

<b>Committee:</b> Strategic Development	<b>Date:</b> 21 <sup>st</sup> July 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Planning Application for Decision
<b>Case Officer:</b> Tim Ross	<b>Ref No:</b> PA/14/00604
	<b>Ward:</b> Canary Wharf

## 1. APPLICATION DETAILS

**Location:** Archway House, 1 Muirfield Crescent and 47 Millharbour, London, E14 9SZ

**Existing Use:** Office – Use ClassB1(a).

**Summary descriptions:** Application under S73 of the Town and Country Planning Act for a minor material amendment to Planning Permission PA/13/00803, dated 13/12/2013 for a variation to condition 2 to allow substitute plans for the following amendments:

- Infilling of part of the first floor, to provide an additional 400sqm (Gross Internal Area) within the approved building envelope and a further 666sqm (Gross Internal Area) of covered plant area to the sixth floor; and
- a subsequent change in roof profile to accommodate plant equipment, from 30m to 32.1m maximum height.

**Drwg Nos. for approval:**

P(99)01 B 'Proposed minor amendments OS map' dated 24 Mar 2014  
P(99)02 B 'Proposed minor amendments site survey' dated 24 Mar 2014  
P(99)03 Designated Area at Level 00  
P(99)04 Site Compound Levels 01 02  
P(99)05 Site Compound Level 00  
P(99)06 Crane Access & Set-down  
P(99)07 Site survey and ground material strategy  
P(99)08 New UKPN Switch Room  
P(SC)01 B 'Cross section 01' - dated 24 Mar 2014  
P(SC)02 B 'Cross section 02' - dated 24 Mar 2014  
P(SC)03 B 'Long section 03' – dated 24 Mar 2014  
P(EL)04 B 'Elevation 04 (south)' - dated 24 Mar 2014  
P(EL)05 B 'Elevation 05 (north)' – dated 24 Mar 2014  
P(EL)06 B 'Facade material strategy' - dated 24 Mar 2014  
P(EL)07 B 'Context elevation A, B, C' - dated 24 Mar 2014  
P(EL)08 B 'Context elevation D, E' - dated 24 Mar 2014  
P(-01) Basement Plan - Level -01  
P(-01)\_Indicative car parking and cycle parking layout  
Basement Plan - Level -01\_Indicative

P(00) Level 00 Plan  
P(01) B 'Level 01 plan' – dated 24 Mar 2014  
P(02) Level 02 Plan  
P(03) Level 03 Plan  
P(04) Level 04 Plan  
P(05) Level 05 Plan  
P(06) B 'Level 06 (services) plan' – dated 24 Mar 2014  
P(07) B 'Level 07 (roof) plan' – dated 24 Mar 2014

**Supporting Documents:**

Design and Access Statement (O'Mahony Pike Architects/Metropolitan Workshop)  
Planning Statement (GVA)  
Transport Statement (Steer Davies Gleaves)  
Energy Statement (MEIT)  
Flood Risk Assessment (Hyder Consulting)  
Daylight and Sunlight Report (GVA Schatunowski Brooks)  
Noise Assessment (Applied Acoustic Design)  
BREEAM Pre-assessment (Norman Disney & Young)  
Ecology Assessment (the Ecology Consultancy)  
Air Quality Note (MEIT)  
Site Waste Management Plan (OCSC)  
Design & Access Statement Addendum - dated 24 Mar 2014  
Daylight & Sunlight Report – dated 24 Mar 2014  
Flood Risk Assessment – dated 24 Mar 2014  
Transport Statement – dated 24 Mar 2014  
BREEAM data centres (2010) assessment - dated 24 Mar 2014  
BREEAM pre-assessment - dated 24 Mar 2014  
Acoustic design note - rev A - dated 24 Mar 2014  
Air quality note – dated 24 Mar 2014  
Energy statement & renewable energy - dated 24 Mar 2014  
Planning addendum – dated 24 Mar 2014  
Site waste management plan – dated 24 Mar 2014

**Applicant:** Glengall Bridge Holdings Ltd.;  
Linray Ltd.; and  
Telecity Group UK Ltd.

**Listed Building:** N/A  
**Conservation Area:** N/A

**2. Executive Summary**

- 2.1 This application is for a minor material amendment to Planning Permission PA/13/00803 dated 13 December 2013 for a change of use from business (Use Class B1) to data centre (Use Class B8) extensions to and refurbishment of Archway House to include two additional floors of data centre use with associated plant
- 2.2 If granted, the application would result in a planning consent for a data centre (use class B8) with a total overall increase in Gross Internal floor area (GIA) of 1,066sqm from 9,667sqm to 10,733sqm, and a building with a maximum height of 32.1m from 30m.

- 2.3 The proposed additional floorspace is considered to continue to be consistent with Local Plan policy DM1 and Spatial Policy 01(1b) by complimenting the Canary Wharf major centre.
- 2.4 The proposed additional building height is not considered to unduly impact on the permitted scheme to the north of the site or existing neighbouring properties.
- 2.5 Additional financial contributions have been secured to ensure the impact of the additional floorspace is adequately mitigated by providing a proportionate contribution to towards local infrastructure.
- 2.6 The development makes an appropriate contribution towards reducing Carbon Dioxide emissions helping the borough achieve its ambition carbon reduction targets.

### 3. **RECOMMENDATION**

- 3.1 That the Strategic Development Committee resolve to **GRANT** planning permission subject to:

The prior completion of a Deed of Variation to the legal agreement to secure the following planning obligations:

#### 3.2 Financial Obligations

- a) An additional contribution of £95,473 towards Millennium Quarter Infrastructure.

**Total: £95,387**

The proposal will also be liable for Mayor of London CIL calculated at a rate of £35/sq metre and payable on the uplift floor space.

#### 3.3 Non-Financial Obligations

No additional

- 3.4 That the Corporate Director Development & Renewal and the Service Head (Legal Services) are delegated power to negotiate and complete the legal agreement indicated above acting within normal delegated authority.
- 3.5 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

#### 3.6 CONDITIONS & INFORMATIVES

##### Compliance Conditions

1. Time limit – three years
2. Compliance with plans - Development in accordance with the approved schedule of drawings and documents.
3. Hours of construction (08.00 until 17.00 Monday to Friday; 08.00 until 13:00 Saturday. No work on Sundays or Bank Holidays).
4. Two disabled parking spaces to be provided in perpetuity.
5. Compliance with Energy Statement.

### Pre-Commencement Conditions

6. Approval of full details of facing materials.
7. Approval of full details of landscaping details
8. Approval of CCTV and lighting
9. Approval of BREEAM (Excellent) Pre-Assessment
10. Approval of full details of external plant and ventilation not exceeding maximum noise levels
11. Approval of risk assessment and method statement of any works adjacent to the waterway, in consultation with Canal and Rivers Trust.
12. Approval of Construction Environmental Management Plan
13. Approval of a Waste Management Plan
14. Approval of full details of 20% electric vehicle parking provision
15. Approval of full details of waterside landscaping, in consultation with Canal and Rivers Trust
16. Approval of feasibility study of use of water freight during construction
17. Approval required if surface water run-off proposed to drain into waterways, in consultation with Canal and Rivers Trust
18. Consult London City Airport if carriage height exceeds approved building height.

### Prior to Occupation Conditions

19. Secured by Design certificate
20. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

### Informatives

1. Ensure signed up to the Environment Agency's Flood Warning Service
2. Consult "Code of Practice for Works affecting the Canal & River Trust"
3. Comply with the provisions of Part II of the London Building Acts (Amendment) Act 1939
4. Make proper provision for drainage to ground, water courses or a suitable sewer

Any other informative(s) considered necessary by the Corporate Director of Development and Renewal.

- 3.7 That, if within 3 months of the date of this committee the legal agreement has not been completed, the Corporate Director of Development & Renewal is delegated power to refuse planning permission.

## **4 PROPOSAL**

### Site and Surroundings

- 4.1 The application site comprises an area of approximately 0.22ha and forms part of a larger commercial development known as Glengall Bridge. The site is bound to the west by Bonnington House and to the east by Bellerive House. To the north of the site is 45 Millharbour, currently a vacant commercial building, which has an extant planning consent for a residential-led mixed use scheme.
- 4.2 The site is a key intersection of an important east-west and north-south route and it is the southernmost crossing point of Millwall Inner Dock. The existing building is situated in a prominent location, visible from Millharbour, Pepper Street and the surrounding

Dockside. The wider area is occupied by buildings of a similar scale and height, although the buildings differ slightly in design and appearance. The site is bounded by the Millwall inner dock to the east, Muirfield Crescent to the south and Millharbour to the west. The closest section of the Transport for London Road Network is the A1261, Aspen Way, 1km to the north.

- 4.3 The site is well served by public transport; Crossharbour DLR station is approximately 50 metres across the Glengall Bridge, and four bus routes operate along East Ferry Road (D3, D6, D8 and 135) which is 350m to the east. The site has a good public transport accessibility level (PTAL) of 4 (out of 6, where 6 is excellent).
- 4.4 The site is not located within a conservation area and does not contain any listed buildings.

#### Proposal

- 4.5 This application seeks a minor amendment to planning consent PA/13/00803. The proposed changes involve infilling an area of the first floor and enclosing plant on the sixth floor, resulting in an increase in floorspace of 1,066sqm as well as the height increase.
- 4.6 More specifically, this application includes the following amendments:
- Infilling of part of the first floor, to provide an additional 400sqm (Gross Internal Area) within the approved building envelope and a further 666sqm (Gross Internal Area) of covered plant area to the sixth floor; and
  - a subsequent change in roof profile to accommodate plant equipment, from 30m to 32.1m maximum height.

## **5 RELEVANT PLANNING HISTORY**

### Application site

- 5.1 A previous application on the site PA/13/0803 comprising a change of use from business (Use Class B1) to data centre (Use Class B8) extensions to and refurbishment of Archway House to include two additional floors of data centre use with associated plant. This application was granted planning permission under delegated powers on 13/12/2013 with a signed s106 legal agreement which secured the following:

### Financial Contribution

- a) *A contribution of £399,371 towards Millennium Quarter Infrastructure*

### Non-Financial Obligations

- a) *Enterprise, Employment, Apprenticeship, Training and End User Engagement Strategy*
- b) *Access to employment (20% Local Procurement; 20% Local Labour in Construction; 20% end phase local jobs)*
- c) *Public Art (equivalent to £50,000)*
- d) *Travel Plan*

e) *Code of Construction*

5.2 Other relevant site history is set out in the table below:

<b>Planning reference</b>	<b>Address</b>	<b>Proposed development</b>	<b>Decision</b>	<b>Date of decision</b>
PA/06/0893	Site At 1 To 3 MuirfieldCrescent And 47 Millharbour, Millharbour, London	In outline, redevelopment to provide 143 residential units in buildings of up to 10 storeys in height with A1 and A3 use at ground floor level with reconfiguration of existing basement car park, associated servicing and landscaping	Permit	10/07/07
PA/10/1177	Site At 1 To 3 MuirfieldCrescent And 47 Millharbour, Millharbour, London	Application to replace extant planning permission in order to extend the time limit for implementation of Planning Permission Ref: PA/06/893	Permit	03/09/10 (5 year consent)
PA/07/1785	Site At 45 To 59 Millharbour And 23 To 39 Pepper Street	Outline application for redevelopment to provide an eight storey building plus plant (not exceeding 29.5m in height) comprising retail/restaurant (Class A1/A3) use at ground floor with 89 residential units above and reconfiguration of existing basement car park (including access arrangement over adjoining land at 47 Millharbour, 1 and 2 to 4 Muirfield Crescent), associated servicing and landscaping	Permit	16/04/08
PA/11/0921	Site At 45 To 59 Millharbour And 23 To 39 Pepper Street	Application to replace extant outline permission ref PA/07/1785, dated 16/04/08, in order to extend the time limit for implementation	Permit	29/03/12
PA/11/0798	45 Millharbour	Demolition of all existing buildings and erection of a part 7 storey & part 14 storey mixed use building comprising 880sq.m of ground floor commercial (A2/A3/B1) floorspace, 132 residential flats (C3), ground level public open space and associated underground parking.	Permit	27/02/12
PA/14/0683	Archway House, 1 Muirfield Crescent and 47 Millharbour, London, E14 9SZ	Non Material amendment to PA/13/00803 dated 13/12/13 to condition 7 which relates to noise levels	Permit	10/04/14

## 6. POLICY FRAMEWORK

6.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

### 6.2 Core Strategy Development Plan Document 2010 (CS)

Policies: SP01 Refocussing on our town centres  
SP06 Delivering Successful employment hubs  
SP10 Creating distinct and durable places  
SP11 Working towards a zero carbon borough  
SP12 Delivering Placemaking  
SP13 Planning Obligations  
Annexe 9: LAP 7 & 8: Millwall

### 6.3 Managing Development Document (2013)

Policies: DM11 Living buildings and biodiversity  
DM13 Sustainable drainage  
DM14 Managing waste  
DM15 Local job creation and investment  
DM20 Supporting a sustainable transport network  
DM22 Parking  
DM23 Streets and public realm  
DM24 Place-sensitive design  
DM25 Amenity  
DM27 Heritage and the historic environment  
DM29 Achieving a zero carbon borough and addressing climate change  
Site Allocation 17: Millennium Quarter

### 6.4 Supplementary Planning Guidance/Documents

Planning Obligations SPD 2012

### 6.5 Spatial Development Strategy for Greater London (London Plan); (Revised Early Minor Alterations October 2013); (Draft Further Alterations to the London Plan 2014):

4.1 Developing London’s Economy  
4.10 New and emerging economic sectors  
4.11 Encouraging a connected economy  
5.1 Climate change mitigation  
5.2 Minimising carbon dioxide emissions  
5.3 Sustainable design and construction  
5.5 Decentralised energy networks  
5.6 Decentralised energy in development proposals  
5.7 Renewable energy  
5.10 Urban Greening  
5.13 Sustainable drainage  
5.21 Contaminated land  
6.9 Cycling  
6.11 Walking

- 6.13 Parking
- 7.2 An inclusive environment
- 7.4 Local character
- 7.5 Public realm
- 7.15 Reducing noise and enhancing soundscapes
- 8.2 Planning obligations

6.6 Government Planning Policy Guidance/Statements

National Planning Policy Framework 2012 (NPPF)  
 Planning Practice Guidance (2014)

6.7 Background to Minor Material Amendments

6.8 The Planning Practice Guidance makes provisions for minor and non-material amendments to proposals after permission has been granted to allow flexible options for planning permissions.

6.9 The route under s.73 of the Town and Country Planning Act 1990 (as amended) to vary a condition provides a mechanism for allowing minor material amendments to an approved scheme. However, the use of s.73 depends on the existence of a relevant condition which can be amended, which includes either a condition listing plans numbers or compliance with the approved plans condition.

6.10 The extant permission does have such a condition to vary, allowing the Council to consider the proposed minor material amendment. Therefore, the current proposal proposed an amendment to Condition 2 which lists the approved plan numbers of the Permission for the proposed minor-material amendment

**7. CONSULTATION RESPONSE**

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

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

**LBTH Biodiversity**

7.3 These amendments will have no effect on biodiversity

**LBTH Environmental Health**

Noise and vibration

7.4 Environmental health, environmental protection, do not object to this proposal on the assumption that any mechanical or electrical plant should be at least 10 dB lower than the existing ambient noise level at any residential or sensitive commercial receptor at the required operating times.

7.5 The acoustic consultant's report has set out the existing background noise level and how the applicant will achieve the London borough of Tower Hamlets requirements. The total noise level from all the plant combined should not exceed LAeq 38 dB (5-minutes) at the nearest or agreed representative residential premises.



LBTH Environmental Health (Commercial –health and safety)

7.6 Does not wish to comment.

**LBTH Transportation and Highways**

7.7 This minor material amendment application does not have significant highway impact to the consented scheme hence our previous comments on PA/13/00803 remain valid. In addition to previous highways comments, cycle stands on the ground floor for visitors to the developments should be provided.

**LBTH Waste Policy and Development**

7.8 These amendments do not affect the waste strategy and storage arrangements. So there is no need for further comments. Previous comment precedes.

**Environment Agency**

7.9 No comments to add with regards to the variation of condition 2.

**Port of London Authority**

7.10 No objection to the minor material amendment.

**Greater London Authority (GLA)**

7.11 The principle and impacts of the development have been established and the proposed changes do not raise any strategic planning issues. The Council may proceed to determine the application without further reference to the GLA.

**National Grid**

7.12 It is highly likely that there are gas services and associated apparatus in the vicinity which the applicant should be made aware of.

**Thames Water**

7.13 Prior approval of Thames Water is required if the applicant proposes to discharge to a public sewer. No objection in terms of sewer infrastructure capacity or water infrastructure capacity,

**8. LOCAL REPRESENTATION**

8.1 A total of 726 neighbouring properties were notified about the application and invited to comment. The application has also been publicised in East End Life and public notices have been placed around the site.

8.2 The number of representations received from neighbours and local groups in response to notification and publicity of the application as submitted and amended were as follows:

No of individual responses:

Objecting: 1  
Supporting: 0  
Comment: 0

8.3 The objection was received by a planning agent representing the owner of 16 Pepper Street, London, E14 9RP and can be summarised as follows:

- The previous application deliberately circumvented the application being referred to the Mayor of London as it was not over 30m in height or 10,000sqm.
- The additional height will impact upon the light to the windows on the flank of our client's building and it will also increase the sense of enclosure.
- Impact on rights of light, although it is acknowledged that this is not a material planning consideration.

(OFFICER COMMENT: the Mayor of London was consulted on the previous application but declined to comment as it was not considered to be referable. This s73 application was referred to the Mayor of London who considered that it did not raise any strategic issues. The impact on neighbouring properties is considered below)

8.4 The planning permission PA/13/00803 which this section 73 application is seeking to amend also received one objection.

## 9.0 MATERIAL PLANNING CONSIDERATIONS

9.1 Application under S73 of the Town and Country Planning Act for a minor material amendment to Planning Permission PA/13/00803 dated 13 December 2013 by way of varying condition 2 to be amended to reflect revised planning drawings set out above to allow the following:

- Infilling of part of the first floor, to provide an additional 400sqm (Gross Internal Area) within the approved building envelope and a further 666sqm (Gross Internal Area) of covered plant area to the sixth floor; and
- a subsequent change in roof profile to accommodate plant equipment, from 30m to 32.1m maximum height.

9.2 In light of the above, if granted the S73 application would result in planning consent for a data centre (use class B8) with a total overall increase in Gross Internal floor area (GIA) of 1,066sqm from 9,667sqm to 10,733sqm, and 1,108sqm increase Gross External Floor Area (GEA) from 9,975sqm to 11,083sqm. The existing office (use class B1) is 5,086sqm (GIA).

9.3 These minor material amendments are to permission (PA/13/00803) which permitted a change of use from business (Use Class B1) to data centre (Use Class B8), extensions to and refurbishment of Archway House including two additional floors of data centre use with associated plant.

9.4 In accordance with Planning Practice Guidance (which accompanies the National Planning Policy Framework), minor material amendments to extant planning permissions can be secured via a Section 73 application provided there is a suitably worded condition on the original permission which refers to the development being carried out in accordance with the approved plans Condition 2 of the extant permission PA/13/00803 such a condition, stating:

*“The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule to this planning permission.*

*Reason: For the avoidance of doubt and in the interests of proper planning.”*

9.5 The substitution of plans to vary the permission would raise the following material considerations.

- Land-use Principles
- Design
- Amenity
- Highways and Transportation
- Energy and Sustainability

### **Land-use Principles**

#### Increase in data centre (B8) floorspace

9.6 The site is located within the Isle of Dogs Activity Area. Policy DM1 of the Managing Development Document (2013) states that the Isle of Dogs Activity Area should provide a transition between the scale, activity and character of Canary Wharf and the surrounding places. The purpose of the borough’s Activity Areas is to consolidate the London-wide importance of those areas as locations for a mix of uses, including uses that support that centre. As such the expansion of an existing data centre that would support the role and function of Canary Wharf is acceptable in this location.

9.7 The principle of providing a B8 data centre development at the application site is supported in principle as it seeks to provide a continued employment use at the site and facilitates the delivery of ICT.

9.8 The proposed use is considered to be in accordance with site allocation 17 as set out in the Managing Development Document 2013 which seeks mixed-use development which includes commercial floorspace. The proposed additional floorspace is considered to continue to be consistent with Local Plan policy DM1 and Spatial Policy 01(1b) by complimenting the Canary Wharf major centre, in line with site allocation 17.

### **Design**

#### Increase in height from 30m to 32.1m

9.9 The increase in height is not considered to have a detrimental impact on local townscape, strategic views or local views. The proposed height remains subservient to the adjoining Bellerive House which fronts on to the dockside. The additional two meters is not considered to have a material impact on views from Millharbour or Pepper Street particularly as the additional height proposed by the application is contained on the roof and set back from the already approved parapet level which is retained in this application. Indeed from ground floor level, the additional height would have a minimal impact on the experience of pedestrians navigating around the site.

#### Extended area of covered plant on the roof

9.11 The additional 666sqm of covered plant at the top of the proposed building is set back from the edge and is contained within a pitched roof structure. Local views demonstrate that while the covered plant is more visible from the street in some views due to the

additional height, however the additional floorspace is achieved by enclosing more of the central area of the building which is imperceptible from the street. There is an additional area of enclosed plant where the proposed building meets Bonnington House (western boundary) will not be visible from street level as it is hidden behind the screening at parapet level.

#### Additional floor area on first floor

- 9.12 In design terms, the external appearance of the building will be unchanged. The internal floor levels will remain appropriate for a commercial building following the proposed infilling at first floor level.
- 9.13 In principle the proposed amendments accord with Local Plan policies, however consideration should now be given to the impact of the additional building height in accordance with policies DM25 and DM26.

### **Amenity**

#### Effect on daylight and sunlight received by neighbouring dwellings

- 9.14 The original planning permission PA/13/00803 considered the impact of the development in terms of daylight/sunlight, and concluded that *“on balance the [daylight/sunlight] results are considered acceptable, given the dense urban context and wider site allocation aspirations, together with recent consents for nearby proposals which had a similar degree of impact to neighbours”*.
- 9.15 This application is supported by a daylight/ sunlight report which reaches the same conclusions as the one submitted in support of PA/13/00803. The additional enclosed plant area and increase in roof height will not, on its own, result in any further material deterioration of daylight sunlight conditions for neighbouring sites (including extant planning permissions) compared to the assessment submitted in support of the original planning permission PA/13/00803.
- 9.16 As such it is considered that the results remain acceptable, given the dense urban context and wider site allocation aspirations, together with recent consents for nearby proposals which had a similar degree of impact to neighbours DM25 of the MDD and SP10 of the CS seek to ensure that existing and potential neighbouring dwellings are safeguarded from an unacceptable material deterioration of sunlight and daylight conditions.

#### Outlook / sense of enclosure

- 9.17 The assessment of sense of enclosure or the impact upon outlook is not a definable measure and the impact is a matter of judgement. If there are significant failures in daylight and sunlight or infringements of privacy it can be an indicator that the proposal would also be overbearing and create an unacceptable sense of enclosure. There is not considered to be significant detrimental impact in terms of a loss of light or privacy in the context of this location compared to the extant permission PA/13/00803 as the additional height proposed by the application is contained on the roof and set back from the already approved parapet level which is retained in this application.
- 9.18 The proposed development will be located in a similar position to the existing buildings of Archway House albeit extended towards the neighbouring 45 Millharbour (Prichard House) site which has an extant planning consent for a residential development. The proposed data centre will not present issues of overlooking/loss of privacy as the lightweight cladding system incorporates a pattern of recesses and openings rather than windows.

- 9.19 The adjoining Bellerive House and Bonnington House are employment uses and therefore it is not considered that the proposal will result in any typical amenity concerns such as overlooking/loss of privacy.
- 9.20 The separation distance between the extant consents (as set out in the relevant planning history sections of this report) for residential development at No. 47 and No. 45 Millharbour (to north) is approx. 12 m. The proposed separation distance is increased to approx. 18m.
- 9.21 In summary, the development would not detrimentally overlook existing and potential neighbouring sites and would protect the privacy and amenity of existing and potential neighbouring residential occupants. The development accords with MDD policy DM25 in this respect

#### Noise Disturbance (Impact on Neighbouring Residents)

- 9.22 The proposals include the installation of plant and ventilation at roof level. The application site is adjacent to a number of residential properties, including properties in Pepper Street and Millharbour. A condition would be placed on any permission to ensure any mechanical or electrical plant is at least 10 dB lower than the existing ambient noise level at any residential or sensitive commercial receptor at the required operating times. The Council's Environmental Health department is satisfied with the submitted noise/acoustic report prepared by Applied Acoustic Design which set outs the existing background noise level and how the applicant will achieve a total noise level from all the plant combined of LAeq 38 dB or below at the nearest or agreed representative residential premises.
- 9.23 The proposal is therefore considered to comply with Policy DM25 of MDD which requires development to protect, and where possible improve, the amenity of surrounding existing and future residents as well as the amenity of the surrounding public realm. The policy states that this should be way of protecting privacy, avoiding an unacceptable increase in sense of enclosure, avoiding a loss of unacceptable outlook, not resulting in an unacceptable material deterioration of sunlight or daylight conditions or overshadowing to surrounding open space and will not create unacceptable levels of noise, vibration, light pollution or reductions in air quality during construction or operational phase of the development.

#### **Highways and Transportation**

- 9.24 The increase in floorspace is proposed without any change to car parking or access. Vehicular access to the site would be retained as per the original planning permission PA/13/00803 which resulted in an overall reduction in car parking spaces on site from 22 spaces to 8 spaces (including 2 disabled spaces) compared to existing levels which remains in accordance with local plan policy DM22 which seeks a maximum of 8 spaces. This reduction of car parking spaces is considered to be acceptable and in accordance with borough policies to encourage the use of more sustainable forms of transport given the reduction in spaces proposed.
- 9.25 The Framework Travel Plan submitted with the application indicates that an additional 22 cycle parking spaces could be made available. This leads to a total provisional level of cycle parking of 40 spaces which is considered sufficient to provide for the additional employees associated with the uplift in floorspace. The initial level of cycle parking is policy compliant with a degree of future flexibility should the monitoring process identify the need for more cycle parking, to be secured within the Travel Plan

## **Energy and Sustainability**

- 9.26 At a National level, the NPPF encourage developments to incorporate renewable energy and to promote energy efficiency. The proposals aim to reduce CO2 emissions by ~70% through energy efficiency, heat reclaim to supply the offices and free cooling. This strategy is supported by the Sustainable Development Team and is to be secured through an appropriately worded Condition. This exceeds the 50% reduction in CO2 required by Policy DM29 of the local plan.
- 9.27 Policy DM29 within the Managing Development Document 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 all commercial development to achieve a BREEAM rating of 'excellent'.
- 9.28 In terms of sustainability, London Borough of Tower Hamlets requires all non-residential development to achieve a BREEAM Excellent rating. This is to ensure the highest levels of sustainable design and construction in accordance with Policy 5.3 of the London Plan 2011 and Policy DM29 of the London Borough of Tower Hamlets Managing Development Document
- 9.29 The submitted pre-assessment demonstrates how the development is currently designed to achieve an Excellent rating. This is supported and the achievement of a BREEAM Excellent rating should be secured via an appropriately worded Condition with the final certificate being submitted to the council within 3 months of occupation.

## **Planning Contributions**

- 9.30 Core Strategy Policy SP13 seeks planning obligations to offset the impacts of the development on local services and infrastructure in light of the Council's Infrastructure Delivery Plan (IDP). The Council's 'Planning Obligations' SPD sets out in more detail how these impacts can be assessed and appropriate mitigation.
- 9.31 Planning Obligations Section 106 Head of Terms for the proposed development, based on the priorities set out in the adopted Tower Hamlets Planning Obligations SPD (January 2012).
- 9.32 The NPPF requires that planning obligations must be:
- (a) Necessary to make the development acceptable in planning terms;
  - (b) Directly related to the development; and
  - (c) Are fairly and reasonably related in scale and kind to the development.
- 9.33 Regulation 122 of CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.
- 9.34 Securing appropriate planning contributions is further supported policy SP13 in the CS which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development.
- 9.35 Policy SP13 of the adopted Core Strategy say that the Council will seek to enter into planning obligations with developers where appropriate and where necessary for a development to proceed. The amounts have been negotiated based on the Millennium Quarter tariff which planning obligation monies to deliver local infrastructure.

## Financial Obligations

- a) An additional contribution of £95,473 towards Millennium Quarter Infrastructure.

**Total: £95,387**

- 9.36 This is in addition to the contribution of £399,371 (towards Millennium Quarter Infrastructure) secured on the original consent PA/13/00803 which will be carried forward. The total financial contribution will now be £494,844 towards Millennium Quarter Infrastructure. Officers consider that the financial contributions being secured to be appropriate, relevant to the proposed development and to accord with the relevant statutory and policy tests.

## **Community Infrastructure Levy**

- 9.37 The London Mayor's Community Infrastructure Levy (CIL) became operational on 1 April 2012. As outlined above, the proposed development is liable for a charge under the CIL Regulations and the likely CIL payment is approximately £37,310. This is an initial estimation. The Council will issue a CIL Liability Notice as soon as possible after a decision notice is issued.

## **Financial considerations**

- 9.38 Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires local planning authorities (and the Secretary of State) to have regard to the following:
- The provisions of the development plan, so far as material to the application;
  - Any local finance considerations, so far as material to the application; and
  - Any other material consideration.

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

- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
  - Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 9.39 These issues need to be treated as material planning considerations when determining planning applications or planning appeals.

## **Human Rights Considerations**

- 9.40 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:-

- 9.41 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".
- 9.42 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.
- 9.43 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 9.44 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.
- 9.45 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 9.46 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.
- 9.47 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions and the associated section 106 agreement to be entered into.

### **Equalities Act Considerations**

- 9.48 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:
1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.



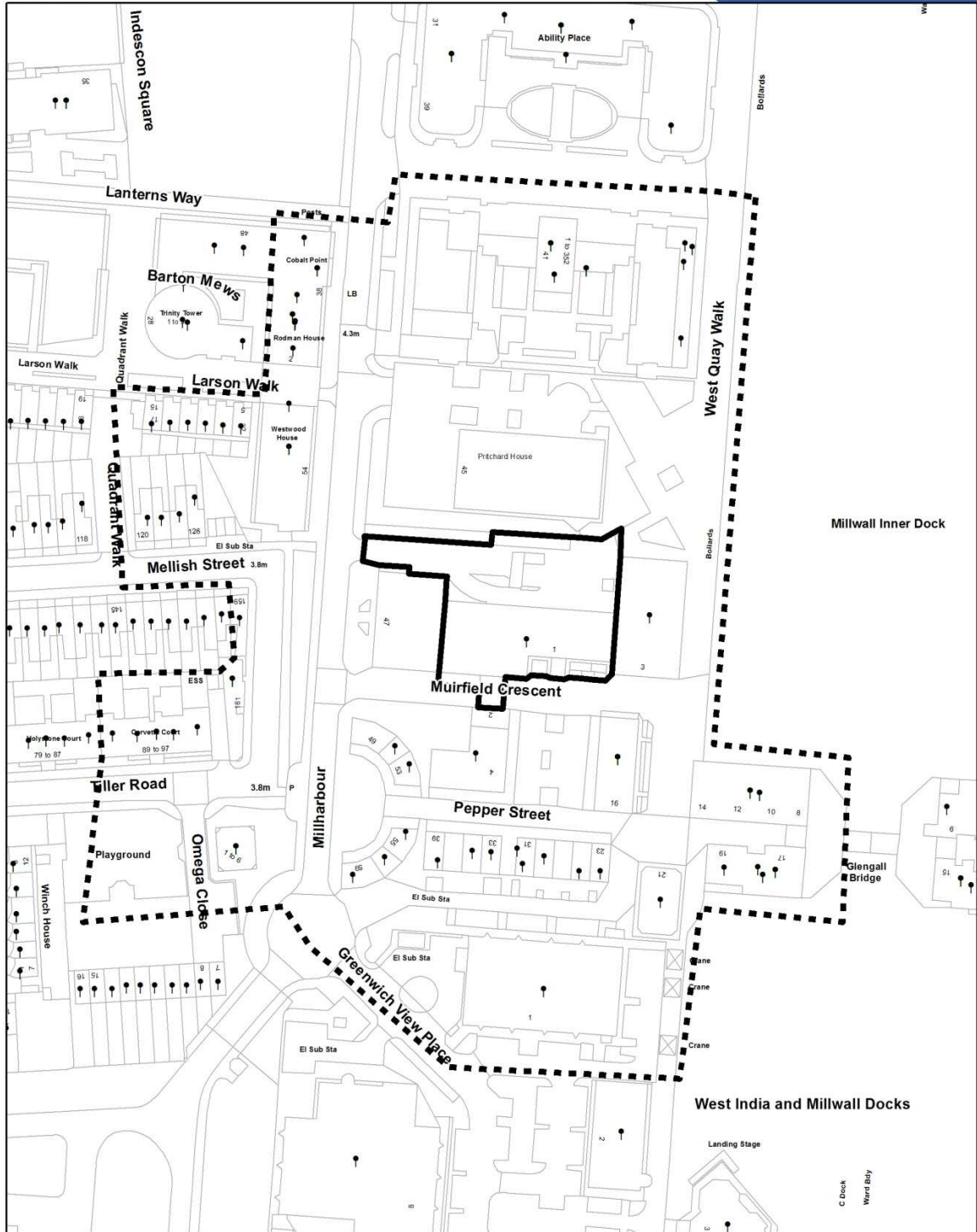
9.49 As discussed above, the proposed development will provide contributions to local infrastructure which are recommended to be secured by a section106 agreement and recommended conditions address, in the short-medium term, the potential perceived and real impacts of construction on the local community, and in the longer term support community wellbeing and social cohesion.

## **10 CONCLUSIONS**

10.1 All other relevant policies and considerations have been taken into account. Planning Permission should be granted for the reasons set out above and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.



**Planning Application Site Map**  
**PA/14/00604**



	Planning Application Site Boundary		Locally Listed Buildings		Land Parcel Address	0	20 m
	Consultation Area		Statutory Listed Buildings		OSLine		

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