

**Application for Planning Permission**[click here for case file](#)

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|-------------------------------|---|
| Reference | PA/24/01636/S |
| Site | Former Poplar bus Depot, Leven Road E14 0LN |
| Ward | Lansbury |
| Proposal | Application to modify the S106 Agreement Dated 09/10/2020, attached to planning permission with reference PA/19/02148 Dated 14/10/2020. |
| Summary Recommendation | Grant the Deed of Variation to s106 Agreement dated 9/10/2020, attached to planning permission with PA/19/02148 Dated 14/10/2020. |
| Applicant | Taylor Wimpey London |
| Architect/agent | N/A |
| Case Officer | Jane Jin |
| Key dates | Application registered as valid on 23 September 2024 |

1. EXECUTIVE SUMMARY

- 1.1 This report considers application with Council's reference PA/24/01636, submitted by Taylor Wimpey London, in relation to the site formerly known as the Former Poplar Bus Depot, which is bounded by River Lea and Leven Road, located in Poplar.
- 1.2 The site benefits from planning permission ref: PA/19/02148 which was for 'Part retention and part demolition of the existing boundary walls and the former tram shed depot arches, and retention of the three storey office building. Demolition of the remainder of the existing warehouse and the redevelopment of the site to provide 530 residential units (Class C3), 2644sqm (GIA) of workspace (Classes B1a, B1b, or B1c), 508sqm (GIA) of flexible retail; professional services; and restaurant/bar uses (Classes A1, A2, A3, A4), within buildings ranging from 3 storeys to 20 storeys with associated parking, landscaping, public realm and all associated works'.
- 1.3 The planning permission was issued in 2020 and implemented in 2022 by Taylor Wimpey following their acquisition of the site, with the site being cleared, piling and substructure works commencing and the required façade retention being secured from the bus shed that previously occupied the site. However, all construction works were suspended in early 2023 due to the withdrawal from the project by a registered housing provider at the time, and significant regulatory changes to the fire safety requirements, mainly requiring second stair cores to be introduced to all buildings taller than 18m.

Since the suspension of works in 2023, the only construction activity on site has been to secure the site, conclude the outstanding enabling works, including replacement of the River Wall as required by planning condition, and to carry out remedial works to the substructure as a result of the block redesign in response to updated fire regulations.

- 1.4 Officers have been provided with evidence of a conditional agreement between Taylor Wimpey and Clarion for the delivery of the onsite affordable housing. The applicant has confirmed they are now ready to re-commence all construction works immediately on approval of this application, which would allow them to fulfil the terms of the affordable housing agreement. Clarion have provided a letter of support to officers.
- 1.5 The planning permission has been subject to a number of non-material amendment applications to amend the wording of conditions, amend surface water drainage strategy, changes to façade treatments, increase the height of roof mounted plant, introduce fire safety measures including additional stairs, fire doors, reduction in habitable rooms in private tenure, minor internal changes, and minor changes to housing mix.
- 1.6 Following the amendments the affordable housing offer secured for the extant permission through the s106 agreement is as follows:

| | Tower Hamlets Living Rent | London Affordable Rent | Shared Ownership | Total |
|--------------|---------------------------|------------------------|------------------|------------|
| 1Bed | 11 | 12 | 28 | 51 |
| 2Bed | 19 | 19 | 23 | 61 |
| 3Bed | 12 | 12 | 12 | 36 |
| 4Bed | 2 | 2 | 2 | 6 |
| TOTAL | 44 | 45 | 65 | 154 |

Table 1: Extant affordable housing offer

- 1.7 The above affordable housing offer constitutes 35% of the consented residential scheme when measured on a habitable room basis. The scheme was viability tested at the time of the original planning application and whilst the assessment concluded that the extant scheme was in deficit, the 35% affordable housing offer was a 'commercial offer' made by the original applicant, Leven Road LLP.
- 1.8 The current application proposes a deed of variation to the existing s106 agreement to amend the affordable housing offer. The applicant has stated in their submission that due to the market conditions, build cost inflation, interest rates, impact from a stop and start on site since Covid-19, and fire regulation changes (meaning detailed design had to be stopped and started afresh); the scheme is no longer deliverable with the current level of affordable housing secured in the extant scheme.
- 1.9 A robust review of the extant scheme's viability has been undertaken by the Council's own Viability team which concludes that the extant permission had a viability deficit of £12.07m. In light of this position, officers have agreed to enter into discussions with the applicant in relation to a revised affordable housing offer which:

- Removes the Shared Ownership component of the extant scheme
- Increases the Affordable Rent family-sized housing compared to the extant scheme
- Increase in the number of Affordable Rent homes (+27) compared to the extant scheme
- Applicant guarantees to progress the delivery of housing, which has been stalled since 2022 without any further delays (secured through the DoV)
- Applicant have confirmed that the affordable housing delivery is being accelerated under their contract with Clarion as the private homes are in the last blocks to come forward

1.10 As a result of these discussions, the proposed affordable housing offer is as follows

| | Tower Hamlets Living Rent | London Affordable Rent | Shared Ownership | Total |
|--------------|---------------------------|------------------------|------------------|------------|
| 1Bed | 7 | 24 | 0 | 31 |
| 2Bed | 29 | 17 | 0 | 46 |
| 3Bed | 16 | 17 | 0 | 33 |
| 4Bed | 6 | 0 | 0 | 6 |
| TOTAL | 58 | 58 | 0 | 116 |

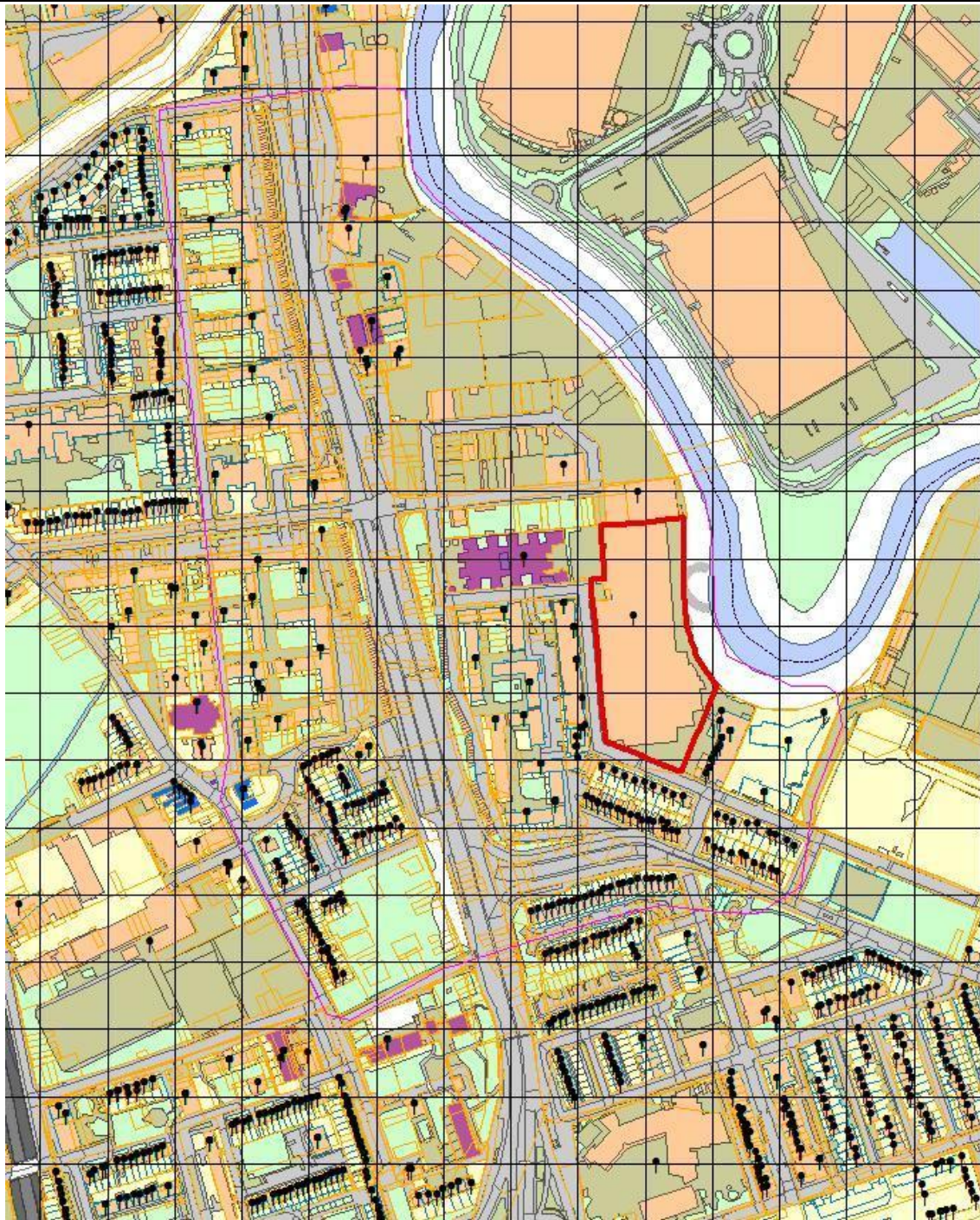
Table 2: Proposed affordable housing offer

1.11 The proposed affordable housing offer would constitute 21.9% of the consented residential development when measured on a habitable room basis. This is a reduction of 13.1% comparison to the extant scheme. However, officers are supporting the change for the following reasons:





- The LBTH Viability team have concluded that the revised affordable housing offer still results in a reduced deficit of £6,944,060 in terms of the scheme's viability.
- The increase in affordable rent unit numbers overall in comparison to the extant scheme (30% increase in the number of affordable rent homes)
- The increase in family-sized affordable rent homes of which there is a high demand in the borough.
- All of the four bedroom affordable rent being secured as Tower Hamlets Living Rent.
- A 'late stage' review mechanism will be secured through the Deed of Variation to capture any uplift in value.
- The Deed of Variation would incentivise a quick restart of all works on site, and the delivery of housing, together with public realm and riverside walk. The amended legal agreement will require full recommencement on site within 6 months from the date of the agreement. In the event of failure to achieve the recommencement on site, the Deed of Variation will ensure that the affordable housing requirement will fall back to the extant scheme of 35%.

1.12 Whilst it is acknowledged that the changes would result in a reduction in the overall amount of affordable housing that the scheme would deliver, on balance, the application is supported by officers given the viability position and the increase in the affordable rent tenure, in particular the family-sized housing.

Furthermore, the amendment would incentivise the restart of a stalled site and quicker delivery of the housing.



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-  Planning Application Site Boundary
-  Other Planning Applications
-  Consultation Area
-  Land Parcel Address Point
-  Locally Listed Buildings
-  Statutory Listed Buildings

Site Map PA/24/01636

This site map displays the Planning Application Site Boundary and the extent of the area within which neighbouring occupiers / owners were consulted as part of the Planning Application Process



**London Borough
of Tower Hamlets**

Scale : 50m grid squares

Date: 04 November 2024

2. SITE AND SURROUNDINGS

- 2.1 The site is located on Leven Road, west of River Lea. The site was part of London's tram network, which was constructed circa 1903, but since the site has been used as a bus depot. From circa 1986, the buildings that were once on the site were used as a storage facility.
- 2.2 The site has now been cleared, saved for the façade retention of the tram sheds, following the implementation of the planning permission grant of planning permission with reference PA/19/02148. The site is currently enclosed on all street fronting sides with hoarding.
- 2.3 The site is not in a Conservation Area however the tram sheds were considered to have historical significance and therefore were considered as non-designated heritage asset.
- 2.4 The site lies within an Archaeological Priority Area, Flood Zone 2, 3 which designates it as 'more vulnerable', and as a Site of Importance for Nature Conservation (SINC) due to its proximity to the River Lea. The site also sits within the Lower Lea Valley Sub Area and is within the Ailsa Street Site Allocation in the current Local Plan (2020).

3. RELEVANT PLANNING HISTORY

- 3.1 PA/19/02148: Part retention and part demolition of the existing boundary walls and the former tram shed depot arches, and retention of the three storey office building. Demolition of the remainder of the existing warehouse and the redevelopment of the site to provide 530 residential units (Class C3), 2644sqm (GIA) of workspace (Classes B1a, B1b, or B1c), 508sqm (GIA) of flexible retail; professional services; and restaurant/bar uses (Classes A1, A2, A3, A4), within buildings ranging from 3 storeys (20.2m AOD) to 20 storeys (72.7m AOD), with associated parking, landscaping, public realm and all associated works.
This application is accompanied by an Environmental Statement.
GRANTED 14/10/2020
- 3.2 PA/22/00012: Application for Non-Material amendment to planning permission ref: PA/19/02148, Dated 14/10/2020.
Non Material amendment(s) Sought: Amend the wording of Condition 14 (River wall)
GRANTED 14/03/2022
- 3.3 PA/22/00255: Application for non-material amendment of planning permission dated 14/10/2020, ref: PA/19/02148.
Wording of Condition 15a to reflect a requirement to adhere to the revised Energy Strategy.
GRANTED 31/05/2022
- 3.4 PA/22/01315: Application for non-material amendment of planning permission dated 14/10/2020, ref: PA/19/02148.
Revision to the Flood Risk and Surface Water Drainage Strategy.
GRANTED 18/11/2022

- 3.5 PA/22/01700: Application for non-material amendment to planning permission PA/19/02148 Dated 14/10/2020: Non-material amendment sought: Amendment to the wording of Condition 14 (River Wall Strategy)
GRANTED 11/01/2023
- 3.6 PA/22/02228: Application for Non-Material amendment to planning permission ref: PA/19/021448, Dated 14/10/2020.
Non Material amendment(s) Sought:
Increase in height of the roof mounted plant on all blocks;
Change to the description of the development in relation to the referenced AOD heights.
GRANTED 08/12/2022
- 3.7 PA/22/02095: Application for Non-Material amendment to planning permission ref: PA/19/02148, Dated 14/10/2020.
Non Material amendment(s) Sought: Retention of existing footpath crossover to the southern corner of the site to allow for emergency service access;
Change the brick colours to towers A, B and C and metalwork finish colour to windows and curtain wall frame across all blocks.
GRANTED 13/12/2022
- 3.8 PA/23/01612: Application for Non-Material amendment to planning permission ref: PA/19/02148, Dated 20/10/2020.
Non-Material amendment(s) Sought: updated plans and elevations in relation to providing two stair escape within towers A, B and C, consisting of the following changes: Housing mix changes and reduction in 18 habitable rooms in the private tenure only; Minor increase in the radii of the towers; Changes to the consented and addition of new balconies; Minor reduction of commercial space on the ground floor; Minor changes to the layout and overall increase in the residents' lounge amenity spaces; External appearance changes to side external walls, balconies, spandrel, glazing and balcony door positions; Facade arrangement change to the upper three floors to match the arrangement on the floors below.
GRANTED 23/11/2023
- 3.9 PA/23/02238: Application for Non-Material amendment in relation to Buildings D, E, F and G to planning permission ref: PA/19/02148, Dated 14/10/2020.
Non Material amendment(s) Sought:
- Minor increase of two additional units (Shared-ownership affordable);
- Minor increase in 1 habitable room (rented tenure);
- Minor changes to proposed housing mix:
- Internal layout alterations, including second staircase;
- Minor elevation and facade changes
GRANTED 16/02/2024
- 3.10 PA/24/00798: Application for non-material amendment of planning permission dated 21/12/2015, ref: PA/19/02148
Non Material Amendment(s) Sought: Revision to layout of retained commercial building; Revision to layout of Tram Shed commercial units; Addition of commercial refuse stores and ventilation rooms; Relocation of plant rooms; Relocation of delivery rooms and concierge; Relocation of parking spaces; External changes to Cores A and B; Additional platform lift; Retention of Tram shed wall capping; Elevational amendments; Internal apartment layout amendments; Landscaping amendments.
GRANTED 07/10/2024

4. PROPOSAL

- 4.1 The application seeks a deed of variation of the s106 agreement for planning permission with ref PA/19/02148. The proposed amendment relates to a reduction in the overall amount of affordable housing that the scheme would deliver.
- 4.2 The proposed revision to the affordable housing offer are set out in the following table.

| | Tower Hamlets Living Rent | London Affordable Rent | Shared Ownership | Total |
|--------------|---------------------------|------------------------|------------------|------------------|
| 1Bed | 7 (-4) | 24 (+12) | 0 (-28) | 31 (-20) |
| 2Bed | 29 (+10) | 17 (-2) | 0 (-23) | 46 (-15) |
| 3Bed | 16 (+4) | 17 (+5) | 0 (-12) | 33 (-3) |
| 4Bed | 6 (+4) | 0 (-2) | 0 (-2) | 6 |
| TOTAL | 58 (+14) | 58 (+13) | 0 (-65) | 116 (-38) |

Table 3: Proposed affordable housing offer

- 4.3 The amendment seeks to remove all Shared Ownership and focus on maximising the unit numbers in the affordable rent. There is an overall reduction of 65 units within shared ownership and an increase of 27 units in affordable rent. The increase in affordable rent is spread across all sizes however there is a marked increase in the provision of large, family sized three and four bed rented units. There is an increase of 11 units in the family sized affordable rent when compared with the extant scheme.
- 4.4 As a result of the proposed amendment, the overall percentage of affordable homes, when measured on a habitable room basis, would drop from 35% to 21.9%.

5. POLICIES AND GUIDANCE

National Planning Policy Framework

- 5.1 The revised National Planning Policy Framework was published in December 2023. This document sets out the Government's planning policies for England including the presumption in favour of sustainable development. It is a material consideration in the determination of all applications. The policies in the NPPF are therefore material considerations in determining applications.
- 5.2 The following NPPF sections are relevant to this planning application:
- 5) Delivering a sufficient supply of homes
- 5.3 It is noted that consultation is currently ongoing with respect to future amendments to the NPPF which were published in July 2024. Given these changes remain at consultation stage only, they therefore carry limited weight in the assessment of this application.

The London Plan (2021)

- 5.4 The following London Plan (adopted March 2021) policies are relevant to this proposal:

Policy CG1 Building strong and inclusive communities
 Policy H1 Increasing housing supply
 Policy H4 Delivering affordable housing
 Policy H5 Threshold approach to applications
 Policy H6 Affordable housing tenure
 Policy DF1 Planning Obligations

Tower Hamlets Local Plan (adopted 2020)

5.5 The Tower Hamlets Local Plan (adopted 2020) is the relevant Local Plan for the borough. The most relevant Local Plan policies are listed below:

Policy SSG2: Delivering sustainable growth in Tower Hamlets
 Policy DSG5: Developer contributions
 Policy S.H1 Meeting housing needs
 Policy D.H2 Affordable housing and housing mix

5.6 Other relevant material considerations:
 Mayor of London – Draft Development Viability LPG (2023)
 Mayor of London – Draft Affordable Housing LPG (2023)
 Mayor of London – Affordable Housing and Viability SPG (2017)
 Tower Hamlets Planning Obligation SPD (2021)

6. CONSULTATION

6.1 No formal consultation was carried out for this application due to the nature of the application type.

7. ASSESSMENT OF PLANNING ISSUES

7.1 The matters for consideration as a result of this application are the proposed amendment to the previously approved affordable housing offer, involving a reduction from 35% to 21.9%, as well as the amendment to the tenure mix and consequent change to the child yield that would be generated from this development.

7.2 The two tables below show the affordable housing secured through the extant scheme and as currently proposed for this application.

Extant affordable housing mix

| | Tower Hamlets Living Rent | London Affordable Rent | Shared Ownership | Total |
|--------------|---------------------------|------------------------|------------------|------------|
| 1Bed | 11 | 12 | 28 | 51 |
| 2Bed | 19 | 19 | 23 | 61 |
| 3Bed | 12 | 12 | 12 | 36 |
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| TOTAL | 44 | 45 | 65 | 154 |

Proposed affordable housing mix

| | Tower Hamlets Living Rent | London Affordable Rent | Shared Ownership | Total |
|--------------|---------------------------|------------------------|------------------|------------------|
| 1Bed | 7 (-4) | 24 (+12) | 0 (-28) | 31 (-20) |
| 2Bed | 29 (+10) | 17 (-2) | 0 (-23) | 46 (-15) |
| 3Bed | 16 (+4) | 17 (+5) | 0 (-12) | 33 (-3) |
| 4Bed | 6 (+4) | 0 (-2) | 0 (-2) | 6 |
| TOTAL | 58 (+14) | 58 (+13) | 0 (-65) | 116 (-38) |

- 7.3 Whilst it is recognised that there is a policy requirement to maximise the delivery of affordable housing, it is subject to viability. In this context, reducing affordable housing to 21.9% from 35% is not favourable. However, it is acknowledged that the extant scheme was subject to viability, as is the current application, and in both scenarios, the schemes were in deficit.
- 7.4 Policy H5 of the London Plan (2021) sets a threshold approach to viability. Policy D.H2 of the Local Plan (2020) and its supporting texts also support the threshold approach to viability. The developers would not need to produce a viability assessment at the application stage if it were to provide a minimum of 35% affordable housing. However, applications, including the subject application, which results in a reduced threshold of affordable housing are required to be assessed under the Viability Test Route. Development Plan policy therefore includes a mechanism for dealing with proposals with reduced affordable housing, through a viability tested route, which aim to secure the maximum reasonable quantum.
- 7.5 The proposed affordable housing quantum has been subject to viability review and assessment, carried out by Tower Hamlets' own Viability Team. Tower Hamlets Viability Team have concluded that the subject proposal, with 21.9% affordable housing, would still result in a scheme deficit of £6,944,060. The extant scheme, when tested, was also in deficit, and also due to factors such as fire safety regulation changes, economy, interest rates, and increased material and labour costs, which resulted in the site being stalled since 2023. Paragraph 34 of NPPF states that policies which set out contributions that are expected to be delivered by development should not undermine delivery.
- 7.6 The proposed reduction in affordable housing is considered acceptable by the officer in this instance, noting that it makes a difference to the scheme's viability and, more certainty, on the delivery of the housing scheme. The Tower Hamlets' Viability Team have advised that the amended affordable housing offer of 21.9%, based on the tenure mix which prioritises the affordable rent housing is greater than the maximum viable amount of affordable housing the scheme can deliver.
- 7.7 In comparison to the extant scheme, the most significant change to affordable housing is the omission of the intermediate tenure and refocusing on affordable rent. Originally, Intermediate and Affordable Rent homes were proposed but officers negotiated during viability negotiations for all the affordable to be Affordable Rent.
- 7.8 The Council's own Local Plan and the London Plan, places emphasis on delivering genuinely affordable housing such as affordable rent (low-cost rent). Therefore, where amendments to affordable housing are required to make a scheme deliverable, it is considered appropriate to focus on low-cost rent and to

remove the intermediate product, in light of the viability of the scheme, rather than being policy compliant level of 70:30 split.

- 7.9 The proposal is also considered to respond to the local housing need and is a step towards addressing overcrowding issues in the borough. The local and strategic housing need evidence also identifies that family-sized housing is the greatest requirement in affordable rent tenures.
- 7.10 The proposal will also secure a late-stage review which would be secured through the Deed of Variation to ensure that any additional value within the scheme translates into a payment to fund additional affordable housing.
- 7.11 This proposal will allow the applicant to restart the construction works and deliver the housing, and other benefits such as affordable employment workspace, public realm and riverside walkway, which were secured through the extant permission. In order to ensure that the developer delivers on site as early as possible, there will be a requirement within the Deed of Variation to restart works within 6 months from the date of the agreement being signed. In the event that the developer does not comply with the above, the deed of variation will ensure that the existing affordable housing offer is reverted, that being 35%.
- 7.12 It is also noted that with a revised tenure mix, the child yield from the development would change, and the proposal will result in an additional 25 children. This requires an additional 250sq.m of play space provision on site. The extant consent provided a total of 1,929sq.m of play spaces from 0-18 year olds (inclusive) which was more than the required for 165 children from the extant scheme. The proposal with 187 children will require 1,870sq.m of child play space on site. Therefore, with the onsite provision of 1,929sq.m the extant scheme can accommodate the child yield from the revised affordable housing tenure mix.
- 7.13 It should be noted that the reduction in affordable housing % results in an increase of 38 private market sale units, which are spread out in 1, 2 and 3 beds.

Heads of Terms

- 7.14 It is recommended that the Deed of Variation to the original s106 agreement include the following:
- Amendment to the affordable housing to a minimum of 21.9% (measured in habitable rooms) to include:

| | Tower Hamlets Living Rent | London Affordable Rent | Total |
|--------------|---------------------------|------------------------|------------|
| 1Bed | 7 | 24 | 31 |
| 2Bed | 29 | 17 | 46 |
| 3Bed | 16 | 17 | 33 |
| 4Bed | 6 | 0 | 6 |
| TOTAL | 58 | 58 | 116 |

- Upwards only 'late-stage' affordable housing review mechanism.
- A requirement of recommencement on site within 6 months from the date of the agreement; otherwise, fall back to affordable housing secured in extant permission.

7.14 In conclusion, the proposed Deed of Variation application is, on balance, considered acceptable. It is recognised that the planning policy aims to maximise affordable housing, which is secured through planning permission. In this context, whilst the overall reduction in affordable housing from 35% to 21.9% is considered to be unfavourable, it is acknowledged that there are viability challenges for the site that have resulted in an implemented scheme being stalled. The applicant's proposed amendments have been put forward to make the development deliverable with a focus on delivering the low-cost rent housing tenure with the limits of the viability whilst meeting the local housing need. The affordable housing delivery is being prioritised in this proposal with the Affordable Rented homes coming forward in delivery ahead of the private homes which are in the last blocks to come forward.

8. HUMAN RIGHTS AND EQUALITIES IMPLICATIONS

8.1 Members should take account of the provisions of the Human Rights Act 1998 as they relate to the application and the conflicting interests of the Applicants and any third party opposing the application in reaching their decisions. The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report. In particular, Article 6 (1), of the European Convention on Human Rights in relation civil rights and a fair hearing; Article 8 of the ECHR in relation to the right to respect for private and family life and Article 1 Protocol 1 of the ECHR in relation to the protection of property have all been taken into account.

8.2 In addition, the Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, pregnancy and maternity, race, religion, or beliefs and sex and sexual orientation. It places the Local Planning Authority 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 Members must be mindful of this duty *inter alia* when determining all planning applications. In particular, Members must pay due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.3 Officers are satisfied that the application material and Officers' assessment have taken into account these issues and that due regard has been given to the impacts of the proposals.

9 RECOMMENDATIONS

9.1 **a) Approve** the revisions to the affordable housing offer for the reasons given in the report.

b) Agree to delegate authority to the Corporate Director of Housing and Regeneration to:

1. Finalise the recommended deed of variation to the original legal agreement under section 106 and 106A of the Town and Country Planning Act 1990 and other enabling powers as set out in this report, including refining, adding to, amending and/or deleting the

obligations detailed in the heads of terms set out in this report, as the Corporate Director of Housing and Regeneration considers reasonably necessary.