

Committee: Development	Date: 11 th December 2013	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Application for Planning Permission
Case Officer: Nasser Farooq	Ref No: PA/13/01306
	Ward: Millwall (February 2002 onwards)

1. APPLICATION DETAILS

Location:	Cutty Sark House, Undine Road, London, E14 9UW.
Existing Use:	Residential (Use Class C3)
Proposal:	Demolition and redevelopment of Cutty Sark House to provide 36 dwellings in two buildings of four and five storeys, together with landscaping, four disabled parking bays and associated works.
Drawing and documents:	13023/PL-100, 13023/PL-101, 13023/PL-102, 13023/PL-103, 13023/PL-200, 13023/PL-201, 13023/PL-202, 13023/PL-203, 13023/PL-204, 13023/PL-205, 13023/PL-206, 13023/PL-207, 13023/PL-208, 13023/PL-209, 13023/PL-212, 13023/PL-213, 13023/SK-210, Flood Risk Assessment dated 24 th June 2013 Air Quality Assessment dated 12 th June 2013 Statement of Community dated June 2013 Preliminary Ecological Appraisal dated 27 th June 2013 Planning Noise Assessment dated 28 th June 2013 Residential Travel Plan dated August 2013 Energy Strategy dated May 2013 Transport Statement dated June 2013 Daylight and Sunlight report dated 26 th June 2013 Design and Access Statement dated June 2013 Planning Statement dated 2nd July 2013
Applicant:	Notting Hill Home Ownership & LTC Residential Ltd
Ownership:	Notting Hill Housing, LTC Residential Ltd, London Borough of Tower Hamlets
Historic Building:	None
Conservation Area:	Across the road from the Chapel House Conservation Area

2. Executive Summary

- 2.1. Officers have considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010), Managing Development Document (2013), the London Plan (2011) together with Revised Early Minor Alterations (2013) and the National Planning Policy Framework (2012), and have found that:
- 2.2. The proposal will maximise the delivery of housing within the Borough, through replacing 8 existing private residential units with 36 new homes, 10 of which are to be for the affordable rent tenure (at POD levels).
- 2.3. Whilst the scheme does not deliver as much affordable housing or s106 financial contributions as the previous application for this site (PA/10/1486), it has been demonstrated through the interrogation of the financial viability of the scheme, that the proposal is delivering the maximum reasonable amount of affordable housing and financial contributions.
- 2.4. The site's sensitive location – to the north of the Chapel House Conservation Area and the west of the DLR line and Mudchute station – has been considered in the design of the proposal. A high quality design is proposed, resulting in new buildings which will sit comfortably within the surroundings, together with a high specification of glazing to safeguard the amenity of future occupants in terms of noise intrusion.

3. RECOMMENDATION

- 3.1. That the Committee resolve to GRANT planning permission subject to:
- 3.2. The prior completion of a **legal agreement** to secure the following planning obligations:

Financial Contributions

- a) Education: £89,184 (100% of SPD)
 - b) Enterprise & Employment: £7,638 (100% of SPD)
 - c) Community Facilities: £28,723 (100% of SPD)
 - d) Health: £34,953 (100% of SPD)
 - e) Sustainable Transport: £795 (100% of SPD)
 - f) Public Realm: £75,804 (100% of SPD)
 - g) Monitoring & Implementation 2% of total: £4742
- TOTAL: £241,839.00**

Non- Financial Contributions

- a) 31% affordable housing
 - b) Access to employment initiatives
 - c) Permit free agreement
 - d) Code of Construction Practice
 - e) Public access
 - f) Travel Plan
 - g) Any other obligation(s) considered necessary by the Corporate Director Development and Renewal.
- 3.3. That the Corporate Director Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:

3.4. **Conditions**

Compliance:

1. 3 year time limit
2. Compliance with plans
3. Compliance with hours of construction (08.00 until 17.00 Monday to Friday; 09.00 until 13:00 Saturday. No work on Sundays or Bank Holidays)
4. Lifetime Homes
5. Delivery and retention of parking spaces
6. Boundary fences shall not be compromised and a boundary fence to stop egress onto DLRL's railway shall be maintained
7. No drainage to the public highway
8. Clearance of vegetation outside of main nesting season

Prior to Commencement

9. Contamination
10. Piling (if necessary)
11. Bat Survey
12. Radio survey – DLR impact (Pre-commencement and Pre-occupation)
13. Details of Impact Piling
14. Details demonstrating protection to prevent accidental damage or pollution (Ecology)

Prior to Superstructure

15. Samples / pallet board of all external facing materials (including reveals and timber cladding) and typical details to be approved prior to commencement of works
16. Noise transmissions/attenuation
17. Details of Wheelchair Units
18. Cycle Parking
19. Landscaping (Including playspace, green/brown roofs, nesting boxes, gates, walls, fences, maintenance and management)
20. S278

Prior to Occupation:

21. Code for Sustainable Homes Certificate
22. Details of 1 active and 1 passive electrical charging point
23. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

3.5. **Informatives**

1. Section 106 required
2. Section 278 required
3. Wheel cleaning facilities during construction
4. National Grid must be contacted prior to undertaking any works within 10 metres of the site
5. Thames Water Consent
6. Any other informative(s) considered necessary by the Corporate Director Development & Renewal

4. PROPOSAL AND LOCATION DETAILS

Proposal and Background

- 4.1. Planning permission was granted for the demolition of existing building and erection of two buildings (1 x 4-storey and 1 x 5-storey) to provide 26 residential units and associated landscaping, on the 26th of January 2011 (PA/10/1486).
- 4.2. That permission was granted as a 100% affordable housing scheme. However, this scheme is no longer viable, and therefore is not deliverable. This has necessitated LTC Group, the original joint applicants and landowner, to revisit the original proposal.
- 4.3. The scheme being considered proposes the demolition of the existing building (which contains 8 x 2 bed private residential units) and construction of 36 dwellings in two buildings of four and five storeys, together with landscaping, four disabled parking bays and associated works.
- 4.4. The scheme proposes the delivery of 10 affordable rented units (POD level), which equates to 31% by habitable room.

Site and Surroundings

- 4.5. This 0.245 hectare site is roughly triangular in shape. At present the site accommodates a single four-storey hipped roof block, comprising 8 x 2-bed self-contained flats. Around the block there is an area of tarmac which is laid out as 9 car parking spaces. The remainder of the site is grassed.
- 4.6. The site is bounded to the south by the adopted Spindrift Avenue and to the northwest by Undine Road, which is a private unadopted estate road. Located to the west is a site housing a gas governor and to the east the site is bounded by Docklands Light Railway Limited (DLRL) land.
- 4.7. Further to the south of the site, on the opposite side of Spindrift Avenue, lies the Chapel House Conservation Area. The conservation area is predominantly low rise and residential in nature, with most buildings being no more than two storeys in height. It has something of a 'garden city' feel. To the north of the site is the Clippers Quay residential estate where building heights are typically three to four storeys.
- 4.8. The site is located just some 20m to the west of Mudchute DLR station and has a Public Transport Accessibility Level (PTAL) of 3, indicating average public transport accessibility.
- 4.9. The site is neither listed nor located within a conservation area, although the Chapel House Conservation Area is located to the south of the site, across Spindrift Avenue. Accordingly, the relationship of the proposal with the nearby Conservation Area is an important consideration.

Relevant Planning History

- PA/01/01155 Erection of two new blocks - 3 storey Block B and 4 storey Block C – and their use as 1 x one-bedroom, 12 x two-bedroom & 1 x three-bedroom flats together with 22 car parking spaces and associated landscaping. Appeal against non-determination dismissed 05.07.2004

- PA/03/01475 Erection of two new blocks - 3 storey Block B and 4 storey Block C – and their use as 1 x one-bedroom, 12 x two-bedroom & 1 x three-bedroom flats together with 22 car parking spaces and associated landscaping. Appeal against non-determination dismissed 05.07.2004
- PA/09/02521 Demolition of existing building and erection of two buildings, one four storey and one four storey with setback, to provide 30 residential units with ancillary car parking and landscaping. Application withdrawn 29.01.2010.
- PA/10/1486 Demolition of existing building and erection of two buildings (1 x 4-storey and 1 x 5-storey) to provide 26 residential units and associated landscaping. Permitted 26 January 2011.

5. POLICY FRAMEWORK

- 5.1. For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items.
- 5.2. The following policies are relevant to the application:
- 5.3. **Government Planning Policy Guidance/Statements**
National Planning Policy Framework (March 2012) (NPPF)
- 5.4. **Spatial Development Strategy for Greater London - London Plan 2011 (LP)**
London Plan Revised Early Minor Alterations 2013 (LP REMA)
- 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
 - 3.13 Affordable housing thresholds
 - 4.1 Developing London’s 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 network
 - 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 self-sufficiency

5.17	Waste capacity
5.18	Construction, excavation and demolition waste
5.21	Contaminated land
6.1	Strategic approach
6.3	Assessing effects of development on transport capacity
6.4	Enhancing London's transport connectivity
6.7	Better streets and surface transport
6.9	Cycling
6.10	Walking
6.11	Smoothing traffic flow and tackling congestion
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
7.8	Heritage assets and archaeology
7.13	Safety, security and resilience to emergency
7.14	Improving air quality
7.15	Reducing noise and enhancing soundscapes
7.18	Protecting local open space and addressing deficiency
7.19	Biodiversity and access to nature
8.2	Planning Obligations
8.3	Community Infrastructure Levy

5.5. Tower Hamlets Core Strategy (adopted September 2010) (CS)

SP01	Refocusing on our town centres
SP02	Urban living for everyone
SP03	Creating healthy and liveable neighbourhoods
SP04	Creating a green and blue grid
SP05	Dealing with waste
SP06	Delivering successful employment hubs
SP08	Making connected places
SP09	Creating attractive and safe streets
SP10	Creating distinct and durable places
SP11	Working towards a zero-carbon borough
SP12	Delivering placemaking and (LAP 5 & 6 – Bow)

5.6. Managing Development Document (adopted April 2013) (MDD)

DM3	Delivery homes
DM4	Housing standards and amenity space
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 transportation of freight
DM22	Parking
DM23	Streets and the public realm
DM24	Place-sensitive design

DM25	Amenity
DM26	Building heights
DM27	Heritage and the built environment
DM29	Achieving a zero carbon borough and addressing climate change
DM30	Contaminated land

5.7 Tower Hamlets Community Plan

The following Community Plan objectives relate to the application:

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

6. CONSULTATION RESPONSE

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

6.2. The following were consulted regarding the application:

English Heritage

6.3. Advised that their specialist staff have considered the development and so not wish to offer any comments.

Transport for London (TfL)

6.4. Quantum of car parking and cycle parking considered acceptable.

6.5. Development should be car free, and 1 active vehicle charging point plus 1 passive vehicle charging point should be incorporated into the scheme

6.6. Borough should secure Travel Plan through s106 Agreement.

6.7. Objection on the basis of obstructions within 5m Protection Zone of the DLR. Requested removal of all fences and low level walls within protection zone of DLR, on the basis that they would hinder the DLRL's ability to pass through the protection zone.

6.8. (**Officer Comment:** Points 6.4 – 6.6 are secured by condition or through the s106 Legal Agreement. The scheme has not been revised to remove walls and fences within the protection zone. This is further discussed in para 6.9 of this report.)

Docklands Light Railway Limited (DLRL)

6.9. Submission noted that DLRL own the land up to the fence which bounds the DLRL land and the applicant's land, however they also acquired a 5m Protection Zone over the subject site at the time of the Lewisham Extension of the DLR. This gives DLRL the ability to enter upon the applicant's land (subject site) up to 5 metres from the DLRL's boundary fence for protection and maintenance of the railway.

6.10. DLRL initially objected to the proposal, on the basis of access to their land, however that objection was subsequently removed, given the distance from the DLR line to the subject site.

6.11. DLRL request the following conditions:

1. During construction and demolition, the developer should ensure that any boundary fences are not compromised and that a boundary fence is maintained to stop egress onto DLRL's railway.

2. The developer conduct radio surveys before and after the construction to assess the level of impact on DLRL's radio signal.

6.12. (**Officer Comment:** *The requested conditions will be attached should planning permission be approved*)

National Grid

6.13. Low or Medium pressure gas pipes and associated equipment, and above ground gas pipes located in the vicinity of the site. Pre-commencement informative necessary.

6.14. (**Officer Comment:** *Informative attached*)

Thames Water

6.15. Public sewers run close to or crossing the development. Approval should be sought from Thames Water where development would come within 3m of a sewer and discharge of groundwater requires a permit. Condition required relating to Impact Piling.

6.16. (**Officer Comment:** *Informative and condition attached*)

Environment Agency

6.17. No objection raised and no conditions or informatives necessary.

London Fire and Emergency Planning

6.18. The Brigade is satisfied with the proposals.

LBTH Transportation and Highways

6.19. The scheme should be car-free and details of cycle parking showing Sheffield stands should be agreed prior to approval

6.20. The proposal will result in the reduction in car trips, which is supported.

6.21. Objection was initially raised to the proposed servicing, which was to be via a servicing bay on Spindrift Avenue. Concern related to potential conflict with pedestrians enroute to Mudchute station, visibility splays and safety, and potential for the bay to be used by third parties as opposed to being dedicated to the development.

6.22. The applicants subsequently revised their proposal, removing the bay on Spindrift Avenue, and relocating the refuse store to the northern part of the site. Servicing is now to take place from Undine Road. Highways are satisfied with this approach, and have removed their objection to the servicing arrangements.

- 6.23. Highways also requested condition requiring drainage within the site and not to the public highway, as well as s278 off-site highway works.
- 6.24. (**Officer Comment:** a car free development will be secured in a legal agreement; cycle parking and s278 can be adequately dealt with by condition)

LBTH Energy

- 6.25. The incorporation of energy efficient and passive measures, high efficiency boilers and photovoltaic cells, together with commitment to achieve Code for Sustainable Homes Level 4 are supported. Requested condition securing achievement of Code 4, with final certificates to be submitted to the Council within 3 months of occupation.
- 6.26. (**Officer Comment:** Conditions attached)

LBTH Housing

- 6.27. Requested larger scale 1:50 drawings of rented wheelchair units – focus on potential need for level access shower.
- 6.28. Noted that the scheme proposes family units below the Council's target, however the provision of a 3 bed wheelchair unit at ground corresponding to the Borough's highest need category is supported.
- 6.29. (**Officer Comment:** 1:50 drawings will be conditioned. On balance, the mix is considered acceptable, as discussed further within the housing section of this report)

LBTH Environmental Health

- 6.30. Condition securing contamination, remediation and verification reports required.
- 6.31. (**Officer Comment:** Condition attached)
- 6.32. In terms of noise, the Environmental Health Officer (EHO) does not support the inclusion of balconies on the eastern façade of the eastern building (that nearest to the DLR) due to potential noise impacts from the DLR line.
- 6.33. (**Officer Comment:** At the request of the EHO further noise and vibration testing was carried out. The vibration levels were considered acceptable, however the noise levels for the eastern balconies are 5dB above the recommended standard. The EHO would prefer for the balconies to be removed and replaced with non-opening windows. This has been considered by officers, however given that the recommended noise levels are achieved within the residential units, and it is at the occupants discretion as to whether to open their doors and use the balconies. The arrangement is no different from that approved in 2011, and there are other developments adjacent to the DLR line with balconies much closer than that proposed (for example, Baltimore Wharf adjacent to Crossharbour Station). It is not considered that a reason for refusal could be defended on the basis of noise in this instance)

7. LOCAL REPRESENTATION

- 7.1. A total of 157 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. [The

application has also been publicised in East End Life and on site.] The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

- 7.2. No of individual 64 Objecting: 64 Supporting: 0
responses:
- 7.3. No of petitions received: 1 containing 73 signatures
- 7.4. The following local groups/societies made representations:
- Mudchute Park & Farm
 - Clippers Quay Management Company (CQMC)
- 7.5. The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:
- 7.6. Design
- Loss of open space/impinges upon openness of area;
 - Design not harmonious with adjacent conservation area or townscape nature of locality – particular mention of balcony design
 - Poorly designed, over development
 - Design fails to respect the context of the surrounding area – Clippers Quay and Chapel House Conservation Area
 - Location of refuse stores on Spindrif Avenue (Officer comment: These have been moved to an enclosure at the northern end of the site)
- 7.7. (Officer Comment – Please refer to section 8.4 of the report for further discussion regarding Design).
- 7.8. Amenity/Impacts
- Insufficient amenity space
 - Impact on quiet and private Clippers Quay Estate from increased number of residents
 - Impact on Mudchute Park and Farm which is being increasingly intensively used
 - Wall should be erected adjacent to Clippers Quay
 - Loss of green space
 - Impacts on infrastructure - school places, health facilities and water pressure
 - Lack of children’s playspace, which will lead to children trespassing on Clippers Quay of busy roads
 - Loss of privacy for Clippers Quay residents, and poor privacy within the development itself
 - There are too many flats on the Isle of Dogs
 - Noise impacts for future occupants of the development
 - Loss of open space
 - Existing developer has let the site fall into a state of disrepair
 - Development will be like having a prison (Wormwood Scrubs)
- 7.9. (**Officer comment** – Please refer to section 8.64 of the report for further discussion regarding Amenity).
- 7.10. Housing
- Insufficient mix of family units
 - There is a large amount of social housing at Clipper Quay and Telegraph Place –

- no more is required
 - Questioned who would buy the flats
- 7.11. **(Officer Comment – Please refer to section 8.26 of the report for further discussion on the above points).**
- 7.12. Transport/highways/parking
- Lack of car parking – will lead to illegal parking on Clippers Quay Estate, and cause friction and aggressive arguments
 - Layby on Spindrift Avenue is dangerous
 - Emergency access to DLR
 - Increased activity will result in safety impacts for children walking to school
 - Proposal would exacerbate already busy local roads and public transport already congested.
- 7.13. **(Officer Comment – Please refer to section 8.72 of the report for further discussion regarding Transportation and Highways).**
- 7.14. Ecology
- Loss of trees and greenspace, without sufficient replacement
 - Impacts on wildlife, birds and bats
- 7.15. **(Officer Comment – Please refer to section 8.87 of the report for further discussion regarding Ecology).**
- 7.16. Health and safety/security
- Many people pass the site enroute to station – need to walk around site during construction. Noise nuisance during building work
- 7.17. **(Officer Comment: Indeed people will most likely need to walk around the site during construction. However, this will be for a temporary period, and there is no legal right of way across the site in any event. Noise can be dealt with by way of a Construction Management Plan which is a recommended condition);**
- Plans would cause security issues for Clippers Quay. Children will play in Clippers Quay land and this will lead to anti-social behaviour
 - The proposal will result in increased anti-social behaviour and crime
- 7.18. (Officer Comment - there is no evidence to substantiate this argument. It is not considered that there are any problems with the design of the development that would lead to increased anti-social behaviour and criminal activity is a matter for the police);
- 7.19. Other matters
- Proposal would contravene a Parliamentary Undertaking to landscape part of the site and the land cannot be developed. Area should be zoned as Metropolitan Open Land
 - Siting of proposal likely to lead to trespass and illegal parking on CQMC Land
- 7.20. **(Officer Comment – The matter of a Parliamentary Undertaking in respect of the eastern part of the site was reported to the Development Committee in April 2004. It was reported that part of the Undertaking dated 21st June 1992 given to the London Borough of Tower Hamlets by London Regional Transport and its successors, Docklands Light Railway, concerned the landscaping of the railway embankment to the north and west of the new Mudchute Station.**

- 7.21. *Whilst it is evident that a section of land forming part of the Undertaking has not been landscaped by the DLR, it was reported that the embankment site has been landscaped with an appropriate mix of largely native trees and shrubs, which had established well in the several years that have elapsed since planting, and that the planting had been undertaken in accordance with the principles set out in the Undertaking.*
- 7.22. *In the light of the advice from the Solicitor to the Council, the Development Committee decided that the Undertaking had been adequately discharged to the extent that the Council can require.*
- 7.23. *Given the Undertaking was in favour of Tower Hamlets, and the appropriate Committee of the Council has previously resolved that the Undertaking has been adequately fulfilled, this matter has now been resolved.*
- 7.24. *In terms of trespass and illegal parking on CQMC land, this is not material to the planning application being considered, in the same respect as ownership matters are not material to planning assessment. There is a legal right of way over Undine Road. Any trespass is a matter for the courts. Illegal parking of CQMC land is a private matter for them to enforce against)*
- Impact on property values
- 7.25. **(Officer Comment – this is not a material planning consideration)**
- Pedestrian route lost, and revised access through the site unsafe – unlikely to be used by non-residents
- 7.26. **(Officer Comment – there is no public right of way through the site at present, even if it is used as such)**
- Applicants do not own all of the site
- 7.27. **(Officer Comment – Officers have reviewed the Land Registry Titles for the site, and are satisfied that the site is within the applicant’s ownership. In any event even if an applicant does not own all or any of the site they can still apply for planning permission to develop the site)**
- Inaccuracies in the submission
- 7.28. **(Officer Comment – there may be some minor mistakes in the submission. It is, however, possible to fully assess the proposal based on the drawings and documents submitted).**
- 7.29. Financial contribution toward Open Space should be secured
- 7.30. **(Officer Comment: A financial contribution towards open space has been secured, as outlined within this report)**
- 7.31. Existing vacant flats in the area should be occupied instead of building new flats.
- 7.32. **(Officer Comment: The delivery of new housing, in particular new affordable housing is a key priority of the Council, and accordingly it is considered acceptable and in line with earlier consents to develop on this site)**

- 7.33. Clippers Quay Management Company advised:
1. that they will not allow access off Undine Road to the disabled parking spaces, meaning that the development would not achieve Lifetime Homes
 2. that if planning permission is granted, they receive a financial contribution of £75,000 towards the control and prevention of future resident parking in the area
 3. that if planning permission is granted construction vehicles should access the site from Spindrift Avenue only
- 7.34. The following procedural issues were raised in representations, and are addressed below:
- 7.35. Site notice was undated.
- 7.36. Consultation period by Council inappropriate – documents not available online as at 19th July, and consultation during school holidays.
- 7.37. *(Officer Comment - A site notice was erected along Spindrift Avenue, dated 26th July 2013, evidence of which is on the file. The application was advertised in East End Life and significant neighbour consultation was carried out. A large number of responses to the consultation have been received and it is considered the Council has wholly fulfilled its consultation obligations. Consultation commenced on the 19th of July 2013, and responses are received up until midday on the day of Committee)*

8. MATERIAL PLANNING CONSIDERATIONS

- 8.1. The main planning issues raised by the application that the committee must consider are:
1. Land Use
 2. Design
 3. Density
 4. Housing
 5. Amenity for future occupiers
 6. Impact upon amenity of neighbours
 7. Transport Impacts
 8. Other planning matters

Land Use

- 8.2. The existing four-storey residential block on the site is unremarkable and unprotected. The site has no specific designation under the adopted Core Strategy 2010 (CS) and the area surrounding the site is predominantly residential in character.
- 8.3. The provision of additional housing is a key aim of national, regional and local planning policy and the proposal to retain and maximise residential use at the site is acceptable in principle and accords with policies 3.3 and 3.4 of the London Plan (2011) (Together with Revised Early Minor Alterations 2013) (LP) and policy SP02 of the adopted Core Strategy (2010) ("CS"), which seek to maximise the supply of housing.

Design

- 8.4. Good design is central to the objectives of national, regional and local planning policy. Policies 7.6 and 7.8 in particular of the London Plan seek to achieve good design generally, as well as in locations of historic merit. These policies are reflected in CS policy SP10, and MDD policy DM24.

- 8.5. These policies require new development to be sensitive to the character of the surrounding area in terms of design, bulk, scale and the use of materials. They also require development to be sensitive to the capabilities of the site.
- 8.6. In general terms, the form of the two blocks is relatively simple. The blocks are both roughly rectangular in shape and would be constructed of a buff stock brick to complement the Chapel House Conservation Area, and tresa cladding, with large aluminium framed openings. The elevations are interesting without being busy and the design is an improvement on the existing uninspiring block.

Layout, height and scale

- 8.7. There have been numerous objections to the scheme stating that the proposal represents overdevelopment of the site. As will be discussed below the density of the development is considered acceptable, however calculating the density of a scheme in policy terms is a purely mathematical exercise and is not the only criteria for ascertaining whether or not a scheme constitutes overdevelopment.
- 8.8. Other buildings in the area are predominantly two-storeys in height with pitched roofs, but there are other examples of four-storey buildings nearby, built in the same style as the existing Cutty Sark House, which is itself, a four-storey hipped roof building.
- 8.9. The western block would be the visually more dominant of the two as it is located closer to the bend in Spindrift Avenue and is one storey taller. This is the part of the site that can best accommodate the height and the simple form of the buildings prevents them appearing unduly bulky in relation to their surroundings.
- 8.10. The western block accommodates the ten affordable units, whilst the eastern block is comprised of the private accommodation.
- 8.11. Whilst the buildings are positioned close to one another, with only 6.6m separation between them at the top end of the site, views are available between the buildings and the site layout provides a well-defined pedestrian route through the site, which is clearly separated from the residential entrances. The buildings are set back some 6m from Spindrift Avenue, which provides sufficient breathing space and prevents the buildings appearing over-dominant. The set back from Undine Road is less, a minimum of 1.5m at the closest point. However the site boundary splays to the north-east, meaning the positioning is sufficient to prevent the buildings feeling too close or oppressive so as to be considered unacceptable.
- 8.12. Within the context of the site, which is bounded by open land to the east and west, the layout, height and scale of the scheme are, on balance, considered acceptable and to comply with CS policy SP10 and MDD Policy DM24.

Openness of site/impact upon the Conservation Area

- 8.13. To the south of the site is the Chapel House Conservation Area. In assessing planning applications adjacent to conservation areas the Council must assess the impact the development is likely to have upon the setting of that conservation area. Indeed, the previous appeal on the site was partly dismissed for this reason.
- 8.14. The NPPF provides guidance on the approach to development in and adjacent to conservation areas. It sets out that Local Planning Authorities should ensure that conflict between a heritage asset and development is avoided or minimised. National guidance is carried through to the local level by CS policy SP10 and MD policy MD27.

- 8.15. The proposal is clearly not a pastiche replica of development within the Chapel House Conservation Area. What is carried through with this scheme, however, is the use of brick as the primary facing material and the clean, strong lines. The flat roofs proposed are not typical locally, but neither would they appear as incongruous, and the separation of the blocks is enough to retain sufficient openness so as not to impinge upon the setting of the conservation area. The proposed blocks are considered a significant improvement upon the existing block.
- 8.16. The proposal covers the full width of the site, but for a 0.5m set-in from its western boundary. As such the proposal relies somewhat on adjacent land – to the east owned by the DLRL and to the west by Clippers Quay Management Company – to give it something of an open setting in the street scene. However, those sites are currently undeveloped and this scheme must be assessed on its own merits given the existing circumstances of the site and surrounds. It is therefore considered that the site would retain a sufficiently open feel.
- 8.17. On balance, and taking into account the wider benefits of provision of 36 new dwellings, it is considered the proposal would retain a sufficient degree of openness so as not to impinge upon the site or surrounding area, or harm the setting of the adjacent Chapel House Conservation Area.

Permeability and security

- 8.18. CS policy SP09 and MDD policy DM23 require development to consider the safety and security of users. Regard should also be given to the principles of Secure by Design. However, these matters must also be balanced against the requirements to promote site permeability and inclusive design.
- 8.19. The proposal provides a pedestrian route and courtyard through the site but still allows for sufficient defensible space to the front of the residential units to prevent any loss of security.
- 8.20. The Crime Prevention Officer did not comment on the proposal. However, with relation to the 2011 permission (which shares roughly the same footprint) mentioned that the scheme should be open at ground floor level to maximise views to and from the development. This matter can be addressed through landscaping and boundary treatment conditions, to prevent planting and fencing obscuring views of the buildings.
- 8.21. A further point raised by the Crime Prevention Officer for the 2011 consent was that boundary fencing to the rear gardens of the eastern block should be sufficiently high to prevent easy unlawful access to the properties. This matter can be easily addressed by a boundary treatment condition, however this remains subject to approval by the DLR.
- 8.22. Subject to conditions, it is considered that the layout of the development will allow for a permeable and secure site.

Density

- 8.23. The NPPF stresses the importance of making the most efficient use of land and maximising the amount of housing. This guidance is echoed in the requirements of LP Policies 3.4 of the LP and strategic objection SO7 and strategic policy SP02 of the CS seek to ensure new housing developments optimise the use of land by associating the distribution and density levels of housing to public transport

accessibility levels and the wider accessibility of that location. Table 3.2 of policy 3.4 of the LP provides guidelines on density taking account of accessibility and setting.

- 8.24. The site has an average Public Transport Accessibility Level (PTAL) of 3. For urban sites with a PTAL range of between 2 and 3, table 3.2 of the LP, suggests a density of between 200-450 habitable rooms per hectare. With 103 habitable rooms proposed, and a site area of 0.245ha, the proposed density would be 420 habitable rooms per hectare, which is in line with the recommended standard.
- 8.25. This is comfortably within the set density range and overall the development would make the most efficient use of the land. The proposed mitigation measures, including financial contributions towards local education, open space, libraries and leisure, ensure that the development has no significant adverse impacts on local infrastructure and accords

Housing

- 8.26. This section of the report considers the acceptability of the housing provision on the site in terms of affordable housing, mix of tenures, mix of dwelling sizes and provision of wheelchair units. The application proposes a total of 36 residential units

Affordable Housing

- 8.27. London Plan policies 3.11 and 3.12 state Boroughs should seek the maximum reasonable amount of affordable housing. CS policy SP02 sets an overall strategic target for affordable homes of 50% and requires all sites providing 10 or more homes to provide 35%-50% affordable homes. Policy DM3 of the MDD seeks the maximum reasonable amount of affordable housing.
- 8.28. The scheme provides 31% affordable housing, which falls short of the 35% minimum policy target as set out in the CS.
- 8.29. However, the applicant has submitted a viability assessment which demonstrates that the 31% is the maximum reasonable amount of affordable housing the scheme can accommodate whilst still being deliverable. In fact, the Council's independent review of the financial viability demonstrated a residual land value of the development is a deficit. Accordingly, the 31% which is being offered by the applicant is considered acceptable, as it represents the maximum amount of affordable housing the scheme can deliver, and is therefore in compliance with policies 3.11 and 3.12 of the London Plan, and DM3 of the MDD.

Tenure mix – social/affordable rent : intermediate ratio

- 8.30. London Plan policy 3.11 and CS policy SP02 seek a tenure split within the affordable housing units of 60:40 in favour of rented units. Policies SP02 of the CS and DM3 of the MDD seek a split of 70:30. The proposed tenure split of 100% is in favour of the affordable rented tenure (at POD rent levels).
- 8.31. The proposal therefore fails to deliver a mix of rented and intermediate accommodation. This is considered acceptable on balance, on the basis that rented accommodation is in more demand within the Borough. The mix of private and rented accommodation on the site will ensure the provision of a mixed and balanced development.

Mix of dwelling sizes

8.32. Council policy seeks to ensure development provides a range of dwelling sizes, including an appropriate amount of family accommodation.

8.33. Core Strategy policy SP02 requires that 45% of rented units should be for families. MDD policy DM3 sets out the acceptable unit mix:

Tenure	1b%	2b%	3b%	4b+%
Market	50	30	20	
Intermediate	25	50	25	0
Rented	30	25	30	15

8.34. The proposed unit breakdown, in comparison to policy, is as follows:

Rented

4 x 1-bed units (40%) against a policy target of 30%

3 x 2-bed units (30%) against a policy target of 25%

3 x 3-bed units (30%) against a policy target of 30%

0 x 4+-bed units (0%) against a policy target of 15%

Market

7 x 1-bed units (27%) against a policy target of 50%

19 x 2-bed units (73%) against a policy target of 35%

0 x 3+-bed units (0%) against a policy target of 20%

8.35. Within the market sector there is a lack of family sized units. However, this is considered to be off-set by the under-provision of 1 bed units within this tenure.

8.36. There are no 4+bed units within the Affordable tenure, however the applicants have provided ground floor 2 and 3 bed wheelchair units within this tenure which were specifically requested by officers to meet an identified need, which have larger than normal floor areas. On balance, the mix is considered acceptable.

8.37. Core Strategy policy SP02 requires an overall target of 30% for family housing. The proposal delivers 8% family housing (3 x 3 bed units), thus falling significantly short of this requirement. However, when considering the development as a whole, the scheme does deliver an additional 13 x 2 bed, 4 person units, with floor areas in excess of the London Housing Design Guide (LHDG) targets. Three of these are ground floor wheelchair units with floor areas between 80sqm and 87sqm, against a LHDG target of 70sqm.

8.38. Accordingly, on balance it is considered that the proposal delivers an acceptable mix of housing, to allow housing choice for future residents.

Lifetime Homes/Wheelchair provision

8.39. Core Strategy policy SP02 requires housing to be designed to 'Lifetime Homes' standards and for 10% of all new housing to be wheelchair accessible.

8.40. This scheme provides four wheelchair accessible units (2x2 bed market, 1x2 bed rented, 1x3 bed rented; 11%) together with a designated disabled car parking space for each unit. Furthermore, all units have been designed to comply with Lifetime Homes standards and the wheelchair units are on the ground floor with dual aspect, and the final design will be secured by condition.

- 8.41. The scheme is therefore considered acceptable in terms of provision of wheelchair accessible units and Lifetime Homes standards.

Amenity for future occupiers

Standard of accommodation

- 8.42. London Plan policy 3.5, CS policy SP10 and MDD policy DM4 set out the need to ensure appropriate standards of accommodation for future occupants. Minimum floorspace standards are set out, as are amenity space requirements.

Internal floorspace

- 8.43. All of the Affordable Rented units exceed the floorspace requirements.
- 8.44. 8 of the 2bed units within the market tenure fall short of the requirement by 1sqm. 7 of these units are positioned at the end of the block, thus being triple aspect. The 8th unit is positioned on the top floor, with substantial private amenity space via two balconies. The shortfall of 1sqm for these units is therefore considered acceptable in the balance.

Daylight/sunlight

- 8.45. The submitted daylight and sunlight assessment considers light levels within the proposed development, and was independently reviewed on behalf of the Council by 'Delva Patman Redler - Chartered Surveyors'. Delva Patman Redler concluded that on balance, the daylight and sunlight was acceptable for the future residents of the development.
- 8.46. The report established that in terms of daylight, all proposed rooms will have an ADF level above the minimum recommended standard (being 2% for kitchens, 1.5% for dining rooms and 1% for bedrooms). With the exception of three rooms the no-sky line analysis is in compliance with the BRE guidance. The three rooms in question (in the eastern, private block) are less well lit towards the back of the room, however the rooms are design in such a way that the areas where occupants would be expected to make use of natural light will still have levels of sky visibility that should be acceptable for that purpose.

Privacy

- 8.47. Whilst at the northern end of the site the blocks are separated by just 6.8 metres, the internal arrangements of the units are such that there are no directly facing habitable room windows. Consequently there is no direct overlooking between the proposed units and an adequate level of privacy is provided
- 8.48. The western block is set in from the west boundary by 0.5m with boundary fencing ensuring that the ground floor units of those blocks would not be unduly overlooked by people walking across the adjoining site.

Noise and Vibration

- 8.49. The application is accompanied by a Noise Assessment produced by SKM Enviros, dated 28th June 2013. A further assessment addendum has been submitted at the request of the Council's Environmental Health Officer (EHO), dated 17th October 2013, as they were not satisfied with the methodology for assessing vibration.
- 8.50. The EHO was subsequently satisfied with the vibration levels.
- 8.51. However, with relation to noise, it was ascertained that balconies on the southern facades of the buildings would experience noise levels 5dB above the recommended

standard. The EHO subsequently maintained objection to the proposal on the basis of noise impacts, and is of the view that the balconies should be removed. There is no objection regarding internal noise levels.

- 8.52. The site predominantly experiences noise from movements at the DLR station, as well as traffic noise from the Spindrifft Avenue façade. A resolution to the concern of the EHO would be to remove the balconies, however officers consider this to be counter-intuitive in terms of amenity. Residents have the choice of whether to use their balcony or not, and arguably, opening a window on the effected façade would have similar impacts to the inclusion of a balcony.
- 8.53. On balance, it is therefore the view of officers that the balconies should be included within the scheme, as they provide effective outdoor space, which residents have the choice of utilising. The extant 2011 consent also has balconies on the affected façade.

Residential Amenity Space

- 8.54. For all developments of 10 units or more, 50sqm of communal amenity space (plus an extra 1sqm for every additional 1 unit thereafter) should be provided. For a scheme of 36 units the minimum communal amenity space required would be 76sqm.
- 8.55. Policy 3.6 of the LP saved policy OS9 of the UDP, strategic policy SP02 of the CS and policy DM4 of the MD DPD seeks to protect existing child play space and requires the provision of new appropriate play space within new residential development. Policy DM4 specifically advises that applicants apply LBTH child yields and the guidance set out in the Mayor of London's SPG on 'Shaping Neighbourhoods: Play and Informal Recreation' (which sets a benchmark of 10 sq.m of useable child play space per child).
- 8.56. Using the Tower Hamlets SPG child yield calculations, the overall development is anticipated to accommodate 10 children and accordingly the development should provide a minimum of 100 sq.m of play space in accordance with the LP and MD DPD's standard of 10sq.m per child.
- 8.57. A central communal courtyard, overlooked by the residential blocks will form the centre of the development, with a spine of trees running the length of the landscaping. This space is multi-functional, measuring approximately 84sqm. It functions as amenity space, with a 37sqm dedicated informal playspace area, and a north-south route through the site. To the south-eastern corner of the site is approximately 150sqm (approx.) of landscaped space, which has been freed up through the relocation of the refuse and servicing area. In total, the 243sqm (approx) is considered acceptable to provide adequate multi-use communal and play space within the site. A high quality finish can be secured through the inclusion of an appropriately worded condition, requiring full details of planting, materials and play equipment.
- 8.58. Further to this, the London Plan allows for the provision of appropriate and accessible facilities within 400 metres for 5-11 year olds and within 800 metres for 12 – 15 year olds. The site is within 150 metres of Mudchute and Millwall Park, which have facilities for 5-15 year olds.
- 8.59. The private amenity space standard is set at a minimum of 5sqm for 1-2 person dwellings with an extra 1sqm for each additional occupant. All of the upper storey

flats would have adequately sized balconies. All of the ground floor units benefit from private gardens which exceed the policy requirement.

- 8.60. Core Strategy objective SO12 aims to create a high quality natural environment of green spaces that promote active and healthy lifestyles. Policy SP04 provides a basis for creation of a network of open spaces across the borough through protection, improvement, and creation of open spaces. Managing Development policy DM10 states that development will be required to contribute to the delivery of an improved network of open spaces in accordance with the Council's Green Grid Strategy and Open Space Strategy.
- 8.61. The Core Strategy notes that to achieve the 1.2 hectare of open space per 1000 population standard the Council would need to provide 99 hectares of new open space, which would be difficult to achieve given the built up urban character of Tower Hamlets. The 1.2 hectare standard is therefore embedded as a monitoring standard to help justify local need.
- 8.62. To meet the above standard, based on a likely population yield of 53 new residents, the scheme would need to include 636sqm of open space on top of amenity space delivered through the provision of private gardens and communal amenity space, which in light of housing demand and the need to optimise the use of scarce development land would not be reasonable for a site measuring just under a hectare. It is considered that a financial contribution towards improvement of existing public open spaces would successfully mitigate the lack of on-site publicly accessible open space, something which is acknowledged within the text for Policy DM10.

Amenity Impact on Neighbours

Daylight and Sunlight

- 8.63. Policy SP10 of the Core Strategy and policy DM25 of the MDD seek to ensure that adjoining buildings are not adversely affected by a material deterioration in their daylighting and sunlighting conditions.
- 8.64. The extant consent (for massing the same as that which is currently proposed) submitted a 'Daylight and Sunlight Study (Neighbouring Properties)', dated 5th July 2010, considering the impact of the development on existing properties surrounding the development site. As the massing of the proposal is the same as that which has been considered, and there are no new material considerations to take into account in the surrounding developments, this report is considered acceptable for assessment of the current scheme. A new BRE guidance has been introduced since this report was written (Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice - Second Edition' (2011), and officers have considered the results of the submitted assessment against this updated handbook.
- 8.65. Daylight is normally calculated by three methods – the vertical sky component (VSC), No Sky Line (NSL) and the average daylight factor (ADF). VSC and NSL are the appropriate methods for assessment when assessing impacts on existing properties. The submitted study shows that a small amount of neighbours will suffer from a very minor loss of light. Nevertheless, all affected rooms still meet BRE VSC and NSL targets (of maintain at least 80% of the former value). Given this compliance, the impact of the development on daylight to neighbouring properties is considered acceptable.

- 8.66. Sunlight is assessed through the calculation of annual probable sunlight hours (APSH). This method of assessment considers the amount of sun available in the summer and winter for each window within 90 degrees of due south (i.e. those windows which receive sunlight). The submitted report demonstrates that all neighbouring windows and open spaces will receive sufficient sunlight to comply with the current Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice - Second Edition' (2011).

Overlooking/loss of privacy

- 8.67. Policy SP10 of the CS and MDD policy DM25 seek to ensure that development will not result in a loss of privacy for existing residents.
- 8.68. The proposed development would be located a minimum of 21m from No.1 Undine Road and 15m from Nos.1-8 Falcon Way, the closest properties to the development. Given the orientation of the proposed blocks and the reasonable separation distances, it is not considered that the proposal would have a material impact in terms of overlooking between habitable rooms.

Noise disturbance

- 8.69. Policy SP10 of the CS and MDD policy DM25 note that development should not create unacceptable levels of noise and vibration.
- 8.70. Some disturbance is inevitable during the construction phase of the development; however a conditioning limiting work to standard hours will be included on the decision to ensure any such disturbance is not unreasonable.

Transport Impact

- 8.71. The site has a Public Transport Accessibility Level (PTAL) of 3, indicating average public transport accessibility. The site is located just 20m to the west of Mudchute DLR station, which offers good links to the rest of the Isle of Dogs, Canary Wharf and London generally.
- 8.72. The NPPF and Policy 6.1 of the London Plan 2011 seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.
- 8.73. CS Policy SP08 & SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.74. The site has an average public transport accessibility level (PTAL) of 3 (1 being poor and 6 being excellent). The application is supported by a Travel Plan and Transport Statement (June 2013, Campbell Reith). The Borough Highway Officer is in support of the application as set out within section six of this report.

Car parking

- 8.75. Many of the objectors to the application mentioned that the development should provide car parking spaces. In line with Council policy no car parking has been provided, save for four disabled parking says to the north of the site. The developers will sign up to a S106 car free agreement if planning permission is granted preventing occupiers of the development from obtaining a car parking permit.

- 8.76. Several of the objectors mentioned that car-free agreements rarely function well in practice, as residents of 'car-free' developments often own cars and park illegally.
- 8.77. This is a matter best dealt with through enforcement. It is for the Council to control parking on the adopted highway of Spindrift Avenue, and the Clippers Quay Management Company to control parking on the privately owned Undine Road. This is not considered a justification to depart from the Council's established policy in this instance.
- 8.78. Given the location of the site, so close to Mudchute DLR, it is considered that a car-free development is appropriate for the site and would comply with CS policy SP09 and MDD policy DM20.

Cycle Parking

- 8.79. The application proposes 32 cycle parking spaces with Sheffield stands. These are provided within a secure storage building towards the north of the site. The application originally proposed 44 spaces on stackers, however on the advice of highways, Sheffield stands have been incorporated. Highways have confirmed they do not object to the proposal.
- 8.80. On balance the proposal therefore complies with London Plan policy 6.13.

Servicing/deliveries

- 8.81. The application originally proposed a servicing bay on Spindrift Avenue, with adjacent refuse stores for pick up. This arrangement generated significant objection from residents, as well as the Council's Highways officers regarding safety and the free flow of traffic.
- 8.82. This has been revised, with servicing to take place from the privately owned Undine Road.
- 8.83. Several objectors have mentioned that rights to use Undine Road for these purposes would not be given. However, no information has been provided to demonstrate that such use of Undine Road is not allowed. On the contrary, the applicants registered title grants the applicants *"a right of way on foot and with vehicles for all purposes and at all times over Spindrift Avenue and Undine Road and a right of way on foot over the footpath between Spindrift Avenue and Undine Road along the western boundary of the retained land until such time as the same are adopted and maintained at public expense"*
- 8.84. Vehicle tracking has been provided to demonstrate that refuse vehicles can negotiate the servicing area, and the revised servicing arrangements are considered acceptable by the Council's Highways section.

Impact on local transport infrastructure

- 8.85. The proposal is only for 36 residential units and it is not considered it would have any undue impact upon the capacity of the local road or public transport networks. TfL were consulted, and whilst requesting conditions as outlined in section 6 of this report, did not raise concern regarding impacts on the public transport network.

Other planning matters

Biodiversity

- 8.86. Neighbour representations mentioned that many different species of bird are found locally, along with foxes and bats. The submitted Ecology Survey, dated 27th June 2013, states that a bat survey of the existing building should be undertaken before

work at the start commences. It is considered this matter can be adequately dealt with by way of condition, and appropriate action taken if/when bats are found on site.

- 8.87. The report also suggested mitigation which can be secured via condition, relating to bird boxes, tree protection measures, and protection of watercourse.

Renewable Energy and Energy Efficiency

- 8.88. At a national level, the National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The NPPF also notes that planning supports the delivery of renewable and low carbon energy and associated infrastructure. At a strategic level, the climate change policies as set out in Chapter 5 of the London Plan 2011, London Borough of Tower Hamlets Core Strategy (SO24 and SP11) and the Managing Development Document Policy DM29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.
- 8.89. At a national level, the National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The NPPF also notes that planning supports the delivery of renewable and low carbon energy and associated infrastructure. At a strategic level, the climate change policies as set out in Chapter 5 of the London Plan 2011, London Borough of Tower Hamlets Core Strategy (SO24 and SP11) and the Managing Development Document Policy DM29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions. The Managing Development Document Policy DM29 includes the target to achieve a minimum 35% reduction in CO2 emissions above the Building Regulations 2010.
- 8.90. The Energy Strategy (May 2013), follows the Mayor's energy hierarchy as detailed above. The development would make use of energy efficiency and passive measures to reduce energy demand (Be Lean) and reduce CO2 emissions by 8%. High efficiency boilers are proposed to supply the space heating and hot water requirements.
- 8.91. Photovoltaic cells are proposed to provide a source of on site renewable energy (Be Green). The proposed roof area for an array is identified (see drawing SK001) and a PV system with a peak output of 28.8kWp is proposed to achieve a 20% reduction in CO2 emissions. The current proposals for delivering the space heating and hot water, and CO2 savings (29%), are considered acceptable in this specific instance due to the size of the scheme, technologies available and roof space arrangements.
- 8.92. In terms of sustainability, the Council requires all residential development to achieve a Code for Sustainable Homes Level 4 rating. This is to ensure the highest levels of sustainable design and construction in accordance with Policy 5.3 of the London Plan 2011 and Policy DM29 of the London Borough of Tower Hamlets Managing Development Document
- 8.93. The submitted Pre-assessment demonstrates how the development is currently designed to achieve A Code 4 rating with a score of 70. This is supported and the achievement of Code 4 is secured via condition with the final certificate being submitted to the council within 3 months of occupation.

Flood Risk

- 8.94. The site is located within flood zone 3a. The application has been accompanied by a Flood Risk Assessment produced by Hyder Consulting, dated June 2013, which the Environment Agency were consulted on.
- 8.95. The site is outside the area at risk of flooding in the event of a breach or failure of the River Thames tidal defences. Amongst the measures taken to prevent flood risk are setting the ground floors of the proposed buildings above 2.5m AOD and inclusion of a green roof. The Environment Agency has no objections to the scheme, subject to conditions, which will be included on the decision notice.

S106 Contributions

- 8.96. The NPPF requires that planning obligations must be:
1. Necessary to make the development acceptable in planning terms;
 2. Directly related to the development; and
 3. Are fairly and reasonably related in scale and kind to the development.
- 8.97. Regulation 122 of CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.
- 8.98. Securing appropriate planning contributions is further supported by policy SP13 in the CS which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development.
- 8.99. The Council's Supplementary Planning Document on Planning Obligations was adopted in January 2012. This SPD provides the Council's guidance on the policy concerning planning obligations set out in policy SP13 of the adopted Core Strategy. The document also set out the Borough's key priorities being:
1. Affordable Housing
 2. Employment, Skills, Training and Enterprise
 3. Community Facilities
 4. Education
- 8.100. The Borough's other priorities include:
1. Public Realm
 2. Health
 3. Sustainable Transport
 4. Environmental Sustainability
- 8.101. This application is supported by a viability toolkit which detailed the viability of the development proposal through interrogation of the affordable housing provision and the planning obligations required to mitigate the impacts of this development proposal. The viability appraisal has established that it is not viable for the proposal to deliver more than 31% affordable housing alongside a contribution of £140,000 of planning obligations.
- 8.102. The toolkit provides an assessment of the viability of the development by comparing the Residual Value against the Existing Use Value (or a policy compliant Alternative Use value), in broad terms, if the Residual Value equals or exceeds the Existing Use Value, a scheme can be considered as viable, as the requirements of paragraph 173 of the NPPF for competitive returns to the developer and the landowner have been satisfied. In summary, the Toolkit compares the potential revenue from a site with

the potential costs of development. In estimating the potential revenue, the income from selling dwellings in the market and the income from producing specific forms of affordable housing are considered and in testing the developments costs matters such as build costs, financing costs, developers profit, sales and marketing costs are considered.

- 8.103. Based on the Council's s106 SPD, the viability of the proposal and the need to mitigate against the impacts of the development, LBTH Officers sought to deliver 31% on-site affordable housing and deliver an offer of £140,000 of financial contributions.
- 8.104. The s106 SPD requirement would be for £241,839 in financial contributions. The proposed offer meets the full ask. The monies have been allocated according to the priorities within the s106 SPD.
- 8.105. The obligations can be summarised as follows:

Financial Contributions

- a) Education: £89,184
 - b) Enterprise & Employment: £7,638
 - c) Community Facilities: £28,723
 - d) Health: £34,953
 - e) Sustainable Transport: £795
 - f) Public Realm: £75,804
 - g) Monitoring & Implementation 2% of total: £4742
- TOTAL: £241,839**

Non-Financial Obligations

- a) 31% affordable housing
- b) Access to employment initiatives
- c) Permit free agreement
- d) Code of Construction Practice
- e) Public access
- f) Travel Plan
- g) Review mechanism in the event the developer were to secure grant funding

- 8.106. The applicant has demonstrated through the submission of a viability assessment that there is no additional provision to deliver further affordable housing, and the full s106 Financial Contribution ask has been secured. The Council has independently reviewed the submitted viability assessment and concludes that the maximum reasonable amount of affordable housing which can be delivered on this site is 31% by habitable room and the maximum reasonable amount of financial contributions which can be delivered is £241,839. It is considered that the level of contributions would mitigate against the impacts of the development by providing contributions to all key priorities.
- 8.107. For the reasons identified above it is considered that the package of contributions being secured is appropriate, relevant to the development being considered.

Other matters

Designation as Metropolitan Open Land

- 8.108. Several objections received mentioned that the site should be designated as Metropolitan Open Land. At present it is not designated as such, and this application

must be determined on the current designation. Furthermore for a parcel of land to be designated as Metropolitan Open Land, it must satisfy the following criteria:

- Contributes to the physical structure of London by being clearly distinguishable from the built-up area;
- Include open air facilities, especially for leisure, recreation sport, arts and cultural activities and tourism which serve the whole or significant parts of London;
- Contain features of historic, recreational, nature conservation or habitat interest, of value at a metropolitan or national level;
- Form part of a green chain and meets one of the above criteria.

8.109. The site is separated from Mudchute Park and Farm by the DLR line, so does not form part of a green chain, and is simply not large enough or used in a way that would warrant inclusion in the first three categories.

8.110. For this reason it is not considered that significant weight can be given to possible future designation of the land as Metropolitan Open Land, particularly in light of the fact that the Council's Proposals Map was only recently adopted (2010), and further cemented through the adoption of the Council's MDD in 2013.

Parliamentary Undertaking on part of the site

8.111. A large number of objections received mentioned that there is a Parliamentary Undertaking on the site stating that when the DLR was extended a strip of land to the east of the site was to be landscaped. The objectors feel that this obligation has never been fully discharged.

8.112. When dismissing the previous appeals on this site, the Inspector noted that 'the status of the DLR undertaking to the Council is a matter that both parties accept as being satisfactorily resolved and thus not material to the consideration of these appeals'. It remains the case that the matter has been resolved to the satisfaction of the Council, and it can be afforded only little weight during the consideration of this application.

Localism Act (amendment to S70(2) of the TCPA 1990)

8.113. Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the local planning authority (and on appeal by the Secretary of State) to grant planning permission on application to it. From 15th January 2012, Parliament has enacted an amended section 70(2) as follows:

8.114. In dealing with such an application the authority shall have regard to:

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

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

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

8.116. In this context "grants" might include the new homes bonus and payment of the community infrastructure levy.

- 8.117. These issues now need to be treated as material planning considerations when determining planning applications or planning appeals.
- 8.118. Regarding Community Infrastructure Levy considerations, following the publication of the London Mayor's Community Infrastructure Levy, Members are reminded that the London Mayoral CIL is now operational, as of 1 April 2012. The Mayoral CIL applicable to a scheme of this size is £88,315 which is based on the gross internal area of the proposed development. The scheme is proposed to provide 31% affordable housing and will therefore qualify for social housing relief on a proportion of this sum.
- 8.119. The New Homes Bonus was introduced by the Coalition Government during 2010 as an incentive to local authorities to encourage housing development. The initiative provides unring-fenced finance to support local infrastructure development. The New Homes Bonus is based on actual council tax data which is ratified by the CLG, with additional information from empty homes and additional social housing included as part of the final calculation. It is calculated as a proportion of the Council tax that each unit would generate over a rolling six year period.
- 8.120. Using the DCLG's New Homes Bonus Calculator, and assuming that the scheme is implemented/occupied without any variations or amendments, this development is likely to generate approximately £35,943 within the first year and a total of £215,657 over a rolling six year period. There is no policy or legislative requirement to discount the new homes bonus against the s.106 contributions, and therefore this initiative does not affect the financial viability of the scheme.

Human Rights Considerations

- 8.121. In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:-
- 8.122. 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:-
- 8.123. 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;
- 8.124. 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
- 8.125. Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

- 8.126. This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 8.127. Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 8.128. 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.
- 8.129. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.130. As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.
- 8.131. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions and the associated section 106 agreement to be entered into.

Equalities Act Considerations

- 8.132. The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.133. The contributions towards various community assets/improvements and infrastructure improvements addresses, in the short-medium term, the potential perceived and real impacts of the construction workforce on the local communities, and in the longer term support community wellbeing and social cohesion.
- 8.134. Furthermore, the requirement to use local labour and services during construction enables local people to take advantage of employment opportunities.

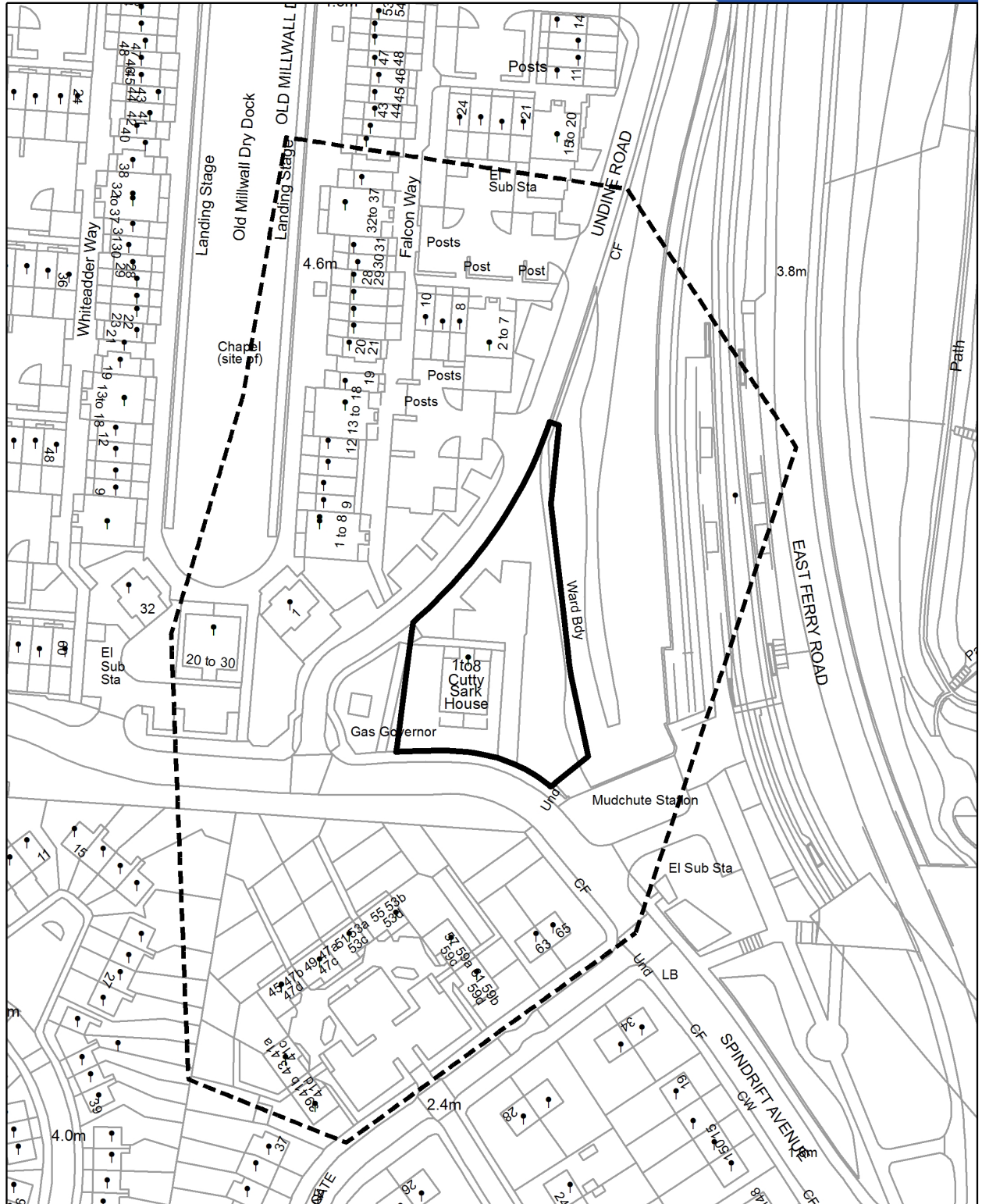
- 8.135. The community related contributions (which will be accessible by all), such as the new public piazza, help mitigate the impact of real or perceived inequalities, and will be used to promote social cohesion by ensuring that sports and leisure facilities provide opportunities for the wider community.
- 8.136. The contributions to affordable housing support community wellbeing and social cohesion.




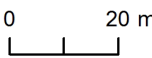



Conclusions

- 8.137. All other relevant policies and considerations have been taken into account. PLANNING PERMISSION should be granted and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

Planning Application Site Map

PA/13/01606



	Planning Application Site Boundary		Locally Listed Buildings		Land Parcel Address	
	Consultation Area		Statutory Listed Buildings			

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

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