listed buildings, World Heritage Sites, Scheduled Monuments and conservation areas.

12.6 Paragraph 132 states "*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the*

*heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance including grade I and II\* listed buildings should be wholly exceptional”.*

- 12.7 Paragraph 133 states “*where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss*”.
- 12.8 Paragraph 134 states “*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*”. If a balancing exercise is necessary, considerable weight and importance should be applied to the statutory duty under sections 61 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) where it arises.
- 12.9 Policies 7.3, 7.4, 7.7, 7.8 and 7.9 of the London Plan and policies SP10 and SP12 of the Core Strategy and policies DM24, DM26 and DM27 of the Borough’s Managing Development Document seek to prevent harm to the significance of heritage assets including form development within their setting.
- 12.10 London Plan policies 7.11 and 7.12 and policies SP10 and DM26 of the Borough Local Plan seek to ensure large scale buildings are appropriately located and of a high standard of design whilst also seeking to protect and enhance regional and locally important views.
- 12.11 The application is accompanied by Environmental Statement with technical chapters dealing with heritage including a visual impact study containing verified views that assess the likely effects of the proposed development on the townscape, local heritage assets as well as strategic London View Management Views.

### **Impact on statutory listed buildings**

- 12.12 A number of statutory listed buildings are located in the vicinity of the application site. The closest is the Grade II listed Albion Brewery Entrance Building and Fermenting building, otherwise known as Albion Yard with its brewery courtyard. The most significant heritage asset is the Grade I listed Trinity Green Almshouses. Set alongside and flanking the entrance to the Almshouses is the Grade II listed Brewery Engineers House at No 27a Mile End Road and immediately to the east of the Almshouses the Grade II listed Park House at 29 Mile End Road. To the west of the site there are a number of listed buildings fronting Whitechapel Road, the largest being the former London Hospital building.

### **Impact of proposed development on the Trinity Green Almshouses**

- 12.13 As outlined above, planning application PA/15/00837 was refused in May of 2017. The first reason for refusal of this application was the impact of the proposals on the setting of the Trinity Green Almshouses. Specifically, the location of the 28 storey tower detailed within the previous application was considered to result in substantial harm to the significance of this heritage asset.

12.14 As detailed above, the proposed building that occupies the site of the previous 28 storey tower (Building 1) is now at 9 storeys within this application. This represents a reduction from 101.375m (AOD) to 43.1m (AOD). As a consequence, the protrusion of the tower above the western range of the Almshouses. This is as illustrated in Figures 14 to 16 below which compare the existing situation to the previous refusal and the current application.

**Figure 14: Existing view from green looking towards western range (THVIA view 17)**



**Figure 15: Proposed view for previous refusal PA/15/00837 (THVIA view 17 for PA/15/00837)**



**Figure 16: Proposed view in subject application (THVIA view 17)**



- 12.15 As illustrated above, the harmful impact on the setting of the almshouses has been removed.
- 12.16 A further reason for refusal of planning application PA/15/00837 was the harm, albeit less than substantial, to the setting of the Albion Yard Brewery buildings set to the south of the site in relation to townscape views from Whitechapel Road. The reduction in height of Building 1 means that it would no longer be visible in TVIA View 20 but Building 3 would still cause harm with regard to the setting of the listed brewery, as illustrated in TVIA View 21.

- 12.17 The Albion Brewery is listed at Grade II. The surviving buildings originally formed part of a much larger brewery complex occupied by Mann, Crossman & Paulin. Today's listed building was the public facade of the Brewery, facing onto one of the key routes leading into the centre of the capital. The recessed Portland stone centrepiece is highlighted in Pevsner's East London, it states that *'the 1860's fermenting house at the rear of the courtyard was remodelled and liberally embellished in show-of baroque style, dominated by a high pedimented gable between huge carved volutes, a clock and a splendid carved relief of St George & the Dragon, its sculptor sadly unknown. Much carved detail of hops and barley.'*
- 12.18 The significance of the listed Brewery is predominantly derived from its historical and aesthetic values. The historical value accrues from the survival of this important part, the public façade, of a much larger brewery complex which formed an significant part of an industry that was once very important in the East End. The aesthetic value derives from the fine Portland stone facade, viewed in conjunction with the well detailed brick buildings and gateway with the brewery name on the gate overthrow.
- 12.19 In the existing view from Whitechapel Road, the very distinctive clock gable, the visual centrepiece of the facade is seen outlined against the sky. As proposed, however, Building 3 would rise directly behind the gabled, decorative centrepiece thereby reducing the its impact and diminishing the viewers ability to fully appreciate its fine architectural qualities. Further, the comfortable, self-contained, visual inter-relationship of the predominantly brick buildings on three sides of the recessed Albion Yard is harmed by the intrusion of the tower. In the view, Building 3 does not rise quite symmetrically with the recessed facade of the brewery - the south elevation of the proposed block is not quite parallel with recessed brewery facade, this exacerbates the intrusive impact of the tower.
- 12.20 The impact of Building 3 on the significance of Grade II listed Albion Yard Brewery is thus to its aesthetic value. This is therefore considered to constitute less than substantial harm to the significance of this heritage asset.



**Figure 17: Existing view of Albion Yard Brewery from Whitechapel Road (TVIA view 21)**



**Figure 18: Proposed view for previous refusal PA/15/00837 (TVIA view 21 for PA/15/00837)**



**Figure 19: Proposed view for current application (TVIA view 21) with Building 3 set behind the gabled clock of the Albion Yard Brewery**

### **Impact on Conservation Areas**

- 12.21 As with the Trinity Green Almshouses, the reduction in height of Building 1 to 9 storeys removes the harmful impacts upon the Stepney Green Conservation Area that were previously identified with respect to application PA/15/00837.
- 12.22 The reduction in height of Building 1 has also lessened the overall impact on the Whitechapel Market Conservation Area, however, the impacts of Building 3 as discussed in relation to the Albion Yard Brewery are still considered to result in some

harm to the character and appearance of the Whitechapel Market Conservation Area.

- 12.23 Whitechapel developed as a mediaeval suburb to the east of London, along Whitechapel Road. The establishment of the London Hospital was a spur to growth as modest residential development covered adjacent sites. The development of the London Underground had a very significant impact on the area. The changing social and economic fortunes of the area in the nineteenth century are well reflected in the built environment.
- 12.24 The Whitechapel Market Conservation Area is centered on the long run of properties on the north side of Whitechapel Road (between Vallance Road and Cambridge Heath Road) which face on to the famous Whitechapel Market which has long been a notable feature of the East End. The market and the buildings behind it form its setting and are a defining image of the East End.
- 12.25 The relevant Conservation Area Character Appraisal and Management Guidelines includes that '*The Whitechapel Road frontage is significant because it is a sustained stretch of fine-grain historic buildings, with a variety of architectural design approaches. Some 18<sup>th</sup> century buildings still survive, reflecting the older framework of the original market place and commercial architecture of the time. 18<sup>th</sup> century buildings include the Grade II-listed Woods buildings and Davenant Centre and the former [Albion] brewery. There are also 19<sup>th</sup> century buildings, and the frontage demonstrates a fine variety of Victorian architecture.*'
- 12.26 Overall the Whitechapel Market Conservation Area has strong historical value, incorporating valuable elements which illustrate the development of the area over several centuries. It also has strong aesthetic value particularly with regard to the attractive and varied run of buildings which front Whitechapel Road along with very considerable communal value with regard the long running and much loved Whitechapel Market.
- 12.27 The surviving unobstructed skyline is an important element of the aesthetic and historic value of the Conservation Area i.e. the fact that in views, large scale buildings beyond the Conservation Area boundary are not visible. This feature is an important contributing factor to the conservation area's aesthetic significance.
- 12.28 The Whitechapel Ideas Store within the Conservation Area boundary, is an unashamedly, bold modern building by Sir David Adjaye. It was shortlisted for the Stirling Prize in 2006 and delivers significant public benefits.
- 12.29 In View 20, Building 3 would rise up above and obscure important rooftop elements including chimney stacks of nos. 285 to 295 Whitechapel Road which form an important part of the key group of Conservation Area building facing the market. It would also diminish the visual impact of the impressive no. 279 to 283 Whitechapel Road which is included on the Council's local list and was built as the Working Lads Institute by George Baines in 1884-5. It would thus be harmful to the historic and aesthetic value of the Conservation Area.

### Conclusion

- 12.30 When assessed against the public benefits of scheme, addressed in further detail below, the less than substantial harm to the Albion Yard Brewery and Whitechapel Market Conservation Area, whilst towards the lower end of this category, is not considered to be outweighed by the public benefits of the proposal.

## 13.0 Housing & Density

### Policy Context

- 13.1 Increased housing supply is a fundamental policy objective at national, regional and local levels, including the provision of affordable housing.
- 13.2 NPPF Paragraph 7 advises that a dimension of achieving sustainable development is a “social role” supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 9 advises that pursuing sustainable development includes widening the choice of high quality homes.
- 13.3 NPPF Section 6 advises local planning authorities on *‘Delivering a wide choice of high quality homes.’* Paragraph 47 requires local plans to meet the full objectively assessed need for market and affordable housing and to identify and update annually a supply of specific deliverable sites sufficient to provide five years housing supply with an additional buffer of 5%.
- 13.4 London Plan Policy 3.3 *‘Increasing housing supply’* refers to the pressing need for more homes in London and makes clear that boroughs should seek to achieve and exceed their relevant minimum targets. The London Plan annual housing monitoring target for Tower Hamlets is 3,931 new homes between years 2015 to 2025.
- 13.6 London Plan Policy 3.8 *‘Housing choice’* requires borough’s local plans to address the provision of affordable housing as a strategic priority. Policy 3.9 *‘Mixed and balanced communities’* requires communities mixed and balanced by tenure and household income to be promoted including in larger scale developments.
- 13.7 London Plan Policy 3.11 *‘Affordable housing targets’* requires boroughs to maximise affordable housing provision and to set an overall target for the amount of affordable housing needed in their areas. Matters to be taken into consideration include the priority for family accommodation, the need to promote mixed and balanced communities and the viability of future developments.
- 13.8 London Plan Policy 3.12 *‘Negotiating affordable housing’* requires that the maximum reasonable amount of affordable housing be sought. This should have regard to affordable housing targets, the need to encourage rather than restrain residential development, the size and type of affordable units needed to meet local needs, and site specific circumstances including development viability, any public subsidy and phased development including provisions for re-appraising viability prior to implementation. Affordable housing should normally be provided on site.
- 13.9 Tower Hamlets Core Strategy Policy SP02 (1) supports the delivery of new homes in line with the Mayor’s London Plan housing targets. Policy SP02 (3) sets an overall strategic target for affordable homes of 50% until 2025. This is to be achieved by requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability). Paragraph 4.4 explains:

*“Given the extent of housing need, Tower Hamlets has set an affordable housing target of up to 50%. This will be delivered through negotiations as a part of private residential schemes, as well as through a range of public initiatives and effective use of grant funding. In some instances exceptional circumstances may arise where the affordable housing requirements need to*

*be varied. In these circumstances detailed and robust financial statements must be provided which demonstrate conclusively why planning policies cannot be met. Even then, there should be no presumption that such circumstances will be accepted, if other benefits do not outweigh the failure of a site to contribute towards affordable housing provision”.*

- 13.10 Core Strategy Policy SP02 (3) set an overall strategic target for affordable homes of 50% until 2025. This will be achieved by requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability). The preamble in 4.4 states that “*given the extent of housing need, Tower Hamlets has set an affordable housing target of up to 50%. This will be delivered through negotiations as a part of private residential schemes, as well as through a range of public initiatives and effective use of grant funding. In some instances exceptional circumstances may arise where the affordable housing requirements need to be varied. In these circumstances detailed and robust financial statements must be provided which demonstrate conclusively why planning policies cannot be met. Even then, there should be no presumption that such circumstances will be accepted, if other benefits do not outweigh the failure of a site to contribute towards affordable housing provision”.*
- 13.11 Managing Development Document Policy DM3 (3) states development should maximise the delivery of affordable housing on-site.
- 13.12 The London Plan seeks a ratio of 60:40 rented to intermediate tenures within a affordable housing offer whilst the Borough’s Local Plan policies seeks a 70:30 split to ensure housing contributes to the creation of socially balanced and inclusive communities.

**Affordable Housing**

- 13.13 The tables below compare the proposed housing mix against policy requirements:

**Table 2: Affordable Housing – Market housing split**

	<b>Number of units</b>	<b>% of Units</b>	<b>% of habitable rooms</b>
Market	406	86.2	82.5%
Affordable	65	13.8	17.5%
TOTAL	471	100%	100%

- 13.14 This scheme makes an on-site affordable housing offer of 17.5% by habitable room. The affordable housing provision is split 80:20 in favour of rented housing measured by habitable rooms. The majority of the affordable rented accommodation would be contained in Building 6, with a small number of units in Building 7 and the remaining four affordable units within four of the seven in total proposed town houses. The intermediate units would be intermixed with market sale and affordable units in Building 7.
- 13.15 The affordable rented housing accommodation would be provided on a 51:49 split between London Affordable Rents and Tower Hamlets Living Rent across all the rented 1, 2 and 3 bedroom units.

- 13.16 The affordable housing split is slightly out of sync with the Council's 70:30 target (rented:intermediate). However, as the proposed split favours rented units over intermediate units, this is considered acceptable by officers.
- 13.17 A viability appraisal has been submitted with the scheme and this has been independently reviewed by the Council's Independent Assessor along with the GLA's Homes for Londoner's Viability Team.
- 13.18 The GLA team consider that the overall methodology adopted in the appraisal needs to be reconsidered in light of the methods adopted by assessors in the context of a similar planning application at the Sainbury's Supermarket in Ilford which went to Public Inquiry. As outlined in the GLA's Stage 1 response, specific concerns are raised in relation to following aspects of the submitted viability appraisal, the food store valuation, abnormal cost, marketing and disposal costs, profit and the benchmark land value.
- 13.19 The Council's assessors failed to reach an agreed position with respect to a number of matters prior to the applicant lodging an appeal for non-determination with the Planning Inspectorate. Outstanding matters include construction related costs and the Benchmark Land Value. Officers share the concerns of the GLA in respect of the chosen methodology adopted in the applicant appraisal.
- 13.20 The applicant has failed to demonstrate that the scheme would provide for the maximum reasonable amount of affordable housing. This is contrary to Core Strategy Policy SP02, Development Management Plan Policy DM3 and London Plan Policies 3.11 and 3.12.
- 13.21 The provision of 17.5% affordable housing falls significantly below the Borough's strategic target of 50% affordable housing and well below the minimum target of 35% on all developments providing in excess of 10 residential units, as set out within Core Strategy Policy SP02. It is also of note that the GLA, as per their Stage 1 Report, consider that this level of affordable housing provision proposed within a high density scheme, situated in an opportunity area, as '*wholly unacceptable and must be significantly increased.*'
- 13.22 It should also be noted that whilst the Council has a five year housing land supply, the provision of additional housing is of public benefit given the shortfall of housing provision within London as a whole. This together with the delivery of affordable housing are matters which should be given significant weight.

#### Housing Mix

- 13.23 Pursuant to Policy 3.8 of the London Plan, new residential development should offer genuine housing choice, in particular a range of housing size and type. Policy SP02 of the Core Strategy also seeks to secure a mixture of small and large housing, requiring an overall target of 30% of all new housing to be of a size suitable for families (three-bed plus) including 45% of new affordable rented homes to be for families. Policy DM3 (part 7) of the MDD requires a balance of housing types including family homes. Specific guidance is provided on particular housing types and is based on the Councils most up to date Strategic Housing Market Assessment (2009).

#### **Table 3: Bedroom Mix by Tenure**

Tenure	Type	Number of Units	Policy Requirement (%)	Proposed mix (%)
<b>Private</b>	Studio	36	0%	8.9%
	1 bed	145	50%	35.7%
	2 bed	197	30%	48.5%
	3 bed	28	20%	6.9%
	4+ bed	0		0
			<b>406</b>	100%
<b>Affordable Rented</b>	1 bed	5	30%	10.2%
	2 bed	14	25%	28.6%
	3 bed	30	30%	61.2%
	4+ bed	0	15%	0%
			<b>49</b>	100%
<b>Intermediate</b>	Studio	0	0%	0
	1 bed	6	25%	37.5%
	2 bed	8	50%	50%
	3 bed	2	25%	12.5%
	4+ bed	0		0
			<b>16</b>	100%

- 13.19 The Local Plan does not target provision of studio units in any tenure. The scheme underprovides in 1 bedroom market units against the Borough target. However if studio units are factored in, the mix falls just short of the 50% target. The scheme markedly overprovides in 2 bed market units (48.5% against 30% target) and conversely significantly underprovides in larger family sized (3 and 4 bedroom) markets units, consisting of 6.9% of the total markets as opposed to the 25% target. The under provision in larger family sized units is considered on balance acceptable; informed by the advice within London Mayor's Housing SPG in respect of market housing, which argues that it is inappropriate to be applied crudely "*housing mix requirements especially in relation to market housing, where, unlike for social housing and most intermediate provision, access to housing in terms of size of accommodation is in relation to ability to pay, rather than housing requirements*".
- 13.20 The scheme significantly underprovides with regard to 1 bed affordable units against the Borough target mix (10.2% compared to 30%) and conversely significantly overprovides for 3 bed affordable units (61% against a target of 30%). It is understood that this overprovision of 3 bed units is intended to compensate for the lack of 4 bed units within the scheme. The Borough Affordable Housing Team have raised concerns about the proposed mix, noting the significant under-provision of 1 bedroom units and the lack of 4 bed units. It is of concern that on a major residential scheme such as this, that no 4 bed units are provided, this fails to accord with Policy DM3 (7) of Managing Development Document that seeks 15% 4 bedroom plus residential units within the affordable housing tenure.

Housing quality and standards

- 13.21 London Plan Policy 3.5 *'Quality and design of housing developments'* requires new housing to be of the highest quality internally and externally. The Plan explains that the Mayor regards the relative size of all new homes in London to be a key element of this strategic issue. Local Plans are required to incorporate minimum space standards that generally conform to Table 3.3 – *'Minimum space standards for new development.'* Designs should provide adequately sized rooms and convenient and efficient room layouts. Guidance on these issues is provided by the Mayor's *'Housing'* SPG 2016.
- 13.23 MDD Policy DM4 *'Housing Standards and Amenity Space'* requires all new developments to meet the internal space standards set out in the Mayor's earlier 2012 SPG.
- 13.24 In March 2015, the Government published *'Technical housing standards – nationally described space standard.'* This document deals with internal space within new dwellings across all tenures. It sets out requirements for the gross Internal (floor) area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The Minor Alterations to the London Plan 2016 and the Mayor's *'Housing'* SPG 2016 reflect the national guidance.
- 13.25 All of the proposed units exceed the National Housing Standards minimum internal space standards. The scheme provides residential floor plans that are broadly consistent with Mayor of London's Housing SPG baseline standards. Buildings 5 and 8 would contain more than 8 units served per core, per floor contrary to a Mayor's Housing SPG design standard. However, were consent to be granted for the scheme, this design shortcoming could be overcome through controlled fob access to the two halves of the internal corridor set either side of the centrally located two lifts and secured by planning condition.
- 13.26 Whilst over 50% of units would be dual aspect and there would be no north facing single aspect units there would be a number of single aspect units facing directly on onto Cambridge Heath Road, a busy arterial road with noise levels regularly in excess of 70db (LAeq,T) as stated in the applicants Environmental Statement.

#### Privacy/Overlooking

- 13.27 Between the proposed residential units, and to existing neighbouring properties, issues of overlooking are generally avoided with the siting of the residential buildings either achieving 18m minimum guidance separation distance between directly facing habitable rooms, as set out in DM25 of the Borough Local Plan. The exception to this is a set of habitable windows serving flank end homes that would face each other between Buildings 4 and 5 and Building 3 and 8 respectively. In total 44 units within these four buildings would experience a separation distance between habitable room windows of no greater than 12m. Whilst this separation is far from ideal, the arrangement is considered would still deliver an acceptable level of privacy, given all the affected units would be dual aspect, with 20 of the affected rooms themselves being dual aspect, thus giving the opportunity for residents to obscure overlooking whilst maintaining outlook and daylight from another window to the room. All the single aspect rooms affected by these compromised separation distances are limited to bedrooms (24 in number). It is noted that all the affected rooms would be limited to private sale units thus there is market choice for any

prospective occupant who has particular issue with such a privacy issue to elect not to purchase an affected unit in this location.

#### Inclusive design

- 13.28 From street level there will step free access to the podium spaces and direct to the building cores of Buildings 1-4. Buildings 5, 6, 7 and 8 will be accessed from the podium level. Building 6 and 7 will have their own lobby spaces accessed of Merceron Street. All the residential building cores would benefit from two lifts (including one that is specified for wheelchair accessible) and all residents would benefit from at least two lifts from street level to the external podium space.
- 13.29 London Plan Policy 3.8 'Housing Choice,' the Mayor's Accessible London SPG, and MDD Policy DM4 'Housing standards and amenity space' require 10% of new housing to be wheelchair accessible or easily adaptable for residents who are wheelchair users. London Plan Policy 3.8 'Housing choice' and Core Strategy Policy SP02 (6) require all new housing to be built to Lifetime Home Standards.
- 13.30 On 14th March 2016, Minor Alterations to the London Plan (MALP) were published to bring the London Plan in line with the Government's national housing.
- 13.31 Accordingly the requirement for all new dwellings to meet Lifetime Homes Standards and 10% to be wheelchair accessible or easily adaptable is now be interpreted as requiring 90% of new housing units to meet the Building Regulations optional requirement Part M4 (2) 'accessible and adaptable dwellings'; 10% of new housing within the market sales to meet the optional requirement M4(3)(2)(a) (adaptable); and 10% to meet the optional requirement M4(3)(2)(b) (accessible) within the rented affordable housing. The applicant states, and the floor plans indicate, that the development is capable of meeting the aforementioned new national accessibility standard including the Building Regulation optional required and adopted as policy requirements in MALP.
- 13.32 Were consent granted a minimum 10% of units would be fully wheelchair accessible in line with the aforementioned Building Regulation Optional Requirements set out above, secured by planning condition.

#### Internal Daylight and Sunlight

- 13.33 DM25 of the MDD seeks to ensure adequate daylight and sunlight levels for the future occupants of new developments. The Building Research Establishment (BRE) Handbook 'Site Layout Planning for Daylight and Sunlight 2011: A Guide to Good Practice' (hereinafter called the 'BRE Handbook') provides guidance on the daylight and sunlight matters. It is important to note, however, that this document is a guide whose stated aim "is to help rather than constrain the designer".
- 13.34 The application is accompanied by a daylight and sunlight assessment report that tested the daylight and sunlight provision to the proposed new dwellings.

#### Daylight

- 13.35 The daylighting conditions within new homes are normally assessed in terms of the Average Daylight Factor (ADF). The BRE guidelines and British Standard 8206 recommend the following minimum ADF values for new residential dwellings:

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

The submitted ES assessment tested all the habitable room windows on the bottom six storeys of each building within the proposed development. Within Buildings 1, 2, 3 and 4 the prepared ADF figures need to be treated with some caution as the ADF testing has included the winter gardens and adjacent room as a single space which favourably impacts the assessment results. This could lead to the calculated values significantly overestimating the daylight in the rooms.

- 13.37 In Building 1 the ADF levels would be generally acceptable with only 4 rooms failing BRE guidance, though there is one deep living room with an ADF of only 0.39%. In Building 2 there are 14 rooms that would fail to meet BRE guidance – most of these are units with very deep individual unit floor plans that would receive relatively low levels of ADF.
- 13.38 In Building 3, 95% of the rooms would achieve BRE ADF guidance, with 11 rooms failing. There is a living /kitchen/dining room on 2nd floor that would experience poor daylight with an ADF of 0.72%. On the third floor, there are two bedrooms set back behind balconies that would have very low levels of ADF with 0.07% and 0.16% respectively. In Building 4, there is a bedroom on the third floor, facing east, that would have an ADF of 0.08%. Elsewhere in this building, there are living rooms with below the recommended level of ADF but these rooms are likely to have reasonably good levels of daylight to the areas adjacent to the window.
- 13.39 In Buildings 5 and 6, there are 42 rooms that would fail to meet BRE ADF criteria (representing 13% of the habitable rooms within the two buildings). In Buildings 5 and 6 there are 9 living/kitchen dining rooms achieving less than 1% ADF including four achieving only 0.05%, 0.14%, 0.25% and 0.36%. There are three bedrooms in these two buildings achieving only 0.07%, 0.20% and 0.26% ADF.
- 13.40 The lowest level of compliance would be within with Buildings 7 and 8 with 48 rooms failing the BRE guidance, this figure represents 17% of the habitable rooms in the two buildings. There are 8 living/kitchen/dining rooms in these two buildings that fail to achieve 1% ADF including one of these rooms achieving only 0.05%, another 0.32%. Within Buildings 7 and 8 there are individual bedrooms achieving only 0.09%, 0.11%, 0.20%, 0.22%, 0.28% and 0.33% ADF respectively.
- 13.41 There is particular concern about the location of the two storey block running east west across the podium and the impact of this on the quality of daylight/sunlight to the habitable rooms in Buildings 6 and 7. It is considered that the location of this block is significant contributing factor to the ADF failures experienced by the habitable rooms at podium level within Buildings 6 and 7.
- 13.42 Amongst the proposed townhouses 3 habitable rooms would fail to achieve BRE ADF guidance.
- 13.43 89% of habitable rooms meet BRE No Sky Line guidance with compliance ranging from 83% (Buildings 7 and 8) to 97% (in Building1).
- 13.44 Overall 88% of habitable rooms meet the ADF guidance. In percentage terms, this has fallen from the previous scheme owing to the loss of compliant rooms on the

upper floors of the now smaller Building 1. The previous scheme was considered by officers to be on balance acceptable in daylight/sunlight terms, in spite of concerns about the daylight within habitable rooms. It is noted that members did not add a reason for refusal in respect of daylight/sunlight for future residential occupants of the development.

- 13.45 It is disappointing with this amended scheme that the applicant has not taken the opportunity available to seek to address the daylight failures, through changes to the internal layouts and window placement and by removal of the 2 storey block set across the podium.

#### Sunlight

- 13.46 In relation to sunlight, the annual probable sunlight hours test (APSH) considers the amount of sun available in both the summer and winter for each given window which faces within 90° of due south. If the window reference point can receive more than one quarter (25%) of APSH, including at least 5% of APSH during the winter months, between 21st September and 21st March, then the room should still receive good sunlight assessed against BRE guidance.
- 13.47 The majority of rooms do not meet these guidelines, partly because of the recessed windows used extensively in the development. Householders with a recessed window will in some cases have the benefit of sunlight on their balconies or winter gardens. With this is taken into account, some 52% of the relevant habitable rooms would enjoy at least 25% APSH, and 63% of these rooms would enjoy at least 5% in winter months. On balance officers consider the relatively poor levels of sunlight provision are not sufficient to warrant an additional reason of refusal to the scheme.

#### Overshadowing of amenity spaces

- 13.48 The prepared Environment Statement includes an assessment of the impacts of the proposed development on the sunlight levels within existing and proposed public open space and communal amenity spaces in the development. BRE guidance states that gardens or amenity areas will appear adequately sunlit throughout the year provided at least half of a garden or amenity area receives at least two hours of sunlight on 21st March.
- 13.49 The overshadowing analysis shows the largest podium space serving the market units would achieve two hours of sunlight for 46% of the identified area, marginally failing to meet the BRE guidance. 50% of the area would have two hours sunlight for the podium space serving the affordable units, just meeting the BRE guidance, and likewise 55% for the podium space set between Building 1 and Building 2.
- 13.50 In regard to the pedestrian public amenity space created within Brady Street and Albion Walk, 82.5% of the space would meet the BRE compliance of two hour direct sunlight guidance on 21<sup>st</sup> March.
- 13.51 In conclusion the level of direct sunlight received by the communal amenity spaces and the new public realm spaces, although not ideal, is considered acceptable.

#### Amenity space

- 13.52 For all major developments, there are four forms of amenity space required: private amenity space, communal amenity space, child play space and public open space. The 'Children and Young People's Play and Information Recreation SPG' (February

2012) provides guidance on acceptable levels, accessibility and quality of children's play space and advises that where appropriate child play space can have a dual purpose and serve as another form of amenity space. This is particularly apt for very young children's play space as it is unlikely that they would be unaccompanied. However policy is clear any dual purpose amenity space strategy must not be formulated to double count amenity space and thereby dilute the amenity space standards.

#### *Private Amenity Space*

- 13.53 Private amenity space requirements are set figures determined by the predicted number of occupants of a dwelling. Policy DM4 of the MDD sets out that a minimum of 5sq.m is required for 1-2 person dwellings with an extra 1sqm provided for each additional occupant. If in the form of balconies they should have a minimum depth of 1500mm.
- 13.54 The proposal provides private outdoor amenity space to all of the units in the form of private balconies, individual gardens, roof terraces and winter gardens. The Mayor's 'Housing' 2016 SPG states "*In exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement.*" The SPG also states the winter gardens must be set outside the thermal envelope of the individual units and have floor drainage to serve as bona fide winter gardens.
- 13.55 Approximately 22% of the units are provided with winter gardens as opposed to external open space and without a robust justification (in terms of site context) to justify such preponderance of winter gardens. Were consent to be granted, a planning condition would be imposed to ensure that the winter gardens lie outside of the thermal envelope of the building to better accord with the Mayor's Housing design guidance and with a drainage hole to enable watering of plants.

#### *Communal Amenity Space*

- 13.56 Communal amenity space is calculated by the number of homes within a proposed development. 50sq.m is required for the first 10 units with an additional 1sqm required for each additional unit. Therefore, the required minimum amount of communal amenity space for the development would be 511sq.m.
- 13.57 The communal amenity space would be provided primarily at podium level. One podium level space set between Buildings 6 and 7 would serve the affordable rented, intermediate units and a small number of private market units with the addition of two small roof top amenity spaces also designed to also serve these units. A separate larger podium level space set between Buildings 2, 3, 4, 5 and 8 would serve the residents of the remaining market tenure homes, alongside a separate podium space set between Buildings 1 and 2. These market tenure homes would also have access to two internal amenity spaces located beneath the podium level that would have windows facing onto Albion Walk.
- 13.58 The external podium level space would exceed the communal amenity space minimum requirements for the market and intermediate units and also meet the requisite minimum play space provision for these two tenure types, without recourse to any double counting of communal amenity space and child play space.

#### *Child play space*

- 13.59 The Mayor of London's 'Children and Young People's Play and Informal Recreation' SPG provides guidance on acceptable levels, accessibility and quality of children's play space and advises that where appropriate child play space can have a dual purpose and serve as another form of amenity space. This is particularly apt for very young children's play space as it is unlikely that they would be unaccompanied.
- 13.60 Play space for children is required for all major developments. The quantum of which is determined by the child yield of the development, with 10sqm of play space per child. The London Mayor's guidance on the subject requires, inter alia, that it will be provided across the development for the convenience of residents and for younger children in particular where there is natural surveillance for parents.
- 13.61 The scheme is predicted to yield approximately 108 children using the GLA calculator. This yield by age group is estimated as follows:
- 49 children under aged 0-4,
  - 36 children between ages of 5-11 and
  - 23 children between ages 12-18
- 13.62 This child yield equates to a requirement for 487sq.m of play space for children under age of 5, 390sq.m for ages 5-11 and 227sq.m for older children.
- 13.63 The proposed layout plans indicate the scheme could provide the required quantum of child play space for children within all the identified age groups (0-15) for those residents living in the market housing within the external podium spaces set to serve these age groups.
- 13.64 The application documentation acknowledges that, given the high density nature of the development and the relatively tight physical relationship between the proposed buildings, the podium space does not lend itself for provision of play spaces designed for structured sports spaces, such as a MUGA. As such the scheme would need to rely in practical terms upon local structured public open area sports spaces to supplement the play space provision proposed on site. Weavers Fields and Bethnal Green Gardens are both within 600m walking distance routes. The walking route from the site to Weavers Fields does not necessitate children cross a primary classified road.
- 13.65 The affordable rented units flats are estimated to yield 72 children aged 0-15, using the GLA child yield evidence base (27 children aged under 5, 28 aged 5-11 and 18 aged 12+) with further communal child space provision also required for the three town houses under this tenure (that are estimated to yield an additional 3 children).
- 13.66 The total useable external space on the podium space serving Buildings 6 and 7 and the two smaller associated roof top communal terraces (on Buildings 6 and 7) measures approximately 790sq.m. These three external spaces are also required to provide 123sq.m of communal amenity space to the rented units. In total 905sq.m of useable outdoor space is required to meet the aggregate child minimum play space and communal area for the affordable rented, intermediate and market units within these blocks and as such there is an aggregate shortfall of approximately 13% for the these units. In contrast it is noted by the applicant that 2,890sq of podium level external amenity space is available to meet communal amenity and play space provision for residents of the remaining market housing units. Residents of the rented and intermediate units would not have access to the market podium internal and external space. It is also noted that there is communal internal amenity space at

level one to the south of the site. This is in two sections located in between Buildings 1, 2 and 3. This does not appear to have been factored into calculations by the applicant and therefore serves underestimate the generous quantum of amenity space for the market units.

- 13.67 Across all residential tenures the play space proposals suffer from a lack of physically separated under 5's play space and adequate detail of suitable play equipment such as swings and slides. If planning permission was granted, further detailed layouts would be required of the play spaces and of the fitted play equipment.
- 13.68 The two aforementioned roof top spaces (upon Building 6 & 7) are each small in area and necessarily are confined spaces that do not readily lend themselves to high quality play space. The roof top amenity space on Building 7, assigned for communal amenity space, suffers from an unacceptable degree of overshadowing, failing to achieve BRE guidance of 2 hours of direct sunlight on 21<sup>st</sup> March.
- 13.69 On balance the shortfall in quantum and quality of play space and communal amenity space provision to Buildings 6 and 7 is not considered to warrant a reason of refusal, given the distance to Weavers Fields, which is capable of meeting play space provision for older children of this scheme. However the marked disparity in provision of shared play space and communal amenity space for those in the affordable rented and intermediate tenures compared to the relative quantum of provision enjoyed by those in the vast majority of market units is of concern. The identified disparity is not consistent with ensuring the policy objective of achieving equal life chances for all (Policy 3.1 of London Plan) and fostering a housing design that helps forge a more socially inclusive London (a requisite of London Plan Policy 3.5. (Quality and Design of Housing Development) that is also a Local Plan policy objective, as set out in Core Strategy Policy SP02 (Urban Living for Everyone).
- 13.70 This failure to address this inequality of outcomes matter arising from the specific design of the scheme at podium level is all the more disappointing as it was an issued flagged within the Strategic Development Committee Report to the refused scheme, that officer stated should be addressed in any re-submission. It is also a matter that the GLA flagged up as not acceptable in their Stage 1 response to this scheme (in contrast to the previous refused scheme, when the GLA were silent on this matter) and could be readily addressed by removing the 2 storey dividing block across the podium that contains only 4 residential units.

#### Secure by Design

- 13.71 Policy 7.3 of the London Plan seeks to ensure that developments are designed so as to reduce the opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating. Policy DM23(3) of the Council's adopted Managing Development Document requires development to improve safety and security without compromising good design and inclusive environments. Policy SP10 of the Borough's adopted Core Strategy require development to create distinct and durable places.
- 13.72 The Designing out Crime Officer has reviewed the scheme and is content that subject to further information supplied through the form of a condition, the scheme can successfully achieve Secure by Design compliance.
- 13.73 To conclude, the scheme is considered to comply with Policy 7.3 of the London Plan and Policies DM23(3) and SP10 of the adopted Borough Local Plan and in respect of contributing to a sense of security and making a safe place, subject to a planning

condition being imposed on any approval to ensure Secure by Design accreditation is achieved for the scheme.

### **Housing Density**

- 13.74 Policies 3.4 of the London Plan and SP02 of the Borough's Core Strategy seeks to ensure new housing developments optimise the use of land by relating the distribution and density levels of housing to public transport accessibility levels and the wider accessibility of the immediate location.
- 13.75 The proposed development would have a residential density of 1,000 habitable rooms per hectare (hr/ha), after taking into account the proportion of vertically mixed non-residential floorspace. The appropriate London Plan density range for sites with a central setting and PTAL of 6a is 650 to 1,100 hr/ha. The proposed density is therefore consistent with the London Plan density matrix. However density ranges should not be applied mechanistically and a density within the London Plan matrix may be unacceptable if the scale of development associated with the residential density exhibits symptoms of overdevelopment in terms of adverse impacts on the amenity of future residential occupiers, imposes adverse amenity impacts to neighbouring occupiers, gives rise to poor quality of urban design, fails to contribute positively to local character place-making or results in adverse impacts upon the local townscape and heritage assets.

### **14.0 Neighbours Amenity**

- 14.1 Policy DM25 states safeguarding neighbours amenity should be by way of protecting privacy, avoiding an unduly detrimental increase in sense of enclosure, loss of outlook, deterioration of sunlighting and daylighting conditions or overshadowing to surrounding open space. DM25 sets out as guidance that an 18m separation distance between directly facing habitable rooms will avoid unacceptable inter-visibility between homes.
- 14.2 Policy DM25 also requires new development to not create unacceptable levels of noise, vibration, light pollution or reductions in air quality during construction or operational phase of the development.
- 14.3 With regard to an assessment of sense of enclosure or the impact upon outlook of a development, this is not a readily definable measure and the impact is a matter of judgement. If there are significant failures in daylight and sunlight or infringements of privacy it can be an indicator that the proposal would also be overbearing and create an unacceptable sense of enclosure.
- 14.4 The guidance in the London Plan and BRE Report 'Site Layout planning for daylight and sunlight: a guide to good practice' is context dependent. The London Plan states that daylight '*should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London.*' The BRE Report states that a flexible approach can be adopted with '*different target values. For example, in a historic city centre, or in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.*' Regard should therefore be had to the predominant typology across the boundaries of the site, namely local authority housing and a school, and whether these typologies are likely to be subject to any significant change in the future.

### Daylight/sunlight assessment criteria

- 14.5 DM25 and SP10 of the Local Plan seek to ensure that existing and potential neighbouring dwellings are safeguarded from an unacceptable material deterioration of sunlight and daylight conditions.
- 14.6 For calculating daylight to neighbouring properties, affected by a proposed development, the primary assessment is the vertical sky component (VSC) together with daylight distribution assessment (No Sky Line/Contour) where internal room layouts are known or can reasonably be assumed. The 2011 BRE guide emphasises the VSC assessment as the primary method of assessment.
- 14.7 The VSC is a quantified measurement of the amount of skylight falling on a vertical wall or window. The BRE handbook suggests a window should retain 27% VSC or at least 80% of the pre-development VSC value. The significance of loss of daylight can be summarised as follows:
- 0-20% reduction – Negligible
  - 21-30% reduction – Minor significance
  - 31-40% reduction – Moderate significance
  - Above 40% reduction – Substantial significance
- 14.8 A second daylight measurement is the proportion of the room which receives direct sky light through the window i.e. it measures daylight distribution within a room. The BRE Handbook states that if an area of a room that receives direct daylight) is reduced to less than 0.8 times its former no sky limit (NSL) value the effects will be noticeable to its occupants.
- 14.9 For sunlight, applicants should calculate the annual probable sunlight hours (APSH) to windows of main habitable rooms of neighbouring properties that face within 90° of due south and are likely to have their sunlight reduced by the development massing.
- 14.10 For shadow assessment, the requirement is that a garden or amenity area with a requirement for sunlight should have at least 50% of its area receiving 2 hours of sunlight on 21st March.
- 14.11 The applicant has submitted a daylight/sunlight/overshadowing report. The Council appointed a consultant to independently interpret the results.

### Daylight Analysis

- 14.12 The Council's consultant Delva Patman Redler shares the conclusions of the submitted report in that the scheme would impose negligible daylight impacts upon the following neighbouring properties: Moccatta House, Redmill House, White Hart Public House, Blind Beggar Public House, 317 Whitechapel Road, Nos. 1, 3 and 5 Brady Street and 2-12 Cambridge Heath Road. The consultants also concur that the impacts to Harvey House, Berry House, 1-6 Key Close, 23 Mile End Road and 18-28 Cambridge Heath Road may be classified as minor adverse.
- 14.13 The scheme's more significant adverse results in respect of VSC and NSL would be to the following properties:-

#### Albion Yard

- 14.14 41 of the 106 windows tested would experience a reduction in VSC of more than 30%, but only 3 of the 82 rooms tested would fail the NSL standard meaning that the sky visibility as perceived from within the rooms would generally not appear to be adversely affected. The results reported by the applicant would normally be considered moderate adverse with generally acceptable levels of retained daylight impact, but there are a small number of rooms with a major adverse impact.

#### Blackwood House

- 14.15 44 of the 111 windows tested in Blackwood House would experience a reduction in VSC of more than 30% from existing indicative of a moderate adverse impact. 5 out of 73 rooms would experience a reduction in NSL of more than 30% from existing. The Council's consultants conclude the daylight impacts would be moderate adverse to the homes in this building.

#### Collingwood House

- 14.16 At Collingwood House 14 of the 103 tested windows would experience a reduction in VSC of more than 30% from existing and 10 of these would experience a reduction of more than 40%. The impact on VSC therefore is moderate to major impact. The NSL results are better, however, only 2 rooms would experience a NSL reduction of more than 30% from existing and 5 rooms experiencing a reduction of 20%-30%. The rooms with the greatest impact have light restricted by balconies overhead and this is a material consideration particularly as the balconies cause a disproportionate loss of VSC. ADF values are generally adequate except to the bedrooms that have the balconies where the ADF levels would be around half of the recommended 1% standard. The Council's consultants conclude on balance, the scheme would cause a minor to moderate adverse impact.

#### Grindall House

- 14.17 139 of the 326 rooms would experience a reduction in VSC of more than 30% from existing. 89 of these would experience a reduction of more than 40%, therefore there would be a major adverse impact on VSC. In addition 38 of the 239 rooms will experience a reduction of NSC of more than 30% from existing. A number of bedrooms and living rooms will experience ADF levels below the minimum recommended. The daylight to these some rooms, but not all, are generally restricted by them being located below balconies. Taken into account these building features the Council's consultant's conclude on balance, the overall impact on Grindall House is moderate to major adverse.

#### Kempton Court

- 14.18 35 of the 99 windows tested would experience a reduction in VSC of more than 30% from existing and 17 of these windows would experience a reduction of more than 40%. For NSL 15 of the 78 rooms tested would experience a reduction of more than 40% from existing. The impact would be most noticeable to the ground floor flats which would experience large reductions in VSC and would be left with poor levels of ADF. The Council's consultant's conclude that the overall impact on Kempton Court would be moderate adverse, with major adverse impacts to some units.

#### Swanlea Secondary School

14.20 71 of the 77 windows tested would experience a reduction of VSC of more than 30% from existing and 28 of these windows would experience a reduction of more than 40%. Retained VSC levels would remain generally good for an urban location such as this. 8 of the 17 classrooms tested would not meet the NSL standard and 6 of these would experience a reduction of more than 40% from existing. The Council's consultants conclude the overall to impact would be moderate adverse.

14.21 The retained levels of daylight will be relatively poor in eight rooms, but with levels of light commensurate with an urban location in the other nine. Therefore, the overall impact is considered by the Council's assessors to be moderate adverse.

#### Sunlight Analysis

14.22 In terms of sunlight the scheme would have negligible impact upon the following properties:- Harvey House, Berry House, Redmill House, 18-28 Cambridge Heath Road, 23 Mile End Road, White Hart PH, 317 Whitechapel Road, Kempton Court, Blind Beggar PH, Albion Yard, Swanlea School.

#### Blackwood House

14.23 The Council's consultants conclude the impacts to this building would be minor adverse.

#### Collingwood House

14.24 10 of the 44 rooms assessed would experience reductions in annual and winter sunlight of more than 40% from existing. These worst affected rooms appear to be bedrooms, however the living rooms in the same apartments would have good levels of sunlight. Therefore, on balance, whilst there are major impacts to those 10 rooms the Council's consultants conclude the overall impact on these properties could be considered to be minor to moderate adverse.

#### Grindall House

14.25 The impact on sunlight to Grindall House would be significant with 65 of the 213 rooms experiencing a reduction in APSH of more than 40% from existing and 84 of the 213 rooms tested would experience a reduction in winter sunlight of more than 40% from existing. This is primarily because the windows have very good levels of sunlight at present and the new development would involve constructing tall towers to the south of them. Therefore, any the development on the plot of land to the south of Grindall House would have a disproportionately significant impact on sunlight to Grindall House. There would be four rooms left with no annual sunlight and a further 23 with very low levels although it should be noted that all the rooms that would experience the poorest levels of sunlight are bedrooms, though some living rooms are badly affected too.

14.26 The Council's consultants state the building has particularly good levels of sunlight at present and the proposed levels could be considered to be acceptable for a dense urban location, and inevitable if a taller development is to be located to the south. The residents will however clearly materially notice the effect once the development is complete with the impact considered to be moderate or major adverse.

#### 1-6 Key Close

- 14.27 4 of the 21 rooms tested would experience a reduction in their winter sunlight of more than 40% from existing but would experience full compliance for annual sunlight. The overall impact is therefore considered to be minor adverse.

#### Overshadowing Analysis

- 14.28 The prepared Environmental Statement identifies nine gardens and amenity areas around the site that needed to be assessed for overshadowing impact. All of these will have most of their area able to receive 2 hours of sunlight on 21 March in accordance with BRE guidance. From the analysis of the transient shadow plots the Council's consultants conclude that this does appear accurate.

#### Concluding remarks on daylight/sunlight

- 14.29 The previous application on site PA/15/00837 included a reason of refusal in relation to the loss of daylight and sunlight to neighbouring properties. In reducing the height of Building 1 from 28 storeys to 9 storeys there have been some small improvements in relation to both daylight and sunlight. However, the extent to which these impacts will be material, or would alter the overall classification of harm, is limited.
- 14.30 With regard to daylight, 2 of the 11 properties tested are considered by the Council's assessors to have changed classification in a positive manner. 1-6 Key Close was formerly considered to experience Moderate Adverse impacts in PA/15/00837, this is now considered to be Minor to Moderate Adverse. Collingwood House was formerly considered to experience Moderate Adverse impacts, and is now considered to be Minor to Moderate Adverse.
- 14.31 With regard to sunlight, 3 properties are noted to have improved classifications. Both Berry House and 23 Mile End Road have improved from Minor Adverse to Negligible impact whilst 1-6 Key Close has changed from Major Adverse to Minor Adverse owing to its proximity to Building 1.
- 14.32 The remainder of the properties are considered to experience similar impacts in relation to both daylight and sunlight to the refused application PA/15/00837. The submitted Environmental Statement concludes that the daylight impacts to neighbouring buildings is, overall, minor adverse. The Council's daylight consultants takes issue with that conclusion and notes that the number of buildings that experience moderate or major adverse impacts need to be considered.
- 14.33 In reaching conclusions in relation to daylight and sunlight impacts, it is also important to consider previous decisions on applications of a similar scale. The recent refusal at the Whitechapel Estate PA/15/02959 (see section 5 above) could represent a useful precedent. This application was also refused on daylight/sunlight impacts to neighbouring properties which were considered unacceptable in an urban environment. This refusal has been appealed by way of public inquiry with the outcome expected towards the end of February 2018.

#### Privacy, outlook and enclosure

- 14.34 As stated earlier in this report the scheme would not give rise to privacy issues to surrounding properties. To the south a minimum separation distance of over 28m would be provided to Albion Yard, to the west to homes in Kempton Court a minimum separation distance of 24m would be provided. Swanlea School is set over 20m away from west facing residential windows in the scheme and 18 from the

proposed supermarket and D1 space on corner of Merceron Street. To the north the scheme would provide a minimum 18m distance to habitable room windows in Blackwood House and in excess of 18m to Harvey House.

- 14.35 On Collingwood Street to the east separation distances between habitable room windows in the proposed townhouse to this residential block would exceed 18m and to the west facing windows in Buildings 7 and 8 in a range of distances from 28m to more typically in excess of 32m. On Darling Row separation distances between both Building 1 and Building 2 to Collingwood House and Grindall House would all be in excess of 30m. To flats situated above the commercial premises at No 18 – 28 (even only) Cambridge Heath Road a separation distance in excess of 25m would be provided.
- 14.36 In respect of a sense of enclosure and the development being overbearing to residential neighbours as set out in the urban design section of the report the site layout of the seven residential buildings rising from the podium is such that they are either set back from the edge (or reduced in height towards their north street facing edge in the case of Buildings 6 and 7) to reduce visually overbearing impacts and the height of the development kept low (approximately 3 residential storeys) on its Brady Street and Collingwood Street western and eastern edges. The scale of the proposed development to existing homes facing the site upon Darling Row and Cambridge Heath Road would be greater given the full nine storeys of Building 1 is expressed at the street frontage. However, taken overall the scheme is not considered unduly overbearing in residential amenity terms to neighbouring residential or indeed school buildings.

#### Noise, vibration and air quality

- 14.37 The effects on the noise, vibration and air quality during the construction and operational phases of the development are assessed elsewhere in this report.

### **15.0 Highways and Transportation**

- 15.1 The NPPF and Chapter 6 of the London Plan seeks to promote sustainable modes of transport and accessibility and reduce the need to travel by car, with transport demand generated by new development to be within the relative capacity of the existing highway network.
- 15.2 Policy SP08 and SP09 and Policy DM20 of the adopted Local Plan together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development does not have an adverse impact on safety and road network capacity, requiring the assessment of traffic generation impacts and also seeking to prioritise and encourage improvements to the pedestrian environment. Policy DM22(2) of the Managing Development Document (2013) and Policy SP09 of the Core Strategy seek to ensure that developments located in areas of good public transport accessibility are secured as 'permit free' and have no on-site car parking
- 15.3 London Plan (2016) also promotes 'car free' development in areas with good access to public transport, whilst still providing for disabled people.

#### *Vehicular Access to Site*

- 15.4 The site's vehicular access and car park is currently direct off Cambridge Heath Road on a signalised junction. To accommodate the proposed Albion Walk pedestrian route (as envisaged in the Whitechapel Masterplan) the existing vehicular access would be closed off. Vehicular access/egress to and from the proposed basement car park and to the store service yard would be relocated 50m further north via Darling Row, with Darling Row having a signalised junction with Cambridge Heath Road. Transport for London have however raised concerns about queueing on approaches to proposed relocated junction and recommend modelling the proposed relocated junction with and without the development, which is currently absent from the Transport Assessment

#### *Car Parking Provision and Scheme*

- 15.5 240 basement level car parking bays would be provided for the supermarket, a reduction of 18 spaces over the existing Sainsbury's store car park. Transport for London have raised concerns about the excessive level of retail parking provision in the context of a town centre location with PTAL of 6a. This concern has been raised owing to changing travel trends since the time of the 2015 application and in line with the Mayor's Healthy Streets Agenda.
- 15.6 The residential component of the scheme would be a car free development aside from the 42 residential parking bays allocated for Blue Badge Holders. 40 of the 42 proposed residential car parking bays would be located in a resident's only use basement area available for Blue Badge Bay holders from residents from all tenures. Given the generous proposed provision of Blue Badge Bays the bays could also meet any potential demand from future residents of the scheme entitled to take advantage of the Council Car Parking Permit Transfer Scheme (PTS). The use of these residential bays between Blue Badge Holders and PTS would be managed by a Car Parking Management Plan. Were consent granted for the scheme, for the life of the development, no other residents would be allowed for the life of the development to use the residential bays and this would be secured by condition.

#### *Trip Generation*

- 15.7 18% of weekday customer trips to the supermarket are currently by car, rising to 25% on Friday and Saturdays. This share of car vehicle trips is forecast to continue with the proposed development. Taking the development as a whole including the residential, the development is estimated to give rise to 934 net additional vehicle trips in a 24 hour period of which 33 of these being heavy duty vehicles (HDVs) with a net additional trip generation of 81 vehicles (including 4 HDVs) in afternoon week day peak and 90 additional vehicles at Saturday peak hour.
- 15.8 The shopper car park would be managed on the same conditions of use as the existing car park as a short stay car park to ensure it could meet demand and to avoid queuing cars backing up along Darling Way onto the junction of Cambridge Heath Road.
- 15.9 The Borough Highway Authority and Transport for London have both reviewed the application and the submitted Transport Assessment including the proposed junction signal arrangements. Whilst the junction location was previously considered acceptable within PA/15/00837 Transport for London have with this current scheme raised concerns about queueing on approaches to proposed relocated junction and recommend modelling the proposed relocated junction with and without the development, which is currently absent from the Transport Assessment. Additionally,

as Transport for London also advise that the retail parking element should be reduced, then the trip generation modelling would also have to be revised down.

- 15.10 The Borough Highway Team would support future moves to remove two way traffic from Collingwood Road, were significant rat running along this street to/from the store car park to arise.

#### *Servicing*

- 15.11 The supermarket refuse collection and servicing would be undertaken within a dedicated service yard with drive through access/egress provided from Darling Row with an estimated forty vehicle movements a day; 16 by 16.5m articulated lorries, the remainder by smaller vehicles including 4 movements stemming from daily refuse/recycling collection. Deliveries would be scheduled in advance through a booking system to avoid vehicles waiting on the street.
- 15.12 Servicing for the residential component of the scheme would be for Building 1 from a new loading bay on the west side of Cambridge Heath Road, for buildings 2-5 and 8 it will be from a dedicated loading facility on site, for building 6 and 7 it would be from a new loading bay on the south side of Merceron Street and for the townhouses it would be from the carriageway of Collingwood Street.

#### *On Street Parking*

- 15.13 The scheme would involve the relocation of a number of on-street parking bays and the net loss of 10 resident permit holder parking bays (although their removal would require public consultation under separate legislation). However the scheme would involve no change in the net number of business permit holder bays, disabled bays, school bus or doctor bays.
- 15.14 Notwithstanding the Borough Parking Services Team objecting to the loss of the 10 residential parking bays it is not considered this objection can warrant refusing this major redevelopment scheme that would provide 471 new homes as well as important public realm improvements and wider town centre regeneration benefits.
- 15.15 The Borough Highways Team accept the analysis and conclusions set out in the applicant's Transport Assessment that the net loss of parking spaces could still accommodate demand during and outside of controlled hours. The Whitechapel Masterplan envisages a new east west pedestrian connection through the site and this welcome public realm addition necessitates inevitable alterations to the highway on both Cambridge Heath Road and Darling Row and a consequential loss of parking spaces. In the context of the loss of the 10 on-street residential car parking bays it is worth noting the scheme would be capable of meeting any demand for parking spaces through the Borough permit transfer scheme on site and thereby avoid (in contrast to other residential schemes) additional pressure placed upon pre-existing on-street car parking and this is a material consideration.

#### *Cycle Parking Provision*

- 15.16 906 residential cycle stands would be provided at basement level, with additional cycle stands provided at ground and first floor level for the town houses and for visitors. 91% of the residential cycle parking total would be Sheffield stands and the other 9% would be double stackers. This would exceed London Plan standards.

- 15.17 The shopper cycle bay provision would be on-street consisting of stands for 52 bicycles set outside the entrance to the store which is a welcomed location. 60 cycle stands would be provided for staff of the supermarket at basement level and 80 cycle stands at ground level for the staff of the other five retail units. The long stay parking is slightly under the requirements within the London Plan but it is assumed that this could be modified without difficulty given the overprovision of residential cycle spaces at basement levels.
- 15.18 The scheme makes provision for land under the ownership of the applicant to be made available at no rent for the purpose of supporting a Transport for London Cycle Station. The Transportation Team support the securing of this land for such a use by legal agreement with opportunity for future funding for installing a cycle station a matter for Transport for London to explore through the route of the Mayor of London's CIL.

#### *Pedestrian Connectivity*

- 15.19 The scheme's creation of Albion Walk would improve pedestrian connectivity providing a car free route, set apart from the arterial traffic of the A11, into the Whitechapel town centre from Cambridge Heath Road and Bethnal Green/Globe Town to the north east. Nevertheless, further opportunities to improve the pedestrian environment are sought by Transport for London. Particularly in relation to the Whitechapel Market whereby the scheme has failed to take the opportunity to provide storage for the market stalls out of hours giving rise to concerns of street clutter affecting pedestrian movements.

#### *Crossrail Safeguarded Second Entrance*

- 15.21 The applicant has prepared ground and basement plans for the safeguarded second entrance to the Crossrail station opening out onto the eastern end of Albion Walk set next to the built Crossrail ventilation shaft, presented in the Design and Access Statement. These designs are not part of the formal planning application drawings for this scheme but are provided to demonstrate a second station entrance is compatible with the schemes public realm and pedestrian route made on Albion Walk.
- 15.22 The scheme's foundations and basement car park have been designed to spatially safeguard the construction to the second entrance and likewise without structural disruption from the construction of the potential station entrance to the development and its basement car park.
- 15.23 Crossrail and Transport for London are satisfied the scheme does not prejudice the future development of the safeguarded second entrance.

### **OTHER CONSIDERATIONS**

#### **16.0 Environmental Impact Assessment (EIA)**

- 16.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (hereafter referred to as 'the EIA Regulations') require that for certain planning applications, an Environmental Impact Assessment (EIA) is undertaken. EIA is a procedure which serves to provide information about the likely effects of proposed projects on the environment, so as to inform the process of

decision making as to whether the development should be allowed to proceed, and if so on what terms.

- 16.2 The Proposed Development is considered an 'EIA development' as it falls within the description and thresholds in Schedule 2 10(b) of the EIA Regulations as an 'urban development project' and is likely to have significant effects on the environment.
- 16.3 The planning application was subject to an EIA, and an ES has been submitted with the planning application. The application has been advertised as an EIA application.
- 16.4 This ES comprises three volumes incorporating Volume 1 containing details of alternatives considered and design evolution as well as technical chapters on effects of:
- Demolition and Construction
  - Socio-Economic
  - Transport
  - Wind
  - Noise and Vibration
  - Air Quality
  - Ground Conditions, Groundwater and Contamination;
  - Archaeology
  - Daylight/Sunlight and Overshadowing
  - Hydrology
  - Ecology and Nature Conservation
- 16.4 Volume 2 provides a Townscape, Heritage and Visual Impact Assessment (THVIA). Volume 3 provides technical appendices. A separate Non-Technical Summary (NTS), is also provided that gives a summary of the proposal and the findings of the ES in non-technical language.
- 16.5 The Borough's EIA consultants were commissioned to undertake an independent review of the ES, to confirm whether it satisfied the requirements of the EIA Regulations.
- 16.6 An Interim Review Report (IRR) was produced that identified points of clarifications, and also potential reg 22s ('further information'). The IRR was issued to the applicant on 14th September 2017, to provide them with an opportunity to respond to these points.
- 16.7 The Applicant provided a response to the IRR on the 3rd October 2017 – which was uploaded to planning register. This was reviewed by Temple and the Borough EIA Officer.
- 16.8 A draft Final Review Report (FRR) was produced by the Council, that considered whether the points of clarifications and potential Regulation 22s ('further information') identified in the IRR, had been addressed.
- 16.9 The draft FRR concluded that there remained numerous clarifications and potential Regulation 22s ('further information') that had not been suitably addressed, and therefore remain outstanding.
- 16.10 The draft FRR was issued to the applicant on 14th November 2017, to provide them with another opportunity to respond to these points. Importantly, as required by the

regulations, the draft FRR stipulated (in writing) that the response to the IRR was considered to be 'further information' under Regulation 22 of the EIA Regulations, but that this will be undertaken only when all the outstanding points are resolved. This is to ensure that all the information is advertised/consulted at once. This is more cost effective for the Council, but also is less confusing for consultees, rather than having multiple rounds of consultation.

16.11 As an appeal for non-determination has now been lodged, LBTH is no longer the determining authority – as such there are no further actions for the Council.

16.12 For information, the Council's EIA Officer and EIA consultants reviewed the status of the EIA post-appeal for non-determination, and were of the opinion that a number of the potential Regulation 22s did constitute 'formal Regulation 22s.' These are as follows:

- Inconsistent consideration of the temporary store;
- Not possible to understand what has been relied upon in the wind assessment; and
- Not adequately assessing air quality, potentially leading to an under estimation of impacts.

16.13 As such, were LBTH still the determining authority, a letter would be issued formally requesting this information, and the application would be unable to be determined until the information was submitted. Once this had been provided, it would need to be processed as required under the EIA regulations, alongside the information submitted in response to the IRR.

16.14 Therefore to enable the application to be determined in accordance with the EIA regulations, the following steps need to be actioned:

- the 'further information' must be submitted by the applicant; and
- all 'further information' submitted will need to be processed as required under the EIA regulations (including the information submitted in response to the IRR).

## **17.0 London View Management Framework (LVMF)**

17.1 The application is accompanied by a Townscape, Heritage and Visual Impact Assessment TVIA. The TVIA provided views of the proposed scheme from a series of identified London View Management Framework (LVMF) viewpoints.

17.2 In respect to LVMF View 2A.1 (London Panorama from Parliament Hill), LVMF View Point LVMF 4A.1 (London Panorama from Primrose Hill), LVMF 5A.2 (Greenwich Park to St Pauls Cathedral), LVMF 6A.1 (Blackheath to St Pauls Cathedral) the degree of intrusion into these views would be minimal and as such the Borough Heritage Officer concludes there is no meaningful impact on these protected views.

17.3 In respect to LVMF View 25 from Queen's Walk to the Tower of London the scheme would not be visible at all and likewise from LVMF View 15.B1 and 15.B.2 from Waterloo Bridge of St Pauls Cathedral.

17.4 In summary the scheme has been appropriately tested in the ES and raises no concerns in respect of London View Management Framework.

## **Archaeology**

- 18.1 Policy SP10(2) of the Council's Core Strategy and Policy DM27 of the Council's adopted Managing Development Document seek to protect and enhance archaeological remains.
- 18.2 Much of the application site lies within an Archaeological Priority Area, derived from a possible route of a roman road. The application is accompanied by a desk based archaeological assessment contained in the ES. The site has potential to contain remains of the Roman Road, a plague pit, a post medieval sewer and remains of the on-site 19th century brewery. However based on mapping and documentary evidence and previous archaeological investigations on-site the prepared assessment concludes the likelihood for remains being present across the majority of the site remains low as any remains are liable to have been removed during construction of the existing store.
- 18.3 Greater London Archaeology Advisory Service (GLASS) have reviewed the scheme and the archaeological assessment. GLASS raise no objection to the methodology or the proposal development, subject to an appropriate planning condition for a two stage process archaeological investigation, were consent granted.

## **19.0 Noise and Vibration**

- 19.1 The ES includes a noise and vibration assessment and a construction and demolition assessment. It provides results of background noise and vibration monitoring that was carried out at various locations surrounding the site following discussions with the LBTH Environmental Health Noise Team.

### *Demolition and Construction Phase*

- 19.2 The assessment reviews the noise and vibration impacts to surrounding properties of the scheme during the estimated 39 month demolition and construction phase, including from construction plant and vehicle movements and from noise and vibration when the store and residential units are complete.
- 19.3 The scheme is intended to be built out in a single phase with residential units only occupied following construction of the whole scheme. With appropriate mitigation secured by condition the residual effects of noise and vibration due to demolition and construction are considered to be acceptable.
- 19.4 Construction traffic movements and associated noise would be centred on the eastern end of Darling Row with a peak of 27 construction vehicles movements in an hour. However given the existing ambient noise levels stemming primarily from Cambridge Heath Road traffic the implications of these movements are considered to be limited and acceptable subject to appropriate planning conditions including a Construction and Environmental Management Plan.

### *End Occupation Phase*

- 19.5 The submitted assessment details the level of attenuation that will be required in order to ensure that the new homes within the scheme meet residential standard of British Standard BS8233:2014. The supermarket and podium base block in particular will contain a significant amount of plant. However subject to acoustic attenuation for the plant, secured by planning condition, it is considered the relevant

British Standard can be achieved. The vibration impacts to the development from the underground trains are considered to be negligible.

- 19.6 The supermarket service yard will be a source of considerable noise. However the ES details provides the outline of design measures to contain and curb this noise to acceptable including internal sound absorption specified full height screens to street.
- 19.7 To conclude, subject to application of appropriate planning conditions, it is considered that the proposed development would adequately protect neighbouring residents and building occupants including future residents within the development from undue noise and vibration disturbance, in accordance with Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

## **20.0 Air Quality**

- 20.1 Policy SP03 of the Core Strategy suggests air quality improvements will be addressed by continuing to promote the use of public transport and reduce reliance on private motor vehicles and introducing a 'clear zone' in the borough. Policy DM9 of the Managing Development Document (2013) also seeks to improve air quality within the Borough, and outlines that a number of measures would contribute to this, such as reducing vehicles traffic levels, controlling how construction is carried out, reducing carbon emissions and greening the public realm. The application site, as with the entire borough, lies within an Air Quality Management Area.
- 20.2 The ES accompanying the planning application includes an air quality assessment that reviews the scheme's air quality implications at end phase and during the construction and demolition stage. The methodologies deployed in the air quality assessment have not yet been adequately detailed within the ES. In the absence of adequate information on the air quality methodology it is not possible for the local planning authority to establish the air quality implications of the scheme can be addressed by planning condition.
- 20.3 Concerns have also been raised the Council's Air Quality Officer in respect of NOx emissions of the proposed boilers. All boilers must be ultra-low NOx. With respect to transport emissions associated with the development these would fail to be air neutral, based on the information submitted. Were consent granted a planning condition would be sought to mitigate these NOx emission impacts.
- 20.4 The submitted assessment concludes that there is medium risk of dust impact during construction phase and mitigation measures would needed to put in place to curb these potential air quality impacts.
- 20.5 In respect of new residential units the assessment shows that proposed receptors would be close to exceeding NO2 annual objectives on the lower storeys of the development and therefore details of mitigation measures should be secured by planning condition including a mechanical ventilation system to include NOx filtration where appropriate.

## **21.0 Land Contamination**

- 21.1 In accordance with the requirements of the NPPF and policy DM30 of the MDD, the application has been accompanied by a land contamination assessment contained within the Environmental Statement. It assesses the likely contamination of the site as well as approaches to construction piling.

21.2 The Council's Environmental Health Team have reviewed the submitted assessment, and advises that subject to imposition of a planning condition requiring further investigation to identify the extent of potential contaminated land and agree a remediation strategy (should the latter be required) there are no objections to the scheme on grounds of land contamination.

## **22.0 Flood Risk & Water Resources**

22.1 The NPPF, Policy 5.12 of the London Plan, and Policies DM13 and SP04 of the Borough Local Plan relate to the need to consider flood risk at all stages in the planning process. Policy 5.13 of the London Plan seeks the appropriate mitigation of surface water run-off.

22.2 A flood risk assessment surface and drainage strategy form part of the ES. The prepared assessment considers the proposed development represents no risk in terms of flooding.

22.3 The methodology of the flood risk, water use and drainage strategy in the ES are considered sound as is the scope of the assessments and the conclusion drawn in the ES on these matters.

22.4 Subject to relevant conditions the proposal would be acceptable with regard to flood risk, sustainable drainage, sewerage and water supply and use and as such accord with relevant policy and guidance as set out in NPPF, Policies 5.12, 5.13 of the London Plan, Policies SP04 and DM13 of the Borough adopted Local Plan.

## **23.0 Energy and Sustainability**

23.1 The NPPF sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change.

23.2 The climate change policies as set out in Chapter 5 of the London Plan 2015 and the Policies SO24 and DM29 of the Local Plan collectively require new development to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.

23.3 The submitted energy strategy follows the principles of the Mayor's energy hierarchy and seeks to focus reduce emissions through the energy hierarchy and deliver emission reduction through energy efficiency measures, efficient supply of heating and renewable energy technologies, the proposals are anticipated to deliver a 26% reduction in CO2 emissions which is significantly below the policy requirement of 45% reduction in CO2 emissions.

23.4 In order for the scheme to be supported by the sustainable development it is recommended that the shortfall in CO2 emission reduction is met through a carbon offsetting payment. The planning obligations SPD contains the mechanism for any shortfall to be met through a carbon offsetting contribution, in the absence of the CO2 emission reduction not being delivered on site. In addition, the council has an adopted carbon offsetting solutions study (adopted at Cabinet in January 2016) to enable the delivery of carbon offsetting projects. Based on the current energy strategy a carbon offsetting contribution of £1,191,645 would be appropriate for carbon offset projects.

- 23.5 The submitted Energy Strategy has explored connecting to a district heating system that might be delivered by the Council as part of the Whitechapel Vision Masterplan. Further discussions should be undertaken to establish if it feasible for the central energy system intended for the scheme to have the opportunity to connect to the Whitechapel district heating system at a future date.
- 23.6 The prepared sustainability Statement sets out how the residential element of the scheme would meet the Mayor of London essential and preferred energy standards and completion of the residential development in accordance with the criteria set out in the sustainability would be secured by condition, should the scheme be approved.
- 23.7 Were consent granted the applicant would be required to submit further details of the design strategy for the supermarket to strive to achieve BREEAM Excellence Rating. The Borough Energy Officer considers it is premature at this stage to accept BREEAM excellent rating cannot be achieved on the supermarket component of the scheme. A planning condition would be imposed requiring the achievement of an 'excellent' rating unless credible evidence is provided to demonstrate this rating is not practically feasible. It is understood such a rating has been achieved on other comparable supermarkets and as such the onus is on te applicant to demonstrate credibly why it could not be achieved with this scheme.
- 23.8 To conclude the scheme complies with Chapter 5 of the London Plan and Policy DM29 of the Local Plan subject to the imposition of appropriate planning conditions/planning obligations to deliver the on-site savings and the off-site emission reduction proposals.

#### **24.0 Ecology, Biodiversity and Trees**

- 24.1 The Tower Hamlets Local Biodiversity Action Plan 2014-19, Policy 7.19 of the London Plan, Policy SP04 of the Borough's CS and Policy DM11 of the MDD seek to protect and enhance biodiversity value through the design of open space and buildings and by ensuring that development protects and enhances areas of biodiversity value in order to achieve a net gain in biodiversity.
- 24.2 The Council's Biodiversity Officer is satisfied subject to appropriate planning conditions the biodiversity conditions of the completed development would result in a net gain in biodiversity. Existing plant and animal habitats on site are limited. The scheme provides ample opportunities for nesting boxes, nectar rich planting on the podium gardens and bio-diverse living roofs that would not be designed to be generally accessible for amenity use purposes.
- 24.3 Taken overall the scheme is capable of serving to improve the ecology and biodiversity value of the site as sought by the relevant London and Local Plan policies.

##### *Existing Trees*

- 24.4 Existing trees are set towards the edges of the application site and are the principal vegetation within the red line of the planning application sit. Lime, London Plane and Whitebeam species predominate, marking the Brady Street, Merceron Street Collingwood Street edges of the existing supermarket site. The majority of these trees are in good condition, are mature and provide valuable townscape/streetscene amenity value.

- 24.5 The proposal would involve the felling of mature street trees along Brady, Merceron and Collingwood Street. The Tree Officer has reviewed the scheme and noted the following:

*I consider that the loss of mature street trees on Brady Street (T1 to T7) , Merceron (T14 to T16 and T21, T22) and Collingwood Street (T27 to T30) will have a high amenity and visual impact and a corresponding negative effect on the character and appearance of the area. Removal of mature street trees is also contrary to our general Policies on tree retention.*

*Although I understand that the previous Tree Officer agreed a landscaping strategy for mitigation, I do not consider that there will be a 'like for like' replacement in canopy cover.*

The Tree Officer's notes that the loss of mature trees would have a detrimental impact on the character and appearance of the area that may not be fully mitigated by the proposed landscaping strategy, particularly in terms of canopy cover. Nevertheless, the site would be subject to an extensive landscaping scheme and following replanting there would be no numerical loss of trees on-site (that would need to be secured by planning condition to any consent granted). Additionally, the developer would undertake to replant the street trees at their own expense.

## **25.0 Waste and Recycling**

- 25.1 Core Strategy Strategic Objective SO14 is to manage waste efficiently, safely and sustainably minimising waste and maximising recycling. Policy SP05 'Dealing with waste' implements the waste management hierarchy - reduce, reuse and recycle. Policy DM14 of the Local Plan 'Managing Waste' requires development to demonstrate how it will provide appropriate storage facilities for residual waste and recycling. Major development should provide
- 25.2 Each of the proposed eight main residential buildings would have an individual bin storage area at podium level, or ground level In the case of Building 1, with the townhouses having their own individual refuse spaces. The refuse from the main residential blocks would be then managed to two shared holding areas at basement and collected from loading bays on Merceron Street and Darling Row.
- 25.3 The collection of the supermarket store waste would be from the stores dedicated serviced yard, accessed off Darling Row. SWEPT analysis demonstrates the refuse collection vehicles could manoeuvre into and out of the service yard. Commercial waste sourced from the five smaller flexible use retail spaces would be stored back of house within the individual units prior to waste being wheeled on day of collection to two loading bays on Merceron Street and Darling Row.
- 25.4 Were consent granted a detailed waste management plan would be required to manage times of collection to minimise loading bay usage conflicts, ensure there is no crossover of commercial and residential storage areas and to ensure timely rotation of residential bins at time of collection to avoid collection delays. The applicant has agreed to a condition to deal with street cleansing along Albion Walk and Brady Square.

## **26.0 Wind**

### Overview

- 26.1 Tall buildings can have an impact on microclimate, particularly in relation to wind. Where strong winds occur due to a tall building it can have detrimental impacts on the comfort and safety of pedestrians and cyclists and render landscaped areas unsuitable for their intended purpose.
- 26.2 Policy DM24 'Place sensitive design' requires development to take into account impacts on microclimate. Policy DM26 'Building heights' requires development not to adversely impact on the microclimate of the surrounding area, the proposal site and the provision of open space. London Plan Policy 7.7 echoes the requirement for tall and large scale buildings not to lead to adverse wind turbulence.
- 26.3 For residential development the desired wind microclimate would typically need to have areas suitable for sitting, entrance use, standing and leisure walking. Business walking and roads classifications may be acceptable in areas set away from the residential aspects of the scheme, occasional strong winds should be avoided.
- 26.4 The applicant's ES includes an assessment of the potential impacts of the scheme on the wind microclimate within the site. The Council's ES consultants sought additional information on the submitted microclimate wind report within the ES. This information has not been provided or made available to officers or the Council's ES consultants following the decision of the applicant to Appeal for non-determination. The implications to this in terms of making the necessary assessment for the purpose of EIA Regulations are set out in some more detail Section 16 of the report and will be a matter for the Planning Inspector to reach a conclusion upon.

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

- 27.1 Core Strategy Policy SP13 seeks planning obligations to offset the impacts of the development on local services and infrastructure in light of the Council's Infrastructure Delivery Plan (IDP). The Council's Draft 'Planning Obligations SPD' 2016 sets out how these impacts can be assessed and appropriate mitigation.
- 27.2 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.

Regulation 122 of the CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.

- 27.3 Securing necessary planning contributions is further supported Core Strategy Policy SP13 '*Planning obligations*' which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development. This is explained in the Council's Draft Planning Obligations SPD that sets out the borough's key priorities:
- Affordable Housing
  - Employment, Skills, Training and Enterprise
  - Education
- 27.5 The borough's other priorities include:

- Health
- Sustainable Transport
- Environmental Sustainability

- 27.5 If permitted and implemented, the proposal would also be subject to the Council's community infrastructure levy.
- 27.6 The development would place additional demands on local infrastructure and facilities, including local schools, health facilities, idea stores and libraries, leisure and sport facilities, transport facilities, public open space and the public realm and streetscene. Should planning permission be granted, the LBTH CIL contribution is estimated at £3,533,6220.
- 27.7 In addition the development would be liable to the London Mayor's CIL estimated at £1,665,755.
- 27.8 In the absence of securing terms of an acceptable Section 106 agreement, it is recommended that the application is refused on the basis that the development fails to mitigate its impacts as well as securing training, employment opportunities, affordable rented accommodation for residents of the Borough of Tower Hamlets.
- 27.9 Site specific S106 planning obligations are sought in respect to enhancements to the existing street market on Whitechapel Road, to the sum in total of £2,005,000. These obligations arise are to mitigate the retail impacts of the new enlarged supermarket, notably in respect of prospective trade diversion in relation comparison goods and safeguarding the mix and vitality of the street market given its valuable role in supporting local enterprise and providing a distinct local character to the designated Whitechapel town centre.
- 27.10 The scale and nature of the financial contributions are considered to meet the NPPF tests of (a) directly related to the development, (b) necessary to make the development acceptable in planning terms (c) fairly and reasonably related in scale and kind to the development and are not captured by the Regulation 123 list, pertaining to the Borough CIL as they pertain to the activity of the commercial market as opposed to community infrastructure.
- 27.12 Officers have considered carefully the street market S106 financial contributions and consider it is proportionate and directly related to the development and necessary to make the development acceptable in planning terms. In this regard it is worth noting the applicant submitted a Retail Assessment that identifies the enlarged comparison good floor space would yield annually an estimated £6m of additional trading in comparison goods measured against the existing trading. Placed in this trading context store and notwithstanding potential positive trading synergies between the development and the market, the £2,005,000 one off planning contribution to mitigate retail impacts upon the market of the development is considered reasonable in kind and scale, even with a modest trade diversion year on year between market traders and the development.
- 27.13 The scheme would involve extensive changes to the surrounding road network and associated movement of vehicular traffic including changes to traffic signalling. To mitigate these impacts of the development the following planning obligations are necessary to make the development acceptable:-
- Traffic calming measures, in-line with applicants preferred layout design. Estimate cost of works £250,000. An alternative option to introduce one way

traffic along Collingwood Street if deemed necessary, additional works.  
Estimated £40,000

- Contribution towards on-going maintenance of Darling Row, to mitigate the impacts of the development in terms of volume of traffic on this road. Estimated £200,000 s106 obligations.

27.14 In addition dealt with by Section 278 a scheme of footway improvements along Brady St, Merceron St and Darling Row is necessary and carriageway resurfacing in Darling Row. These works are estimated around £695,250. Plus Section 278 delivered traffic signals works on Cambridge Heath Road in respect connection with junction with Darling Row (and decommissioning of existing traffic signals to store) managed by TfL.

27.15 The applicant has agreed in writing to meet these financial obligations for highway works.

27.16 Should permission be granted, the developer would also be required to use reasonable endeavours to meet at least 20% local procurement of goods and services, 20% local labour in construction and 20% end phase local jobs, a car parking permit-free agreement, 20% active and 20% passive electric vehicle charging points, meet Crossrail entrance safeguarding obligations, meet carbon offsetting contributions (£1,191,645), provide land (at peppercorn rent) for a TfL bike station and mitigation (if necessary) for television signals.

27.17 In accordance with the Borough's adopted Planning Obligations SPD (2016):-

- Employment training contributions are required of £279,816.00 are required
- End-user phase training contributions of: £432,531.00

In addition scheme would need to provide 38 construction apprenticeships and 5 end-user apprenticeships, were consent granted.

27.18 Should permission be granted the scheme would be required to provide 17.5% affordable housing by habitable room based upon a tenure split 80:20 split between rented units and intermediate units and based upon 49:51 split across bedroom unit sized between Tower Hamlets Living Rents and London Affordable Rents.

27.19 Setting aside the street market enhancement S106 obligations the applicant has agreed to the Heads of Terms in respect of affordable housing, highways works, carbon offset and all those that derive from the Borough Planning Obligations SPD including apprenticeships and financial contributions towards employment and enterprise that are set formula based contributions.

## **28.0 Other Local financial considerations**

28.1 Section 70(2) of the Planning Act provides that in dealing with a planning application a local planning authority shall have regard to:

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

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

- A grant or other financial assistance that has been, or will or could be, provided

- to a relevant authority by a Minister of the Crown; or
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

In this context “*grants*” include the New Homes Bonus Scheme (NHB).

- 28.3 NHB was introduced by the Government in 2010 as an incentive to local authorities to encourage housing development. The initiative provides un-ring-fenced finance to support local infrastructure development. The NHB is based on actual council tax data which is ratified by the CLG, with additional information from empty homes and additional social housing included as part of the final calculation. The grant matches the additional council tax raised by the Council for each new house built for each of the six years after that house is built. This is irrespective of whether planning permission is granted by the Council, the Mayor of London, the Planning Inspectorate or the Secretary of State.
- 28.4 If planning permission is refused for the current application NHB would not be received but would be payable were the Mayor to grant permission or an alternative development involving new housing was consented should the NHB scheme remain in operation.

## **29.0 Human Rights 1998**

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

- 29.4 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.
- 29.5 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.
- 29.6 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.

### **30.0 Equalities Act 2010**

- 30.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:
1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 30.2 It is considered the proposed development would not conflict with any of the above considerations.
- 30.3 The proposed commitments to use local labour and services during construction, apprenticeships and contributions employment training schemes and provision of a substantial quantum of high quality affordable housing would help mitigate the impact of real or perceived inequalities and would serve to support community wellbeing and promote social cohesion.
- 30.4 The provision of wheelchair accessible housing, and much enhanced public realm, that would be step free, improving pedestrian mobility for all is consistent with the principle of inclusive design.
- 30.5 It has been identified within the application documentation and the review of the submitted material that the existing street market serves an extensive cross-section of the local population catering extensively for a wide range of household incomes and ethnic backgrounds, including providing employment to those across the ethnically diverse population of the Borough. As such the planning obligations sought in respect of safeguarding and strengthening the vitality of the street market

to mitigate the proposed expanded supermarket is an important feature of the scheme and ensuring the scheme advances equality of opportunity and social cohesion.

### **31.0 CONCLUSION**

31.1 All relevant policies and considerations have been taken into account. It is recommended that the Committee resolves to inform the Planning Inspectorate that were it empowered to determine the application, it would have refused planning permission for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS and the details set out in the RECOMMENDATIONS at Section 3 of this report.

# APPENDIX 1: SITE MAP



# APPENDIX 2 : DRAWINGS and DOCUMENT SCHEDULE

**PLANS:**

- 0100 100
- 0110 100
- 0120 100
- 0130 100
- 0130 100
- 1211 100
- 0000 100
- 0010 100
- 0010 101
- 0010 102
- 0010 103
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- 0010 105
- 0010 106
- 0010 107
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- 9030 100
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- 9040 102
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- 9040 104
- 9040 105
- 9040 201
- 9070 100
- 9070 101

## DOCUMENTS:

- Design and Access Statement (July 2017)
- Environmental Statement Volumes 1, 2 and 3 including Technical Appendices, Heritage Townscape & Visual Impact Assessment and Transport Assessment (July 2017)
- Non Non-Technical Summary (July 2017)
- Transport Assessment (March 2015)
- Affordable Housing Statement (July 2017)
- Financial Viability Assessment and Addendums (July 2017)
- Operational Waste Strategy (July 2017)
- Arboricultural Report (19th February 2015)
- Economic Benefits Statement (July 2017)
- Energy Strategy Report (July 2017)
- Fire Strategy Report (July 2017)
- Planning Statement (July 2017)
- Retail Assessment (July 2017)
- Operational Waste Strategy (July 2017)
- Internal Daylight and Sunlight Assessment (July 2017)
- Statement of Community Involvement (July 2017)
- Sustainability Statement (July 2017)
- Residential Summary Accommodation Schedule Rev. 02 (issued 3<sup>rd</sup> November 2016)