

Committee: Development	Date: 12 th March 2014	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Angelina Eke	Ref No: PA/13/02773 (Full Planning Application)
	Ward: Mill wall (February 2002 onwards)

1. APPLICATION DETAILS

Location: Units 24 – 32 (even) Mastmaker Road, London, E14 9UB

Existing Use: Educational Use (Use Class D1)

Proposal: Application to vary Condition 6 (hours of operation) attached to planning permission dated 15/10/2013 ref: PA/13/01647, which varied conditions 5 and 6 of the planning permission dated 10/07/2013 ref: PA/13/00116 which allowed a change of use of the existing light industrial units to a secondary school (Use Class D1) offering a range of vocational subjects for 14-19 year olds.

The amendments seek to vary the arrival times for Teachers and Staff of the school and to extend the operation times for the social enterprise units as follows:

- Teachers & staff
 - Mondays to Saturdays - 6.30 - 23:00 hours
- 14 - 16 year old students
 - 09:30 - 15:00 (as approved under PA/13/01647)
 - 16 - 19 year old students - 10:00 - 15:30 (as approved under PA/13/01647)
- Nursery/Family Centre
 - Monday to Friday - 07:00 - 20:00 hours
 - Saturdays 08:00 - 18:00 hours
- Café/Restaurant use
 - Mondays to Fridays - 07:30 - 22:00
 - Saturdays - 10:00 – 22:00 hours
 - Sundays - 10:00 – 21:00 hours
- Gym/Sports Hall
 - Mondays to Fridays - 06:30 - 22:00
 - Saturdays and Sundays – 08:00 – 20:00 hours

Drawing and documents:**Drawings:**

099 REV 0, 100 REV 0, 102 REV 0, 103 REV 0, 110 REV 0, 111 REV 0, 201 REV 0, 202 REV 0, 210 REV 0, 211 REV 0, 2110 REV2, 2012 REVD and 7000 REV CP1.

Documents:

- Planning and Impact Statement, prepared by TP Bennett, dated July 2013.
- Mast Maker Court – School Management Plan, prepared by City Gateway, Dated 8 October 2013.
- Transport Assessment, Document Reference: JNY7860-01A prepared by RPS, dated 16 January 2013.
- Framework School Travel Plan, Document Reference: JNY7860-02A, prepared by RPS, dated 16 January 2013.
- CRQ Design and Access Statement REVA, dated 18 January 2013, prepared by R H Partnership Architects.
- Planning and Impact Statement, dated January 2013, prepared by T P Bennett.
- Marketing Report, dated January 2013, prepared by T P Bennett.
- Transport Assessment, Ref: JNY7860-01A, prepared by RPS, dated 16 January 2013.
- Environmental noise survey report, Ref: 12437-R01-C, prepared by Sandy Brown, dated 17 January 2013.
- Energy Strategy Report REV 1.0, prepared by Atkins, dated 18 January 2013.
- Flood Risk Assessment, Ref: 131952 – R1 (0) – FRA, dated February 2013, prepared by Kier.
- Contamination Study - Phase 1 Desk Study, REF: 30458, dated 17 January 2013, prepared by Gary Gabriel Associates.
- Statement of Community Involvement, January 2013, prepared by TP Bennett.
- Construction Management Plan

comprising

- Kier Construction London Traffic Plan – 4337,
- Kier Construction London City Gateway - TM Plan REVA, and;
- Appendix D Traffic Management.
- Flood Evacuation Plan, Version 1.3, dated, 2 October 2013.
- Email dated 4 September 2013 from Kier Construction.
- Email dated 19/02/2014 from Steve Moore of City Gateway

Applicant: City Gateway

Ownership: City Gateway

Historic Building: None

Conservation Area: None

2. EXECUTIVE SUMMARY

- 2.1 Officers have considered the proposal against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010), Managing Development Document (2013) as amended, the London Plan (2011) and the National Planning Policy Framework 2011(as amended) and consider that the variations sought to the hours of operation are on balance acceptable as they would not cause any unduly detrimental impact on the adjoining residential community by reason of its noise or any associated disturbance or any incidence of crime and disorder. As such, officers consider that the extended hours of operation would be acceptable in policy terms.

3 RECOMMENDATION

- 3.1 That the Committee resolve to GRANT planning permission.

- 3.2 That the Corporate Director Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:

3.3 Conditions

- § Compliance with plans
- § Compliance with Construction Management Plan
- § Compliance with School Management Plan
- § Compliance to ensure that the maximum number of students at 490
- § Compliance with hours of operation (to be agreed by Members)
- § Updated School Travel Plan to reflect new hours of operation
- § Compliance with School Delivery and Service Management Plan
- § Compliance with Flood Evacuation Plan
- § Energy Strategy

3.4 Informatives

§ Consultation with School Travel Plan Officer

4 PROPOSAL AND LOCATION DETAILS

- 4.1 The application proposal relates to five former light industrial units forming part of the Clipper House Industrial Complex. Members may recall that on the 15th May 2013, the Development Committee resolved to grant planning permission for the change of use of the light industrial units to form a secondary school (Use Class D1). The planning permission has been implemented and the school has been built out and occupied.
- 4.2 Members may also recall that on 12 September 2013, the Development Committee resolved to grant a further planning permission under S73 of the Town and Country Planning Act (planning reference PA/13/01647) to allow for the variation of conditions 5 (student numbers) to limit the maximum number of students on site to 490 and Condition 6 (hours of operation) to allow for the staggering and departure times of students and staff of the original planning permission (planning reference PA/13/00116).
- 4.3 A further application is now being made to vary condition 6 (attached to planning reference PA/13/01647) to modify the arrival times for teachers and staff and to modify the operation times for the social enterprise business as shown in Table 1 below :

Table 1

Approved Development under planning reference PA/13/01647:	S73 application PA/13/02773
Teachers and staff 07:00am - 23:00pm	Teachers and staff 6.30am - 23:00pm
14 - 16 year old students 09:30am - 15:00pm	14 - 16 year old students 09:30am - 15:00pm
16 - 19 year old students 10:00am - 15:30pm	16 - 19 year old students 10:00 - 15:30pm
<u>Social enterprise units</u> Nursery/Family Centre: Mondays to Saturdays 10:00am - 18:00pm	<u>Social enterprises units</u> Nursery/Family Centre Monday to Friday 07:00am to 20:00pm Saturdays 8:00am to 18:00pm
Cafe/Restaurant use Mondays to Saturdays 10:00am - 18:00 pm	Cafe/Restaurant use Mondays to Friday 07:30am to 22:00pm, Saturdays 10:00am to 22:00pm Sundays 10:00am to 21:00 pm
Gym/ Sports Hall Mondays to Sundays 10:00am - 18:00 pm	Gym/ Sports Hall Monday to Friday 06:30 to 22:00 Saturdays and Sundays between 08:00 to 20:00 hours

- 4.4 Given, the applicant is seeking to vary a condition which was specifically subject to the Members resolution to grant previously, this matter is being reported back to the Development Committee for decision.
- 4.5 The School is run and managed by City Gateway who are a charity based in Tower Hamlets who run women's projects, youth training, youth centres and a social enterprise hub. Their aim is to assist disadvantaged local communities of Tower Hamlets that haven't benefited from the area's wider economic development. The proposed education centre would assist young people who haven't achieved in mainstream education to enjoy learning, and gain vocational qualifications with the aim to move onto employment or further education.
- 4.6 City Gateway gained 'Free School' status in early 2012 from the Department for Education (DfE).

Site and Surroundings

- 4.7 Clipper House is a light industrial complex located on the western side of Mastmaker Road. There are currently eight units of different sizes within the complex. The units are two storeys in height and are planned around an open courtyard with car parking spaces around the site. Two of the units are in active commercial use by small business: Unit 34 is occupied by Party Ingredients who are Private Caterers and WF Senate are Electrical Supplies Distributors who occupy unit 22.
- 4.8 The site is neither listed nor located within a conservation area. There are no designated heritage assets within the immediate vicinity of the site.
- 4.9 The site forms part of the Millennium Quarter site allocation within the Managing Development Document (MDD) which sets out the vision for the development of the area.
- 4.10 Clipper House is one of the last remaining light industrial uses within the site allocation boundary. This marks the transition that has occurred from a mainly industrial area to a more residential area.
- 4.11 Directly to the north of the site is Phoenix Heights which is a residential development with commercial uses at ground floor level. To the east of the site is the old Guardian Press Office site. All of the buildings have been demolished and the site is currently surrounded by a hoarding. The site is subject to pre-application discussions.
- 4.12 To the south of the site is Gainsborough House which is a residential development. To the west of the site is a row of terraced houses which front Alpha Road. Numbers 9 – 41 Alpha Road have rear gardens which face onto the application site.

4.13 Relevant Planning History

- 4.14 **PA/13/00116:** Full planning permission for the change of use of existing light industrial units (Use Class B1) (numbers 24, 26, 28, 30 and 32) to a secondary school (Use Class D1) offering vocational courses for 14-19 year olds. Approval dated 10/07/2013.
- 4.15 **PA/13/01647:** S73 application to vary condition 5 (student numbers) and condition 6 (hours of operation) of planning permission dated 10 July 2013, reference

PA/13/00116 for the "Change of use of existing light industrial units (Use Class B1) (numbers 24, 26, 28, 30 and 32) to a secondary school (Use Class D1) offering vocational courses for 14-19 year olds."

Variation of Condition 5 (Student Numbers) to limit the maximum number of students on site to 490

Variation of Condition 6 (Hours of Operation) staggering the arrival time of staff and students as follows:

- Teachers and staff - 07:00 - 23:00
- 14 - 16 year old students - 09:30 - 15:00
- 16 - 19 year old students - 10:00 - 15:30
- Social enterprise units - 10:00 - 18:00

Approval dated 15/10/2013.

- 4.16 **PA/13/01936:** Submission of details pursuant to condition no. 12 (post completion testing of the educational class rooms), of planning permission dated 10/07/2013, ref: PA/13/00116. Approval dated 12/09/2013.
- 4.17 **PA/13/01944:** Submission of details pursuant to condition no. 10 (flood risk evacuation plan), of planning permission dated 10/07/2013, ref: PA/13/00116. Approval dated 03/10/2013.
- 4.18 **PA/13/02125:** Submission of details pursuant to condition no. 9 (Delivery and service management plan), of planning permission dated 10/07/2013, ref: PA/13/00116. Approval dated 10/10/2013.
- 4.19 **PA/13/2313:** Submission of detail pursuant to Condition 8 (School Travel Plan) of Planning Application reference number PA/13/01647 dated 15/10/2013. Approval dated 13/11/2013.
- 4.20 **PA/13/02315:** Submission of detail pursuant to Condition 7 (Contamination) of Planning Application reference number PA/13/01647, dated 15/10/2013. Approval dated 07/11/2013.

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)
Policy Statement – Planning for schools development (August 2011)
- 5.4 **Spatial Development Strategy for Greater London - London Plan 2011(LP as amended)**
- 3.18 Educational Facilities
- 6.1 Strategic approach
- 6.3 Assessing effects of development on transport capacity

- 6.7 Better streets and surface transport
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road network capacity
- 6.13 Parking

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

- SP08 Making connected Places
- SP09 Creating Attractive and Safe Streets and Spaces
- SP10 Creating Distinct and Durable Places

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

- DM20 Supporting a Sustainable transport network
- DM22 Parking
- DM23 Streets and the public realm
- DM24 Place sensitive design
- DM25 Amenity

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:

LBTH Transportation and Highways

6.3 Highways are concerned that extending the hours of operation of the on-site social enterprises will result in a high proportion of new trips generated being made by private car.

6.4 The proposals would allow the on-site social enterprises to operate when local on-street parking restrictions are not in force providing a supply of local parking for staff and visitors. In addition, it is expected that the majority of on-site spaces occupied by school staff will be vacant at these times, again creating available parking for staff and visitors of the social enterprises.

6.5 The impact of the on-site car parking permitted for use of the school (PA/13/00116) was assessed by highways based on the currently permitted hours of operation. Without further assurance that these spaces would absolutely not be available for staff and visitors for the social enterprises, Highways cannot support the application.

- 6.6 **[Officer Comment:** The applicant addressed these concerns and further comments were provided by the Borough Highway Officer.]
- 6.7 Members should note that the applicant has confirmed that access to or from the majority of the on-site car parking is closed from 8pm daily but access to the three existing disabled spaces to the front of the site will continue to be available.
- 6.8 In addition, the applicant has confirmed that they will amend the travel plan associated with the parent application to cover the proposed extended operations on the site.
- 6.9 Given the above Highways has no objection to the development.
- 6.10 **[Officer Comment:** It is noted that the applicant has already submitted a Travel Plan for discharge which was approved as listed in the planning history above. In light of the Borough of Highways Officer comments above this condition will be re-introduced.

LBTH Environmental Health – Noise and Vibration

- 6.11 No objections were raised against the proposal as the extension of hours proposed does not exceed the normal definition of what are daytime evening hours as defined by the World Health Organisation.

LBTH Plan Making Team

- 6.12 To date no comments have been received.

Directorate of Education, Social Care & Wellbeing

- 6.13 To date no comments have been received.

LBTH Energy

- 6.14 To date no comments have been received.

7 LOCAL REPRESENTATION

- 7.1 A total of 218 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The local ward member was also consulted about the proposal. The application has also been publicised on site and in the local press. The number of representations received from neighbours and local groups in response to notification and publicity of the application to date are as follows:

No of individual responses 0 Objecting: 4 Supporting: 0

No of petitions received: 1 in objection with 33 signatures

- 7.2 A petition was submitted on behalf of the tenants and residents of Alpha Grove who expressed concerns that the amenity of adjoining residents would be adversely affected by the extended hours of opening of the scheme by virtue of the increased noise nuisance and that this would be compounded by the noise and educational use. In addition, three letters of representation were received raising concerns about

the level of noise, dirt and dust including increase in the incidence of antisocial behaviour associated with the new use.

- 7.3 **[Officer Comment:** The proposed extensions of hours have been considered in the amenity and highway sections of this report. In respect of concerns about increase in crime or antisocial behaviour, the Council's Crime Prevention Officer has been consulted and raised no objections to the extended hours of operation of the approved use.]

8 MATERIAL PLANNING CONSIDERATIONS

- 8.1 Section 73 of the Planning Act allows the variation or removal of a condition imposed on a planning permission. This application seeks to vary condition 6 of the consented permission.

- 8.2 The development (i.e. the variation of condition 5 & 6 approved under PA/13/01647) which this application under s.73 seeks to amend has been judged acceptable in principle when it was considered at the 12 September 2013 Development Committee where Members resolved to grant subject to conditions. Moreover when the original application was presented to the Development Committee on the 15 May 2013 this was also found to be acceptable. Government advice states that when assessing these types of applications, that local planning authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

- 8.3 Since the grant of planning permission in November 2013 there have been no changes in national or local policies. As such, this report focuses on the changes sought. However, at appendix 1 and 2 there are a copies of the planning reports and update reports presented to members on the 15 May 2013 and 12 September 2013 to inform members

- 8.4 The main planning issues raised by the application that the committee must consider are:

- § Amenity
- § Highways

Principle of Development and Amenity

- 8.5 The principle of the educational use has been established at this site through the previous grant of planning permission for a new secondary school. This school is now in operation. The main matter for consideration is the principle of varying condition 6 (hours of operation) to extend the hours for teachers at the site and to extend the hours of operation of the social enterprise units as follows:

- Teachers and staff – 6.30am - 23:00pm
- 14 - 16 year old students - 09:30am - 15:00pm (as approved under PA/13/01647)
- 16 - 19 year old students - 10:00 - 15:30 (as approved under PA/13/01647)

Social Enterprises

- Nursery/Family Centre between Monday to Friday 07:00 to 20:00 & Saturdays 08:00 to 18:00 hours;
 - Cafe/Restaurant use between Mondays to Friday 07:30 to 22:00, Saturdays 10:00 to 22:00 & Sundays 10:00 to 21:00 hours;
 - Gym/ Sports Hall between Monday to Friday 06:30 to 22:00 & Saturdays and Sundays between 08:00 to 20:00 hours
- 8.6 As consented, it was envisaged that City Gateway would deliver the vocational courses including sport and fitness, IT, customer services, beauty, childcare, media, youth work and hospitality and catering as 'social enterprises' which would interact directly with the community.
- 8.7 The 'social enterprises' approved included a new community café (Use Class A3), staffed by local apprentices; a sports centre with gym, dance studio and indoor sports hall (Use Class D1); a media centre with up to date equipment for music studio, video and graphics work (Sui Generis); an OFSTED certified crèche available to deal with childcare needs (Use Class D1); and a hospitality enterprise able to provide catering services for weddings and functions (Use Class B2). The hospitality enterprise did not include on site hosting of events. It would only involve onsite food preparation.
- 8.8 Strategic Policy SP10 of the CS and policy DM24 of the MDD seek to protect the amenity of residents of the borough. It is considered that the variation to the approved hours of the use will not have an unduly detrimental impact on the adjoining residential community.
- 8.9 At the moment teachers are allowed on site from 7am. The current proposal seeks to allow teachers access to the site from 06.30am. Given the minor scale of the alteration to staff arrival times and that there are no changes proposed to staffing numbers (which will remain at 150 teachers), it is not considered that allowing teachers to access the site half an hour earlier than what was initially approved would have an unduly detrimental impact on the amenity of residents within the area. Furthermore, the alterations to the arrival of staff times are unlikely to significantly alter the existing travel pattern to the school or the modes of transport pr10:00am - 18:00 pm Mondays to Sundays previously agreed in the approved travel plan for the school. .
- 8.10 The second alteration relates to the social enterprise units. This includes a nursery/family centre, café/restaurant and gym/sports halls.
- 8.11 With regard to the Nursery / Family Centre, it is currently allowed to operate between 10 am and 6pm and the applicant is seeking to amend this to 7am – 8pm Monday to Friday and 8am to 6pm on Saturdays. The nursery measures approximately 256 square metres. The nursery is located fronting Mastmaker Road and is not directly adjacent to residential units the nearest being Phoenix Heights to the north approximately 45 metres from the unit. Given the nature of this use it is not considered it would give rise to unduly detrimental impacts to the amenity of local residents. It is not considered that the Nursery / Family Centre would give rise to anti-social behaviour given the nature of the use.
- 8.12 With regard to the café / restaurant use, it is currently allowed to operate between 10 am and 6pm and they are seeking to amend this to 7.30am – 8pm Monday to Friday and 8am to 6pm on Saturdays. The café measures approximately 174 square metres With regard to noise and disturbance officers have consulted the Environmental Health Officer who has raised no objection to these hours of operation. It is noted that the café is approximately 33 metres to the north of Gainsborough House the

nearest residential property. It is considered that these hours of operation are reasonable and would not result in an unduly detrimental impact on amenity of local residents.

- 8.13 With regard to anti-social behaviour and crime, the Crime Prevention Officer has raised no objections to the proposed increase in hours. Whilst, local residents have concerns that such uses would exacerbate existing anti-social behaviour and crime within the area there is no evidence to support this. The contrary is often the case in that active frontages result in more surveillance of the public realm.
- 8.14 With regard to the gym/sports hall, it is currently allowed to operate between 10 am and 6pm and they are seeking to amend this to 6.30am – 10pm Monday to Friday, 10am to 10pm on Saturdays and Sundays. The Gym would be located along the boundary wall with Phoenix Heights to the south and the separation distance between flank walls would be approximately 4.5 metres. However, the main access to the gym would be off Mastmaker Road which is approximately 19 metres from the boundary with Phoenix Heights. With regard to noise and disturbance officers have consulted the Environmental Health Officer who has raised no objection to these hours of operation. It is considered that the proposed hours of operation are reasonable and would not result in any unduly detrimental impact on amenity of local residents. The Gym would be located
- 8.15 With regard to anti-social behaviour and crime, the Crime Prevention Officer has raised no objections to the proposed increase in the hours of operation of the existing use. Whilst, local residents have concerns that such uses would exasperate existing anti-social behaviour and crime within the area there is no evidence to support this.

Conditions

- 8.16 In line with paragraph 3.3 of this report it is proposed to retain the conditions (aside from those varied by this application) which were part of the original decision notice.

Highways

- 8.17 Policy SP07 of the CS states that secondary schools should be located in highly accessible locations and integrated into secondary and main movement routes. Also relevant is policy SP09 of the CS and Policy DM20 in the MDD which seek to ensure that new development has no adverse impacts upon the safety and capacity of the road network by ensuring new development is appropriately located depending on its type and scale with developments generating a higher number of trips to be located in town centres and/or other areas well served by public transport.
- 8.18 Initial comments from the Borough Highway Officer raised concerns about the potential use of the car park at the site after hours. However, further information provided by the applicant has addressed this concern and their objection has been removed.
- 8.19 The Borough Highway Officer has also noted that the Travel Plan will need to be updated to reflect the new hours of operation and this will be achieved through retaining the Travel Plan Condition.

Human Rights

- 8.20 Planning decisions can have Human Rights Act 1998 implications and in terms of relevant provisions of the Human Rights Act 1998, the following are particularly highlighted to Members:-
- 8.21 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- § Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
 - § Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
 - § Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court 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".
- 8.22 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.
- 8.23 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of increased traffic generation on the highway and any noise associated with the use are acceptable and that any potential interference with Article 8 rights would be legitimate and justified.
- 8.24 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.
- 8.25 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.26 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.
- 8.27 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 to be entered into.

Equalities

- 8.28 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.29 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 8.30 The proposal is for a non-denominational mixed sex secondary school which will improve the choice of schools and number of secondary school places within the borough, as such it is considered that any impact in terms of fostering relations and advancing equality with regard to sex, race, religion and belief will be positive.
- 8.31 The proposed works associated with the change of use include creating accessible entrances to the buildings which would make the buildings more accessible at ground floor level which would improve access for persons with a disability. However, it is noted that persons with a disability requiring use of a wheelchair would only be able to access the ground floor level of the school. However, given that they can receive a full teaching experience or visitors can access all the key activities it is considered that this would not result in inequality.
- 8.32 With regard to age, gender reassignment, pregnancy and maternity, and sexual orientation there are no identified equality considerations.

9 CONCLUSION

- 9.1 All other relevant policies and considerations have been taken into account. Planning permission should be supported for the reasons set out in RECOMMENDATION section of this report.

APPENDIX 1

Committee: Development	Date: 15 May 2013	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Mary O'Shaughnessy	Ref No: PA/13/00116 (Full Planning Application)
	Ward: Millwall (February 2002 onwards)

3. APPLICATION DETAILS

Location: Units 24, 26, 28, 30 & 32, Mastmaker Road, London, E14 9UB

Existing Use: Light industrial (B Class Uses)

Proposal: Change of use of existing light industrial units (Use Class B1) (numbers 24, 26, 28, 30 and 32) to a secondary school (Use Class D1) offering vocational courses for 14-19 year olds.

Drawing and documents: Drawings:
099 REV 0, 100 REV 0, 102 REV 0, 103 REV 0, 110 REV 0, 111 REV 0, 201 REV 0, 202 REV 0, 210 REV 0 and 211 REV 0.

Documents:

- CRQ Design and Access Statement REVA, dated January 2013, prepared by R H Partnership Architects.
- Planning and Impact Statement, dated January 2013, prepared by T P Bennett.
- Marketing Report, dated January 2013, prepared by T P Bennett.
- Transport Assessment, Ref: JNY7860-01A, prepared by RPS, dated 16 January 2013.
- Environmental noise survey report, Ref: 12437-R01-C, prepared by Sandy Brown, dated 17 January 2013.
- Energy Strategy Report REV 1.0, prepared by Atkins, dated 18 January 2013.
- Mastmaker Court – School Management Plan, prepared by City Gateway, Dated 18 January 2013.
- Flood Risk Assessment, Ref: 131952 – R1 (0) – FRA, dated February 2013, prepared by Kier.
- Construction Management Plan comprising
 - Kier Construction London Traffic Plan – 4337,

- Kier Construction London City Gateway - TM Plan REVA, and;
- Appendix D Traffic Management.

Applicant: City Gateway

Ownership: City Gateway

Historic Building: None

Conservation Area: None

4. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

- 4.1. 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) as amended, the London Plan (2011) and the National Planning Policy Framework 2012, and have found that:
- 4.2. The proposed loss of light industrial floor space (B Class Uses) is considered acceptable in this instance. The applicant has demonstrated that the units have been vacant for approximately a year and have been actively marketed which accords with the requirements of DM15 of the Managing Development Document (2013). Consideration has also been given to the sites location within the Millennium Quarter site allocation within the Managing Development Document (2013), in that this does not require the assessment of the loss of employment floor space to comply with DM15 for strategic redevelopments. As such, the loss of employment floor space accords with strategic policy SP06 of the Core Strategy (2010) and DM15 of the Managing Development Document (2013).
- 4.3. The change of use to a secondary school (Use Class D1) is considered acceptable given there is a need for a secondary school in this accessible location and this accords with policy 6.13 of the London Plan (2011), strategic policy SP07 of the Core Strategy (2010) and DM19 of the Managing Development Document (2013) Furthermore, the proposal accords with the National Planning Policy Framework and Planning policy statement – planning for schools development.
- 4.4. With regard to impact on the safety and capacity of the surrounding highway network, subject to management of impacts through the suitable use of conditions the proposed school would not have an unduly detrimental impact on the highway network, and thus accords with strategic policies SP07 and SP09 of the Core Strategy (2010) and DM21 of the Managing Development Document (2013) which seek to manage the impact of new development on the borough highway network.
- 4.5. The proposal includes minor alterations which are considered acceptable and in keeping with the design and appearance of the host building and accord with strategic policy SP10 of the Core Strategy (2010) and policy DM24 of the Managing Development Document (2013). These policies seek to ensure appropriate design within the borough.
- 4.6. It is not considered that the proposed development would have an unduly detrimental impact on the amenity of existing residents which accords with strategic policy SP10 of the Core Strategy (2010) and policy DM25 of the Managing Development

Document (2013). These policies seek to protect the amenity of residents of the borough.

5. RECOMMENDATION

- 5.1. That the Committee resolve to GRANT planning permission.
- 5.2. That the Corporate Director Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:
- 5.3. **Conditions**
- Compliance:
- § Time Limit for implementation 3 years
 - § Compliance with plans
 - § Compliance with Construction Management Plan
 - § Compliance with School Management Plan
 - § Compliance with hours of operation (07:00 – 23:00)
- Prior to Commencement
- § Contamination
- Prior to Occupation:
- § Travel Plan including details of management of short stay car parking spaces.
 - § Delivery and Servicing Plan
 - § Flood Evacuation Plan
 - § Energy
 - § Post completion testing to demonstrate best endeavours to comply with Building Bulletin 98 with regard to noise.
- 5.4. **Informatives**
- § Consultation with School Travel Plan Officer

6. PROPOSAL AND LOCATION DETAILS

Proposal

- 6.1. The proposal is for the change of use of three light industrial units which form part of the Clipper House Industrial Complex to a secondary school (Use Class D1).
- 6.2. The secondary school would be for children aged 14 – 19 and would have capacity for 490 places (115 places for 14 – 16 year olds and 375 places for 16 – 19 year olds) and approximately 150 staff.
- 6.3. The School would be managed and run by City Gateway who are a charity based in Tower Hamlets who run women's projects, youth training, youth centres and a social enterprise hub. Their aim is to assist disadvantaged local communities of Tower Hamlets that haven't benefited from the area's wider economic development. The proposed education centre would assist young people who haven't achieved in mainstream education to enjoy learning, and gain vocational qualifications with the aim to move onto employment or further education.
- 6.4. City Gateway gained 'Free School' status in early 2012 from the Department for Education (DfE). They opened a Free School in September 2012 and currently are based at Ensign Court, Ensign Street and Limehouse Youth Centre, Limehouse Causeway. They currently have a capacity for 266 places and provide vocational

training for 14 – 19 year olds. The intention is to move the Free School to Clipper House should planning permission be granted for the change of use.

Site and Surroundings

- 6.5. Clipper House is a light industrial complex located on the western side of Mastmaker Road. There are currently eight units of different sizes within the complex. The units are two storeys in height and are planned around an open courtyard with car parking spaces around the site. Two of the units are in active commercial use by small business: Unit 34 is occupied by Party Ingredients who are Private Caterers and WF Senate are Electrical Supplies Distributors who occupy unit 22.
- 6.6. There is currently a boxing gym (with a ring) operating at Unit 28. However, there is no evidence on the statutory planning register that planning permission was ever granted for this use. It would appear that the use of the unit as a boxing gym is unauthorised and this is further discussed within the planning history section of this report. Prior to the use of the unit as a boxing gym it may have been in use as a church which was also unauthorised.
- 6.7. The site is neither listed nor located within a conservation area. There are no designated heritage assets within the immediate vicinity of the site.
- 6.8. The site forms part of the Millennium Quarter site allocation within the Managing Development Document (MDD) which sets out the vision for the development of the area.
- 6.9. Clipper House is one of the last remaining light industrial uses within the site allocation boundary. This marks the transition that has occurred from a mainly industrial area to a more residential area. Directly to the north of the site is Phoenix Heights which is a residential development with commercial uses at ground floor level. To the east of the site is the old Guardian Press Office site. All of the buildings have been demolished and the site is currently surrounded by a hoarding. The site is subject to pre-application discussions. To the south of the site is Gainsborough House which is a residential development. To the west of the site is a row of terraced houses which front Alpha Road. Numbers 9 – 41 Alpha Road have rear gardens which face onto the application site.
- 6.10. **Relevant Planning History**
- 6.11. **PA/97/00651** – The LPA granted planning permission on the 14 August 1997 for Unit 26 for the “Change of use from B1/B8 to car servicing and valeting.”
- 6.12. **ENF/13/00077** – The planning enforcement team are investigating the unauthorised use of unit 28 as a boxing gym (with a ring).

7. POLICY FRAMEWORK

- 7.1. For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items.
- 7.2. The Managing Development Document was adopted by Full Council on 17th April 2013. As such it has full weight as part of the Council’s ‘development plan’ in determining applications. Full Council also agreed to remove the retained UDP and IPG policies. As such these policies should no longer be used to determine planning applications.

- 7.3. Please note that Full Council also agreed to change the name of the document from the Managing Development DPD to the Managing Development Document.”
- 7.4. The following policies are relevant to the application:
- 7.5. **Government Planning Policy Guidance/Statements**
National Planning Policy Framework (March 2012) (NPPF)
Policy Statement – planning for schools development (August 2011)
- 7.6. **Spatial Development Strategy for Greater London - London Plan 2011 (LP)**
3.18 Educational Facilities
5.1 Climate change mitigation
5.2 Minimising carbon dioxide emissions
5.3 Sustainable design and construction
5.4 Retrofitting
6.1 Strategic approach
6.3 Assessing effects of development on transport capacity
6.7 Better streets and surface transport
6.9 Cycling
6.10 Walking
6.12 Road network capacity
6.13 Parking
- 7.7. **Tower Hamlets Core Strategy (adopted September 2010) (CS)**
SP04 Creating a Green and Blue Grid
SP05 Dealing with waste
SP08 Making connected Places
SP09 Creating Attractive and Safe Streets and Spaces
SP10 Creating Distinct and Durable Places
SP11 Working towards a Zero Carbon Borough
SP12 Delivering placemaking
SP13 Planning Obligations
- 7.8. **Managing Development Document (adopted April 2013) (MDD)**
DM1 Development within the town centre hierarchy
DM2 Local shops
DM14 Managing Waste
DM20 Supporting a Sustainable transport network
DM22 Parking
DM23 Streets and the public realm
DM24 Place sensitive design
DM25 Amenity
DM29 Achieving a zero-carbon borough and addressing climate change
DM30 Contaminated Land
- 7.9. **Supplementary Planning Documents**
Planning Obligations SPG 2012
- 7.10. **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

8. CONSULTATION RESPONSE

- 8.1. The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.
- 8.2. The following were consulted regarding the application:

LBTH Transportation and Highways

Car Parking

- 8.3. The site, despite the moderate PTAL score of 3, is located in an area of good public transport connectivity, within a short walk to DLR services from South Quay station, with nearby onward Jubilee Line connections from Canary Wharf (itself within reasonable walking distance from the site) and several bus routes offering connections to many local destinations. Considering these factors the Borough Highway Officer is content that the location for the school satisfies Core Strategy policy SP07 which seeks to ensure that secondary schools should be located in highly accessible locations, to be integrated into the secondary and main movement routes, as they generate trips from a wider catchment area.
- 8.4. Car parking attached to the units proposed for school use is comprised of a total of 55 spaces. This is a substantial level of car parking and is considered excessive for the proposed use. Highways therefore welcome that the proposals would result in a significant reduction in the number of on-site car parking spaces with seven retained to the rear of the site for use by staff only and five existing spaces will be modified to provide three spaces for disabled users to the front of the site. This level of provision is acceptable.
- 8.5. The applicant also proposes to retain 10 spaces at the front of the site for short stay parking although they have not counted these spaces within the total spaces on site.
- 8.6. The Highway Officer requested further information at the application stage on the management of these spaces including the time limit for occupation, how the school would enforce this and for all operations that take place on the site.
- 8.7. **[Officer Comment:** The applicant spoke with the Borough Highway Officer and provided clarity and further information around this matter.]
- 8.8. Final comments from the Borough Highway Officer advise that it has been agreed that the travel plan should contain a section that would cover the on-going management and monitoring of the short stay car parking spaces by the occupant of site. To secure this, the travel plan condition should be worded as such to ensure this element of the travel plan is secured. The Borough Highway Officer advised this approach was acceptable and that the matter had been resolved.
- 8.9. **[Officer Comment:** The travel plan condition would be worded as requested to ensure detail of the management of the short stay car parking spaces.]

School Travel Plan

- 8.10. It is noted that a draft School Travel Plan (STP) has been submitted by the applicant. A final version should be secured by planning condition and should be developed following the guidance of the School Travel Plan officer.

- 8.11. A STP should include a section on the management of the short stay car parking spaces located to the east of unit 28.
- 8.12. **[Officer Comment:** A STP would be secured via condition as requested. The applicant would be advised via an informative to develop the STP in conjunction with the Council's STP Officer.]

Cycle Parking

- 8.13. The level of cycle parking proposed is in excess of the LBTH and London Plan minimum requirements for students, staff and visitors and is welcomed in this respect. The plans show that all parking provision will be of the Sheffield stand type preferred by Highways.
- 8.14. The Borough Highway Officer had requested that the stands be sheltered and that there should be separate allocation for staff and students.
- 8.15. **[Officer Comment:** Following discussions with the applicant it was established that their preference would be to have uncovered cycle shelters in order to avoid the shelters being used as smoking areas. They also noted that they would prefer to have the cycle parking allocation linked to the year group's location in order to encourage cycling. However, they did note that this would be monitored through the STP.]
- 8.16. Final comments from the Borough Highway Officer advised this approach was acceptable and that the matter had been resolved.

Servicing

- 8.17. The applicant proposes the school will use the internal car parking areas - predominantly the internal courtyard - for deliveries and service vehicles in keeping with the existing arrangements, which the Highways officer considers acceptable. The applicant proposes to maintain the existing waste collection arrangements; the Waste management team should be consulted on this.
- 8.18. **[Officer Comment:** The Waste Management Team were consulted and raised no objection to the proposals.]

Construction

- 8.19. Mastmaker Road is a relatively narrow street. Construction vehicles parked on the kerbside adjoining the application site would block the passage vehicles attempting to pass on this section. To help ensure that construction of the development proceeds with the minimum amount of disruption to the safety and operation of the highway network use of the on-site parking areas should be maximised. The detailed arrangements for this should be presented for approval (by Highways) in a Construction Management plan (CMP); to be secured by condition.
- 8.20. **[Officer Comment:** A CMP has been submitted and reviewed by the Borough Highway Officer who has no further queries with regard to this matter. The CMP would be approved as part of the approved documents and would need to be complied with. No further information is required with regard to the CMP.]

Conclusion

- 8.21. Highways sought further information as outlined above, and annotated in 'officer comments'. Subject to relevant conditions, the Highways section are supportive of the proposal.

LBTH Environmental Health – Contaminated Land

- 8.22. The submitted Phase 1 Report has been reviewed. It was noted that this appeared to be a scoping report. However, from a review of the design and access statement it is evident there would be limited ground works. However, there is concern with regard to the outdoor nursery play area.
- 8.23. It is recommended that soil samples are retrieved and tested from all areas of landscaped area, with appropriate remedial works if required to be carried out prior to occupation.
- 8.24. A full blown contaminated land condition might be too onerous but alternative wording has been suggested which would suffice.
- 8.25. **[Officer Comment:** The requested condition would be attached as requested.]

LBTH Environmental Health – Noise and Vibration

- 8.26. The proposed development shall comply with the requirement of the Building Bulletin 93 (Acoustics of Schools) and Regulation E4 of Building Regulation Approved Document E 2003, which requires the following:
- “Each room or other space in a school building shall be designed and constructed in such a way that it has the acoustic conditions and the insulation against disturbance by noise appropriate to its intended use.”*
- 8.27. The noise survey submitted by Sandy Brown Associates on-behalf of the developer has been reviewed and the noise levels for the Plant appear to meet BS4142 criteria of L90 - 10dB(A) at the nearest facade. Planning can therefore be considered.
- 8.28. **[Officer Comment:** The applicant has advised that given the constraints of the existing building they may not be able to fully comply with BB93. It is suggested that the condition be worded that they use best endeavours to comply with BB93. It is noted that the DfE have previously advised that Free School are required to comply with the Independent School Regulations and that Ofsted would be carrying out separate review to ensure they are satisfied the building complies with the relevant standards. As such, officers consider it is sufficient to require the developer to use best endeavours to accord with BB93.]

LBTH Plan Making Team

- 8.29. The Plan Making Team raise no objection to the principle of the loss of the employment floor use or the proposed educational use.

Directorate of Education, Social Care & Wellbeing

- 8.30. City Gateway has worked with the Council providing work-based learning. This proposal will allow continuing partnership working with local schools. Additional youth provision out of normal school hours will contribute to the range services available for young people.

Environment Agency

- 8.31. The Environment Agency (EA) raised an objection to the application because a Flood Risk Assessment (FRA) had not been submitted with the application.

- 8.32. The applicant submitted an FRA and the EA removed their objection. They also advised that the FRA identified that a flood evacuation plan could be developed if deemed necessary. The requirement for a flood evacuation plan is a matter for the council to determine.
- 8.33. **[Officer Comment:** A flood evacuation plan would be secured via condition should planning permission be granted.]

LBTH Energy

- 8.34. The submitted information outlines the intentions to reduce energy CO2 emissions through energy efficiency measures and system upgrade works.
- 8.35. The energy officer considers this appropriate in this specific instance due to the application being a change of use application and not including any extensions or new build works.
- 8.36. The energy strategy notes that the upgrades will deliver CO2 savings of 19% compared to Building Regulation L2B requirements.
- 8.37. If a recommended for approval the energy officer recommends that a condition be attached for the applicant to submit full details of the proposed energy efficiency and system upgrade works to deliver a minimum 19% reduction in CO2 emissions. The appropriate energy modelling output sheets must be submitted to demonstrate CO2 savings achievable.
- 8.38. **[Officer Comment:** This matter would be secured via condition should planning permission be granted.]

9. LOCAL REPRESENTATION

- 9.1. A total of 215 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 on site and in the local press. The number of representations received from neighbours and local groups in response to notification and publicity of the application to date are as follows:

No of individual responses 3 Objecting: 2 Supporting: 1
No of petitions received: 1 in objection with 35 signatures

- 9.2. 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. For completeness, all issues raised are summarised. The full representations are available to view on the case file.
- 9.3. Concern about an increase in anti-social behaviour given there are already problems within the area.
- 9.4. Concern about increased noise levels as a result of the educational use.
- 9.5. Concern about the security of local residents.

- 9.6. **[Officer Comment:** With regard to security concerns of local residents it is noted that this relates to existing crime within the area. It is noted that there is no direct link between educational uses and an increase in crime. Furthermore, the activity created by the café and beauty salon would increase surveillance within the area. Finally, the school would be well managed and this would be secured via a School Management Plan. As such, it is not considered that the proposed use would have an unduly detrimental impact on security of local residents.]
- 9.7. A petition was submitted which raised concern because they believe the impact on the local community and its existing businesses; traders and residents would be negatively affected.
- 9.8. **[Officer Comment:** The submitted petition provides no further details about the type of concerns raised. However, the impacts of the proposal are discussed in full within the main body of the report.]

10. MATERIAL PLANNING CONSIDERATIONS

- 10.1. The main planning issues raised by the application that the committee must consider are:
- § Land Use
 - § Highways
 - § Amenity
 - § Design and Layout
 - § Energy and Sustainability
 - § Planning Contributions and Community Infrastructure Levy
 - § Human Rights
 - § Equalities

Land Use

- 10.2. The site currently provides 3741 square metres of vacant commercial floor space (B Class Uses) arranged over five units within the Clipper House Complex. The main pedestrian and vehicular access is from Mastmaker Road.
- 10.3. The proposal is for the change of use of units 24, 26, 28, 30 and 32 to an education use. City Gateway would run the vocational secondary school as a Free School receiving funding direct from the Department for Education (DfE).
- 10.4. Unit 24 and 26 are located in the north-eastern corner of the site and would provide teaching and training space for 14-16 year old students. These units would include an outdoor seating area and hub where students could have lunch. The training of 14 – 16 year olds who are still required to be in full time education would be more in keeping with a normal secondary school with students attending Monday – Friday. Classes would run from 10am to 4pm. There would be 115 places for 14-16 year olds. For the most part this part of the school would operate solely within units 24 and 26.
- 10.5. Units 28, 30 and 32 are located in the south-western corner of the site. They would provide teaching and training facilities for the 16-19 year old students. There would be 375 places for 16 – 19 year olds and they would visit the site 16 hours a week. They would either attend site Monday – Wednesday or Wednesday – Friday. They would be in training the other two days.

- 10.6. The school includes a nursery, café, media room, and a hair and beauty salon. The purpose of these ancillary uses is to provide on-site training opportunities for students. However, they would also be functioning businesses which would be accessible to the public.
- 10.7. Unit 32 is spread over two floors and contains the main teaching and training spaces and includes a sports hall and gym. The main entrance is from within the site along the northern elevation of Unit 32.
- 10.8. Unit 28 would provide a media facility for students.
- 10.9. Unit 30 would provide a nursery at ground floor level. The nursery would be accessed from the east (off Mastmaker Road) and would have a drop-off and pick-off area in front of the unit. There would also be an enclosed play area for the nursery students at the rear of the unit.
- 10.10. Unit 32 provides the main teaching and training areas. However it would also include a café fronting Cassilis Road. Adjacent to the café would be a hair and beauty salon.

Loss of Employment Space:

- 10.11. The application site forms part of the Millennium Quarter site allocation within the Managing Development Document (2013) (MDD). The allocation site is 22.29 hectares. The vision for the site allocation is for a comprehensive mixed use development to provide a strategic housing development and a district heating facility. Future development would also include commercial floor space, open space and other compatible uses.
- 10.12. DM15 (1) of the adopted MDD aims to protect active and viable employment uses unless it can be shown, through a marketing exercise, that the site has been actively marketed (for approximately 12 months) or that the site is unsuitable for continued employment use due to its location, viability, accessibility, size and condition. Paragraph 15.4 of the supporting text outlines that this part of the policy doesn't apply to site allocations albeit it clarifies that this is to allow the strategic redevelopment of these site allocations. It is noted that this is a change of use application and not a comprehensive redevelopment of the site.
- 10.13. A Marketing Report prepared by TP Bennett was submitted with the application.
- 10.14. Unit 30 and 32 have been vacant since 2009. They were first marketed by PSK Knighton based in the West End from early 2009. This involved placing boards on the units as well as putting details on various property systems and mailing exercises. From mid – 2012 Colliers CRE took over the marketing and undertook similar exercises.
- 10.15. Unit 24 and 26 have been vacant since 2011.
- 10.16. With regard to the Boxing gym located in Unit 28, the Planning Enforcement Team have advised that from the information available it is likely the use began in April 2010 as that is when they first started paying Business rates for the property. There is no further information on Council records and no planning permission for this use has ever been granted; as such the use is not lawful, due its being only three years in situ. Given, this is an unlawful use its loss can be considered and furthermore it is noted that the unit may have been vacant if it had not been occupied by an unlawful

use. Notwithstanding, the applicant has advised that they are assisting the boxing gym with finding a new location.

- 10.17. During March and April 2012 Richard Hull Property Consultants acting for the owner undertook a further marketing exercise for all the units which included sending out 4200 letters. The site was also advertised via various property databases. Essentially, circa 500 commercial/industrial agents within London would have been aware the property was being marketed. Onsite boards were also erected.
- 10.18. As a result of this marketing campaign very little interest from traditional industrial/warehouse operators was received. They did receive several enquiries from alternative users such as gyms/sport halls and City Gateway who are the applicant for this application.
- 10.19. During site visits marketing boards were observed.
- 10.20. In conclusion, four of the units have been vacant for some time, two since 2009 and two since 2011. During this time they have been actively marketed. Unit 28 has also been marketed however, there has been occupied by a boxing gym which is unlawful.
- 10.21. The marketing report has been examined and in light of the fact that DM15 (1) doesn't apply to site allocations is considered sufficient in this instance to demonstrate that the units have been vacant for more than a year and that they have been marketed. To conclude, the loss of employment floor space accords with policy and would be acceptable in this instance.

Principle of School:

- 10.22. The proposal is for the change of use to a secondary school (Use Class D1) and this section of the report will focus on the land use implications of the proposed educational use.
- 10.23. The NPPF states that:
- “The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*
- § give great weight to the need to create, expand or alter schools;*
 - § and work with schools promoters to identify and resolve key planning issues before applications are submitted.”*
- 10.24. Furthermore, Policy Statement – planning for schools development clearly states that:
- “There should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework.”*
- 10.25. State-funded schools are defined by the policy statement and include ‘Free Schools’.
- 10.26. Policy 3.18 of the London Plan supports proposals which enhance education and skills provision including change of use to educational purposes. It continues to state that:

“Proposals for new schools should be given positive consideration and should only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions or obligations.”

10.27. The policy also supports proposals which maximise the extended or multiple use of educational facilities for community or recreational use. Finally the policy encourages co-location of services between schools to maximise land use.

10.28. Part 2, of strategic policy SP07 of the Core Strategy (2010) (CS), seeks to increase the provision of both primary and secondary education facilities to meet an increasing population. Part 3, of the policy sets out the criteria for the assessment of new secondary schools and states that:

“Secondary schools should be located in highly accessible locations, to be integrated into the secondary and main movement routes, as they generate trips from a wider catchment area.”

10.29. Part 3 of the policy supports co-location and clustering of services as well as the encouragement of the use of schools after hours.

10.30. DM18 of the MDD sets out criteria for the assessment of new schools and states that they should be located where:-

- i. a site has been identified for this use or a need for this use has been demonstrated;
- ii. the design and layout accords with relevant standards;
- iii. for existing schools, there is no net loss of school play space; and
- iv. the location of schools outside of site allocations ensure accessibility and an appropriate location within their catchments.

10.31. The proposal is for the creation of new vocational secondary school (Use Class D1) which is not located on an allocated school site. Policy advises that the location of new schools will be guided by the criteria listed above. This provides a positive approach to the development of state funded schools including ‘free schools’, ensuring they are located where they can be easily accessed and that they provide a high quality teaching environment.

10.32. Given the site is not allocated for an education use, consideration is given to the need for a new secondary school. The Children, Schools and Families Directorate have advised that there is a steeply rising need for additional school places in Tower Hamlets. The population is rising due to both rising birth rates and new residential developments. In the period 2012 to 2022 it is projected that the total school roll of 5 -16 year olds in Tower Hamlets will increase by 38%, from 34,172 to 47,069. This equates to a need for 12,897 additional school places. As such, the proposal accords with part (i) of the policy given there is a need for additional secondary school places within the borough. Furthermore, it is noted that the need for a secondary school within this area has also been assessed by the Department for Education as part of the application for funding for a ‘Free School’. In conclusion the proposed vocational secondary school would have a capacity of 490 spaces would contribute to the delivery of secondary school places in accordance with policy.

10.33. With regard to part (ii) design and layout this is discussed at paragraphs 8.75 - 8.81 of this report. Part (iii) does not apply in this instance given the proposal does not involve the loss of school play space.

- 10.34. The Borough Highway Officer has advised that despite the Public Transport Accessibility Level (PTAL) of 3 the site is located within an accessible location as evidenced by the local bus routes, South Quay DLR and access to the Jubilee Line at Canary Wharf. With regard to part (iv) of the policy it is noted that the site is located in an accessible location. The catchment for the school would be borough wide and in light of the accessible location students would be able to access the school by public transport from around the borough. As such, the proposed location would be acceptable with regard to part (iv) of the policy.
- 10.35. To conclude, in land use terms, the principle of an educational use accords with policy given there is a need for a new secondary school and it meets the other tests of the policy. Furthermore, it accords with national policy which encourages educational uses.
- 10.36. The applicant has made reference to their intention to allow local community groups use the school outside of school hours. The principle of shared facilities and co-location is promoted by policy and the sharing of school facilities would be acceptable.
- 10.37. City Gateway deliver a number of vocational courses including sport and fitness, IT, customer services, beauty, childcare, media, youth work and hospitality and catering that also work as 'social enterprises' and interact directly with the community.
- 10.38. The 'social enterprises' would range from a new community café (Use Class A3), staffed by local Apprentices; a sports centre with gym, dance studio and indoor sports hall (Use Class D1); a media centre with up to date equipment for music studio, video and graphics work (Sui Generis); an OFSTED certified crèche available to deal with childcare needs (Use Class D1); and a hospitality enterprise able to provide catering services for weddings and functions (Use Class B2). The hospitality enterprise would not include on site hosting of events. It would only involve onsite food preparation. These would all be ancillary uses associated with the secondary school.
- 10.39. These 'social enterprises' would provide services to members of the local community; a number would be accessible during the day time such as the cafe and a number also available in the evening and weekends such as the community gym and sports hall. These 'social enterprises' would develop employment opportunities for local people in the area as well as bring much needed community services.
- 10.40. The proposed nursery use (Use Class D1) is suitably sited facing Mastmaker Road where there would be a drop-off and pick-up zone for parents. Furthermore, dedicated play space for the nursery use would be available at the rear of the existing unit.
- 10.41. As part of the proposal, the vocational school would have a café (use class A3) where students would receive training about the services industry. The café would face the corner of Mastmaker Road and Cassilis Road, which forms part of unit 32. Local residents could also use the café, which would have an entrance from Cassilis Road.
- 10.42. The proposed 'social enterprises' would be ancillary to the main education use of the units and would form an integral part of the vocational teaching offer. In land use terms, the principle of the ancillary 'social enterprises' would be acceptable and accord with policy. Furthermore, the ancillary uses associated with the vocational

secondary school fit in with the overall vision of City Gateway and would contribute to creating employment opportunities both for students and local residents.

Highways

- 10.43. Policy SP07 of the CS states that secondary schools should be located in highly accessible locations and integrated into secondary and main movement routes. Also relevant is policy SP09 of the CS and DM20 of the MDD which seek to ensure that new development has no adverse impacts upon the safety and capacity of the road network by ensuring new development is appropriately located depending on its type and scale with developments generating a higher number of trips to be located in town centres and/or other areas well served by public transport.
- 10.44. The proposal is for the creation of a new vocational secondary school with a maximum capacity of 490 places for students and 150 teachers and staff.
- 10.45. The site is accessible by public transport with bus stops located a short walk away on Marsh Wall. The bus stops on Marsh Wall are approximately a two to three minute walk from the proposed school site (approximately 190 metres). There is also a bus stop at Westferry Road (Byng Street stop) to the west of the site which is approximately 400 metres from the site (four to five minute walk). The area has a Public Transport Accessibility Level (PTAL) of 3 which indicates 'moderate' level of accessibility.
- 10.46. There are a total of five bus routes operating within 400 metres of the site. The service from Stratford to Asda (Crossharbour) stops at the Marsh Wall bus stops. The D3 (London Chest Hospital to Asda (Crossharbour)), D7 (Poplar to Mile End Station), 135 (Moorefield's Eye Hospital to Asda (Crossharbour)), and N550 (Trafalgar Square to Canning Town Station) services stop at Westferry Road (Byng Street Stop). These services provide links to Canary Wharf, Poplar, Bow, Stratford, Shoreditch, Liverpool Street and Limehouse.
- 10.47. South Quay DLR station is located four to five minute walk of the proposed school site (approximately 380 metres). Finally the centre of Canary Wharf, including the Jubilee Line station is approximately six to seven minute walk from the proposed school site (circa 550 metres).
- 10.48. Mastmaker Road routes traffic north to south. It is a single carriageway road and is street lit along its length with footways on either side of the carriageway up to four metres in width. Mastmaker Road provides access to various business units and residential units and is subject to a 30 mile per hour speed restriction.
- 10.49. The site has existing vehicular access from Mastmaker Road. The site has a total of 84 car parking spaces with 38 spaces at the front of the units facing onto Mastmaker Road, 17 spaces within around the central courtyard within the site and 29 spaces at the rear of the site.
- 10.50. The main pedestrian entrance to the school would be from Mastmaker Road. Students would arrive at the school between 08:30 and 10:00 each school day, the vast majority arriving by foot. During the morning arrival window, City Gateway staff would be in attendance both outside and inside the campus area to ensure safe and timely arrival of the students to the training units. There would be designated pupil walkways to ensure that students use the safest access route to their building. This would also serve to minimise disruption to the existing trading commercial units.

- 10.51. During the school day there would be very little movement between the buildings. Break and lunch times would be staggered and students would not be allowed to leave the training units without prior agreement. Any students moving between buildings, for example to use the sports facilities would be accompanied by a member of staff.
- 10.52. At the end of the teaching day (16:00) staff would be in attendance outside when the students leave the campus to ensure their safe and timely dispersal.
- 10.53. Servicing, disabled parking, cycle parking and refuse would all be provided on-site.

Car Parking and Cycle Parking:

- 10.54. There are a total of 84 existing car parking spaces on site of which City Gateway would be allocated 55. City Gateway do not intend to use all of the spaces and this is welcome given the level of provision would not accord with maximum parking standards within the MDD.
- 10.55. City Gateway School would retain ten car parking spaces for the use of staff only. Three would be accessible spaces located to the front of unit 30. The level of car parking provision is acceptable and accords with policy.
- 10.56. There would also be pick-up and drop-off zone to the front of unit 28 for the use of the nursery. The reduced level of car parking would be acceptable and accord with policy.
- 10.57. There would be 84 cycle parking spaces which exceed policy standards which require a provision of 64 cycle stands. The type of stands would be Sheffield stands which accords with policy. It had been requested that details of shelters for the stands be provided. However, following further discussion with the applicant it was established that the reason for not providing a shelter was to ensure the bike stands would not be used as a smoking shelter. On balance officers consider that in this instance the provision of uncovered cycle parking would be acceptable.
- 10.58. With regard to the provision of separate cycle parking for staff and students this would be monitored by the travel plan. The borough highway officer has accepted the principle of having mixed provision given this allows allocation of cycle parking to the different units.
- 10.59. Subject to control of the drop-off and pick-up zone to ensure this is not used for car parking, the level of car parking provision and cycle parking provision is considered acceptable and accords with policy DM22 and the parking standards within the MDD. The management of the drop-off and pick-off zone would be managed via the School Travel Plan.

Travel Plan:

- 10.60. The purpose of a School Travel Plan is to encourage sustainable means of transport for staff, students and visitors. A draft travel plan has been provided by the applicant which has been reviewed by the Borough Highway Officer. A final version would be secured via condition and this should be developed in conjunction with the Council's School Travel Plan Officer.

Servicing:

- 10.61. The applicant proposes the school would use the internal car parking areas - predominantly the internal courtyard - for deliveries and service vehicles in keeping with the existing arrangements. The Borough Highway Officer agrees that this would

be acceptable. The applicant proposes to maintain the existing waste collection arrangement. The Waste management team have raised no objection to this.

- 10.62. It is not considered that the servicing of the existing two units which are in commercial use would be unduly affected by the proposed school. They would retain their existing parking and servicing arrangements. Furthermore, students would not be wandering independently between buildings during the day. If students needed to move between units they would be accompanied by staff and this is set out in the School Management Plan. Compliance with this plan would be secured via condition.
- 10.63. Pedestrian routes around the site for students would be clearly delineated as shown on plan number 700 REVCP1. Furthermore, at arrival and departure times staff would be supervising students. It is considered that all of these measures would ensure the safety of students and also ensure servicing of the existing units could continue.

Construction:

- 10.64. To help ensure that construction of the development proceeds with the minimum amount of disruption to the safety and operation of the highway network, use of the on-site parking areas should be maximised.
- 10.65. The applicant has provided a Construction Management Plan (CMP) which has been reviewed by the Borough Highway Officer, who is satisfied with the details. As such, a condition to ensure compliance with the CMP would be attached to the planning permission.

Conclusion:

- 10.66. The proposed site is located in an accessible location which satisfies policy requirement of SP07 of the CS which requires secondary schools to be located in accessible locations. Furthermore, the level of car and cycle parking accords with policy. The servicing and waste collection would happen on site which would be acceptable. Finally, construction impacts have been considered and would limit impact on the highway. Subject to the provision of a Travel Plan, the development would be carried out in accordance with the CMP; it is considered that the proposed development would not have an unduly detrimental impact on the safety and capacity of the surrounding highway network.

Amenity

- 10.67. Strategic policy SP10 of the CS and policy DM24 of the MDD seek to protect the amenity of residents of the borough.

Overlooking and loss of privacy:

- 10.68. No new windows are proposed which would affect the existing levels of indivisibility between the site and the surrounding residential properties.
- 10.69. There would be a new outdoor area for the use of students to the rear of unit 26 which would be located adjacent to the boundary with the rear gardens of the residential properties along Alpha Grove. In order to limit overlooking there would be a boarded boundary fence of 1.8 metres in height painted to match the existing boundary treatment along the northern site boundary. The fence would sit on top of an existing 600mm brick wall. At this point there is a change in gradient which means the neighbour gardens along Alpha Grove are 1.2 metres lower. This would mean

that the proposal would not lead to unduly detrimental impacts with regard to overlooking into these gardens.

Noise, Vibration and Fumes:

- 10.70. With regard to noise impacts, bringing the vacant units back into use would result in increased noise from the new users. The hours of operation of the school would be from 07:00 – 23:00. It is noted that there is an intention to allow community groups to use the school facilities for meetings after school hours which is why the hours of operation would be until 23:00. It is not considered that these hours of operation are unreasonable given the urban location.
- 10.71. The details of how the outdoor seating area at the rear of unit 28 would be managed are detailed within the School Management Plan. This area is overlooked by training rooms and would be supervised at all times. Furthermore, the use of this space would be during school hours only (10:00 – 16:00, Mon-Fri), during which some noise is to be expected.
- 10.72. With regard to noise during construction this is managed by environmental health legislation. The hours of construction would be 8am – 6pm Monday to Friday, 8am – 1pm on Saturdays with no works allowed on Sundays and Bank Holidays.
- 10.73. The proposed school would have a kitchen and a cafe which would serve hot and cold food and would require the installation of plant and flue. The applicant has submitted a noise report which has been reviewed by the Environmental Health Noise Officer who is satisfied with the details submitted and has requested no further details.

Conclusion:

- 10.74. Given, there are no new extensions there would be no impact with regard to daylight and sunlight. To conclude, it is not considered that the proposed development would have an adverse impact on the amenity of surrounding residents which accords with policy.

Design and layout

- 10.75. Strategic policy SP10 of the CS and policies DM23 and DM24 of the MDD, seek to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds.
- 10.76. The existing units are two storeys in height and only minor external works are proposed. This includes improving entrances to ensure they are accessible.
- 10.77. Two outdoor spaces are proposed. The first space would be associated with the ancillary nursery use within unit 30. The play area would have an all-weather play surface and it would be bounded by a 1.8 metre high fence.
- 10.78. The second outdoor space would be provided at the rear of unit 26 and would provide outdoor seating for students during break times. This space would be bounded by a 1.8 metre boarded fence on top of an existing 600mm brickwork wall. As such there would be limited impact with regard to design and external appearance of the building as a result of this application.
- 10.79. New plant is proposed on the roof of the existing café, which would be screened. The design and siting is considered acceptable given the industrial context of the units.

- 10.80. Other minor works include enlargement of doors, creation of level access, and removal of roller shutters and insertion of curtain walling. All of these works are relatively minor and in keeping with the host building.
- 10.81. With regard to the proposed school, given it's a vocational school; the former industrial units suit the needs of City Gateway. With regard to policy DM18 (d) part (ii) which requires schools to comply with the relevant standards, the Department of Education has previously confirmed that the independent schools need to comply with the Independent School Standards. Ofsted would carry out an assessment to ensure the school meets the necessary standards.

Energy and Sustainability

- 10.82. Climate change policies are set out in Chapter 5 of the London Plan, strategic policy SP11 of the Core Strategy and policy DM29 of the MDD. These collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.
- 10.83. The London Plan sets out the Mayor of London's energy hierarchy which is to:
- § Use Less Energy (Be Lean);
 - § Supply Energy Efficiently (Be Clean); and
 - § Use Renewable Energy (Be Green).
- 10.84. The London Plan 2011 includes the target to achieve a minimum 25% reduction in CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy (Policy 5.2).
- 10.85. Policy SO3 of the CS seeks to incorporate the principle of sustainable development, including limiting carbon emissions from development, delivering decentralised energy and renewable energy technologies and minimising the use of natural resources. Strategy policy SP11 of the CS requires all new developments to provide a 20% reduction of carbon dioxide emissions through on-site renewable energy generation.
- 10.86. Policy DM29 of the MDD requires sustainable design assessment tools to be used to ensure the development has maximised use of climate change mitigation measures. At present the current interpretation of this policy is to require non-residential schemes to achieve a BREEAM Excellent rating.
- 10.87. The submitted information for the scheme being considered outlines the intentions to reduce energy CO2 emissions through energy efficiency measures and system upgrade works.
- 10.88. This is considered appropriate in this specific instance due to the application being a change of use application and not including any extensions or new build works.
- 10.89. The energy strategy notes that the upgrades will deliver CO2 savings of 19% compared to Building Regulation L2B requirements as set out in document L2B. This document forms part of the approved Building Regulations documents which set out the requirements for compliance. Document L2B relates to conservation of fuel and power in existing buildings other than dwellings.

- 10.90. The Borough Energy Officer has recommend that if planning permission were to be granted a condition should be attached for the applicant to submit full details of the proposed energy efficiency and system upgrade works to deliver a minimum 19% reduction in CO2 emissions. The appropriate energy modelling output sheets would be required to demonstrate CO2 savings achievable. This condition would be attached as requested.
- 10.91. In conclusion, given this is a change of use of an existing industrial building the energy and sustainability measures are considered acceptable and subject to conditions the proposal accords with the relevant energy policies.

Planning Contributions and Community Infrastructure Levy

- 10.92. Regulation 122 of CIL Regulations 2010 brings into law policy tests for planning obligations which can only constitute a reason for granting planning permission where they meet the following tests:
- § Necessary to make the development acceptable in planning terms;
 - § Directly related to the development; and
 - § Are fairly and reasonably related in scale and kind to the development.
- 10.93. This is further supported by policy SP13 of the CS which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development.
- 10.94. The general purpose of S106 contributions is to ensure that development is appropriately mitigated in terms of impacts on existing social infrastructure such as health, community facilities and open space and that appropriate infrastructure to facilitate the development.
- 10.95. The Council's Supplementary Planning Document on Planning Obligations was adopted in January 2012, and sets out the criteria for assessing the need for financial contributions. The proposal is for an educational use and as such does not trigger the need for financial contributions.
- 10.96. The proposed development is not liable for CIL.

Human Rights

- 10.97. Planning decisions can have Human Rights Act 1998 implications and in terms of relevant provisions of the Human Rights Act 1998, the following are particularly highlighted to Members:-
- 10.98. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- § Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;

- § Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- § Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court 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".

10.99. 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.

10.100. Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of increased traffic generation on the highway and any noise associated with the use are acceptable and that any potential interference with Article 8 rights would be legitimate and justified.

10.101. 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.

10.102. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

10.103. 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.

10.104. 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 to be entered into.

Equalities

10.105. The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-

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

10.106. The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

10.107. The proposal is for a non-denominational mixed sex secondary school which will improve the choice of schools and number of secondary school places within the borough, as such it is considered that any impact in terms of fostering relations and advancing equality with regard to sex, race, religion and belief will be positive.

10.108. The proposed works associated with the change of use include creating accessible entrances to the buildings which would make the buildings more accessible at ground floor level which would improve access for persons with a disability. However, it is noted that persons with a disability requiring use of a wheelchair would only be able to access the ground floor level of the school. However, given that they can receive a full teaching experience or visitors can access all the key activities it is considered that this would not result in inequality.

10.109. With regard to age, gender reassignment, pregnancy and maternity, and sexual orientation there are no identified equality considerations.

11. CONCLUSION

11.1. All other relevant policies and considerations have been taken into account. Planning permission should be supported for the reasons set out in RECOMMENDATION section of this report.

APPENDIX 2

Committee: Development	Date: 12 September 2013	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Mary O'Shaughnessy	Ref No: PA/13/01647 (Variation of Condition)
	Ward: Millwall (February 2002 onwards)

12. APPLICATION DETAILS

Location: Units 24, 26, 28, 30 & 32, Mastmaker Road, London, E14 9UB

Existing Use: Light industrial (B Class Uses)

Proposal: Variation to condition 5 (student numbers) and condition 6 (hours of operation) of planning permission dated 10 July 2013, reference PA/13/00116 for the "*Change of use of existing light industrial units (Use Class B1) (numbers 24, 26, 28, 30 and 32) to a secondary school (Use Class D1) offering vocational courses for 14-19 year olds.*"

1. Variation of Condition 5 (Student Numbers) to limit the maximum number of students on site to 490.
2. Variation of Condition 6 (Hours of Operation) staggering the arrival time of staff and students as follows:
 - Teachers and staff - 07:00 - 23:00
 - 14 - 16 year old students - 09:30 - 15:00
 - 16 - 19 year old students - 10:00 - 15:30
 - Social enterprise units - 10:00 - 18:00

Drawing and documents: Drawings:
099 REV0 (Location Plan)
Documents:

- Planning and Impact Statement, prepared by TP Bennett, dated July 2013.
- City Gateway 14-19 Provision School Management Plan, prepared by City Gateway, dated 7 July 2013.
- Transport Assessment, Document Reference: JNY7860-01A prepared by RPS, dated 16 January 2013.

- Framework School Travel Plan, Document Reference: JNY7860-02A, prepared by RPS, dated 16 January 2013.

Applicant:	City Gateway
Ownership:	City Gateway
Historic Building:	None
Conservation Area:	None

13. Executive Summary

- 13.1. 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) as amended, the London Plan (2011) and the National Planning Policy Framework 2012, and have found that:
- 13.2. The introduction of staggered arrivals and departures for students controlled by condition 6 ensures that the development would not have an unduly detrimental effect on the capacity of the public transport network within the vicinity of the site. Furthermore, in light of this, condition 5 can also be varied to allow a maximum of 490 students on site at any one time.

14. RECOMMENDATION

- 14.1. That the Committee resolve to GRANT the variation of the conditions as set out in the description of development.
- 14.2. That the Corporate Director Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:
- 14.3. **Conditions**

Compliance:

- § Time Limit for implementation 3 years from 10 July 2013 (date of original consent).
- § Compliance with plans
- § Compliance with Construction Management Plan
- § Compliance with School Management Plan
- § Maximum number of Students 490
- § Compliance with hours of operation

Prior to Commencement

- § Contamination

Prior to Occupation:

- § Travel Plan including details of management of short stay car parking spaces.
- § Delivery and Servicing Plan

- ☞ Flood Evacuation Plan
- ☞ Energy
- ☞ Post completion testing to demonstrate best endeavours to comply with Building Bulletin 98 with regard to noise.

14.4. Informatives

- Consultation with School Travel Plan Officer

15. PROPOSAL AND LOCATION DETAILS

Proposal and Background

- 15.1. Planning permission for the change of use of the existing industrial units to a secondary school was granted on the 10th of July 2013. At the Development Committee on the 15 May 2013 members resolved to grant planning permission subject to a number of conditions. The applicant is now seeking to vary two of these conditions.
- 15.2. Given, the applicant is seeking to vary two conditions which were specifically subject to the Members resolution to grant, this matter is being reported back to the Development Committee for decision.
- 15.3. The proposal is for the variation of condition 5 which currently restricts the maximum number of students on site at any one time to 150 and restricts the maximum number of students enrolled to 280. The varied condition would allow a total of 490 students to be on site at any one time and would not restrict the number of students enrolled.
- 15.4. The proposals also seeks the variation of condition 6 which currently restricts the hours of operation of the school as follows:
 - Teachers and Staff – 07:00 – 23:00
 - Students – 09:00 – 23:00
 - Social Enterprise Units – 10:00 – 18:00.
- 15.5. The varied condition would have staggered arrivals and departures and would restrict the hours of operation as follows:
 - Teachers and Staff – 07:00 – 23:00 (would remain as existing)
 - 14-16 year old students – 09:30 – 15:00
 - 16-19 year old students – 10:00 – 15:30
 - Social Enterprise Units – 10:00 – 18:00 (would remain as existing).
- 15.6. The School would be managed and run by City Gateway who are a charity based in Tower Hamlets who run women's projects, youth training, youth centres and a social enterprise hub. Their aim is to assist disadvantaged local communities of Tower Hamlets that haven't benefited from the area's wider economic development. The proposed education centre would assist young people who haven't achieved in mainstream education to enjoy learning, and gain vocational qualifications with the aim to move onto employment or further education.
- 15.7. City Gateway gained 'Free School' status in early 2012 from the Department for Education (DfE). They opened a Free School in September 2012 and currently are based at Ensign Court, Ensign Street and Limehouse Youth Centre, Limehouse Causeway. They currently have a capacity for 266 places and provide vocational

training for 14 – 19 year olds. The intention is to move the Free School to the site and begin operations in early September.

Site and Surroundings

- 15.8. Clipper House and Mastmaker Quay, is a light industrial complex located on the western side of Mastmaker Road. There are currently eight units of different sizes within the complex. The units are two storeys in height and are planned around an open courtyard with car parking spaces around the site. Two of the units are in active commercial use by small businesses: Unit 34 is occupied by Party Ingredients who are Private Caterers and WF Senate are Electrical Supplies Distributers who occupy unit 22.
- 15.9. There is currently a boxing gym (with a ring) and church operating at Unit 28. However, there is no evidence on the statutory planning register that planning permission was ever granted for these uses. It would appear that the use of the unit as a boxing gym and church is unauthorised and this is further discussed within the planning history section of this report.
- 15.10. The site is neither listed nor located within a conservation area. There are no designated heritage assets within the immediate vicinity of the site.
- 15.11. The site forms part of the Millennium Quarter site allocation within the Managing Development Document (MDD) which sets out the vision for the development of the area.
- 15.12. Clipper House and Mastmaker Court, is one of the last remaining light industrial uses within the site allocation boundary. This marks the transition that has occurred from a mainly industrial area to a more residential area. Directly to the north of the site is Phoenix Heights which is a residential development with commercial uses at ground floor level. To the east of the site is the old Guardian Press Office site. All of the buildings have been demolished and the site is currently surrounded by a hoarding. The site is subject to pre-application discussions. To the south of the site is Gainsborough House which is a residential development. To the west of the site is a row of terraced houses which front Alpha Road. Numbers 9 – 41 Alpha Road have rear gardens which face onto the application site.

Relevant Planning History

- 15.13. **PA/13/00116** – The LPA granted planning permission on the 10 July 2013 for the “Change of use of existing light industrial units (Use Class B1) (numbers 24, 26, 28, 30 and 32) to a secondary school (Use Class D1) offering vocational courses for 14-19 year olds.”
- 15.14. **PA/97/00651** – The LPA granted planning permission on the 14 August 1997 for Unit 26 for the “Change of use from B1/B8 to car servicing and valeting.”
- 15.15. **ENF/13/00077** – The planning enforcement team are investigating the unauthorised use of unit 28 as a boxing gym (with a ring) and church.

16. POLICY FRAMEWORK

- 16.1. For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items.

- 16.2. The following policies are relevant to the application:
- 16.3. **Government Planning Policy Guidance/Statements**
National Planning Policy Framework (March 2012) (NPPF)
Policy Statement – planning for schools development (August 2011)
- 16.4. **Spatial Development Strategy for Greater London - London Plan 2011 (LP)**
3.18 Educational Facilities
6.1 Strategic approach
6.3 Assessing effects of development on transport capacity
6.7 Better streets and surface transport
6.9 Cycling
6.10 Walking
6.12 Road network capacity
6.13 Parking
- 16.5. **Tower Hamlets Core Strategy (adopted September 2010) (CS)**
SP08 Making connected Places
SP09 Creating Attractive and Safe Streets and Spaces
SP10 Creating Distinct and Durable Places
- 16.6. **Managing Development Document (adopted April 2013) (MDD)**
DM20 Supporting a Sustainable transport network
DM22 Parking
DM23 Streets and the public realm
DM24 Place sensitive design
DM25 Amenity
- 16.7. **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

17. CONSULTATION RESPONSE

- 17.1. The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.
- 17.2. The following were consulted regarding the application:
- Transport for London (TfL)**
- 17.3. Extensive discussion between the council planning officer, school operator and TfL took place post the granting of the original consent concerning minimising impact to the transport network while enabling the school to function and operate efficiently.
- 17.4. The revised proposal (varying condition 6 – hours of operation) suggested that the school opening hours would be amended as follow, as stated in the application form: Teacher & Staff: 0700-2300hrs, Pre 16 pupils: 0930-1500hrs, 16-19 yrs old: 1000-1530hrs, and social enterprise: 1000-1800hrs.

- 17.5. This is considered acceptable by TfL as students will be generally arriving outside the AM peaks and departing in a staggered manner during the PM; this helps relieve capacity impact to the bus network.
- 17.6. Having regarded the proposed change of operational hour, TfL considers that the suggested revised cap on maximum number of students (varying condition 5 – student number) by the applicant would be acceptable.
- 17.7. To ensure impact to the public transport network would be kept to a minimum; TfL considers that the school management plan be strictly enforced and be secured by condition; the travel plan would also need to be revised to reflect the new proposed arrangement and enrolled into the STAR accreditation scheme.
- 17.8. TfL request the following informative be attached: *“TfL should be consulted on any further changes to the operational hour, number of students on site and changes to the school management plan in future; and may therefore seek an contribution toward public transport service enhancement if deemed necessary in light of change in circumstances in future.”*
- 17.9. Subject to the above are being met, TfL has no objection to the proposal.
- 17.10. **[Officer Comment:** Conditions and informatives would be attached to any permission granted as requested.]

LBTH Transportation and Highways

- 17.11. These conditions were attached to the parent application in response to TfL concerns over the development’s impact on local bus capacity. TfL have responded to the proposed variation to conditions 5 and 6 and are satisfied they can be discharged subject to the school management plan being strictly enforced and secured by condition and a revised travel plan that reflects the new proposed arrangements. The Borough Highway Officer support TfL’s views and has no further comments.
- 17.12. **[Officer Comment:** With regard to who requested the conditions, it is noted that in the first instance a condition restricting the maximum number of students on site was requested by TfL. At the committee meeting Members amended this condition to lower the maximum number of students allowed on site. Should planning permission be attached the conditions as requested would be attached.]

18. LOCAL REPRESENTATION

- 18.1. A total of 218 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 on site and in the local press. No representations have been received from neighbours and local groups in response to notification and publicity of the application.

19. MATERIAL PLANNING CONSIDERATIONS

- 19.1. Section 73 of the Planning Act allows the variation or removal of a condition imposed on a planning permission. This application seeks to vary condition 5 and 6 of the consented permission.

- 19.2. The development which this application under s.73 seeks to amend has been judged acceptable in principle when it was considered at the 15 May 2013 Development Committee where Members resolved to grant subject to conditions. Government advice states that when assessing these types of applications, that local planning authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.
- 19.3. Since the grant of planning permission in July 2013 there have been no changes in national or local policies. As such, this report focuses on the changes sought. However, at appendix 1 there is a copy of the planning report and update report presented to members on the 15 May 2013 to inform members.
- 19.4. The main planning issues raised by the application that the committee must consider are:
- § Highways
 - § Amenity

Highways

Policy Context:

- 19.5. Policy SP07 of the CS states that secondary schools should be located in highly accessible locations and integrated into secondary and main movement routes. Also relevant is policy SP09 of the CS and DM20 of the MDD which seek to ensure that new development has no adverse impacts upon the safety and capacity of the road network by ensuring new development is appropriately located depending on its type and scale with developments generating a higher number of trips to be located in town centres and/or other areas well served by public transport.
- 19.6. The site is accessible by public transport with bus stops located a short walk away on Marsh Wall. The bus stops on Marsh Wall are approximately a two to three minute walk from the proposed school site (approximately 190 metres). There is also a bus stop at Westferry Road (Byng Street stop) to the west of the site which is approximately 400 metres from the site (four to five minute walk). The area has a Public Transport Accessibility Level (PTAL) of 3 which indicates 'moderate' level of accessibility.

Local Area and Site:

- 19.7. There are a total of five bus routes operating within 400 metres of the site. The service from Stratford to Asda (Crossharbour) stops at the Marsh Wall bus stops. The D3 (London Chest Hospital to Asda (Crossharbour)), D7 (Poplar to Mile End Station), 135 (Moorefield's Eye Hospital to Asda (Crossharbour)), and N550 (Trafalgar Square to Canning Town Station) services stop at Westferry Road (Byng Street Stop). These services provide links to Canary Wharf, Poplar, Bow, Stratford, Shoreditch, Liverpool Street and Limehouse.
- 19.8. South Quay DLR station is located within a four to five minute walk of the proposed school site (approximately 380 metres). Finally the centre of Canary Wharf, including the Jubilee Line station is approximately a six to seven minute walk from the proposed school site (circa 550 metres).

19.9. Mastmaker Road routes traffic north to south. It is a single carriageway road and is street lit along its length with footways on either side of the carriageway up to four metres in width. Mastmaker Road provides access to various business units and residential units and is subject to a 30 mile per hour speed restriction.

19.10. The site has existing vehicular access from Mastmaker Road and the main pedestrian entrance to the school would be from Mastmaker Road.

Assessment:

19.11. The application is for the variation of condition 6 (hours of operation) to allow a staggered arrival and departure time for students to alleviate the impact of the development on the public transport network specifically the bus network. The applicant also seeks to vary condition 5 (number of students) to restrict the number of student on site at any one time to 490.

19.12. During the course of the previous application, TfL had raised concerns about the impact of the number of students would have on the transport network. As a result they suggested a condition restricting the maximum number of students on site at any one time to 302 and a condition restricting students from arriving at the school before nine.

19.13. At the Development Committee meeting on the 12 May 2013, members resolved to grant planning permission subject to a condition restricting the maximum number of pupils enrolled to 280 and the maximum number of students on site at one time to 150. This was to address concerns regarding impacts of the school on the local transport network. The planning permission was issued with this condition attached.

19.14. It is noted that concerns were also raised in relation to anti-social behaviour however these related to the hours of operation of the social enterprise units and this was resolved by restricting the hours of operation of these units to between 10:00 – 18:00. This application does not proposed any change to this part of the condition.

19.15. The applicant has advised that condition 5 which restricted the number of students prevents the school from opening. They currently have space for 280 students at their current sites and the purpose of the previous application was to seek permission for a change of use to allow the school to relocate to one larger premise's where they could have capacity for up to 490 students.

19.16. In order to resolve this matter the applicant met with TfL and Council Planning Officers. At this meeting it was established that the key issue was the impact of students arrivals and departures on the public transport network specifically buses which are at capacity in the area.

19.17. As a result the applicant is seeking to vary condition 6 (hours of operation) to stager pupil's arrival and departure times as follows: 14-16 year old students – 09:30 – 15:00 and 16-19 year old students – 10:00 – 15:30. This would mean that students would not be using public transport during the am and pm peaks. TfL support the amended condition.

19.18. Moving to condition 5, given students would be travelling outside of the am and pm peak, the maximum number of students on site can be raised to 490. TfL support the amended condition.

19.19. It is noted that a School Travel Plan was secured by condition for the previous development via condition. The purpose of a School Travel Plan is to encourage

sustainable means of transport for staff, students and visitors. This condition would be attached again in line with TfL comments.

- 19.20. The applicant has also submitted an updated School Management Plan to reflect the staggered arrival and start time approach. The revised School Management Plan would be approved as part of this application and compliance with the School Management Plan would also be secured via condition in line with the consented scheme.
- 19.21. In conclusion, by staggering the arrival and departure time of students the pressure on the local bus service during the am and pm peak is alleviated. In turn, this means that the number of students on site at any one time can be raised to 490. It is considered that the variation of condition 5 and 6 should be allowed given there would not be an unduly detrimental impact on the safety and capacity of the surrounding highway network and public transport network.

Amenity

- 19.22. Strategic policy SP10 of the CS and policy DM24 of the MDD seek to protect the amenity of residents of the borough. With regard to the variation of condition 6 (hours of operation) the varied hours would not have an unduly detrimental impact on the amenity of adjacent residents given they are more restrictive than the consented hours.

Conditions

- 19.23. In line with paragraph 3.3 of this report it is proposed to retain the conditions (aside from those varied by this application) which were part of the original decision notice.
- 19.24. It is noted that the applicant is seeking to discharge condition 10 (flood evacuation plan) attached to the parent permission. This application was received on the 8 August 2013 and is currently being assessed by officers. Should this condition be discharged ahead of the decision for this application being issued it would be possible to approve the documents and revert condition 10 to a compliance condition. This would mean the applicant would not need to discharge the details associated with condition 10 again.

Human Rights

- 19.25. Planning decisions can have Human Rights Act 1998 implications and in terms of relevant provisions of the Human Rights Act 1998, the following are particularly highlighted to Members:-
- 19.26. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- § Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;

- § Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- § Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court 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".

- 19.27. 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.
- 19.28. Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of increased traffic generation on the highway and any noise associated with the use are acceptable and that any potential interference with Article 8 rights would be legitimate and justified.
- 19.29. 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.
- 19.30. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 19.31. 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.
- 19.32. 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 to be entered into.

Equalities

- 19.33. The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 19.34. The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

- 19.35. The proposal is for a non-denominational mixed sex secondary school which will improve the choice of schools and number of secondary school places within the borough, as such it is considered that any impact in terms of fostering relations and advancing equality with regard to sex, race, religion and belief will be positive.
- 19.36. The proposed works associated with the change of use include creating accessible entrances to the buildings which would make the buildings more accessible at ground floor level which would improve access for persons with a disability. However, it is noted that persons with a disability requiring use of a wheelchair would only be able to access the ground floor level of the school. However, given that they can receive a full teaching experience or visitors can access all the key activities it is considered that this would not result in inequality.
- 19.37. With regard to age, gender reassignment, pregnancy and maternity, and sexual orientation there are no identified equality considerations.

20. CONCLUSION

- 20.1. All other relevant policies and considerations have been taken into account. The variation of condition application should be supported for the reasons set out in RECOMMENDATION section of this report.