

Committee: Development Committee	Date: 15 th October 2014	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Angelina Eke	Ref No: PA/14/01486
	Ward: Bromley North

1. APPLICATION DETAILS

Location: Land to the south of Rainhill Way, Bow Cross Estate, London, E3

Existing Use: Vacant (land currently used as temporary community food project)

Proposal: Erection of 4 x 3 bedroom residential units on land located south of Rainhill way, Bow Cross Estate, London E3.

Drawing and Supporting Documents: 1972/PA_001; 1972/PA100 Rev B; 1972/PA101 Rev B; 1972/PA_101 Rev B; 1972/PA_102 Rev A; 1972/PA103; 1972/PA104; 1972/PA200 Rev A; PA201; 1972/PA202; 1972/PA203; 1972/PA300; 1626 03 Rev C; 37593_P0_02 Rev 3

- Arboricultural Impact Assessment, prepared by D F Clark Bionomique Ltd dated 20th May 2014 (Ref: DFCP 2995) plus DFCP 2995 TSP&TPP Rev A
- Daylight and Sunlight Report for the proposed development (Reference 37593/IM/SK dated 31 July 2014) plus updates
- Community Food Growing Assessment dated May 2014, prepared by Liz Lake Associates
- Land Contamination and Ground Conditions Desk Study Report, prepared by RSA Geo technics Limited (Report Number 13860DS)
- Landscape Assessment/Strategy
- Noise Survey and Assessment, prepared by RBA Acoustics dated 8th September 2014 (Report 5989/NSA, Revision Number 2);
- Transport Statement, prepared by Mayer Brown (including updated dated 24th September 2014);
- Vibration Assessment, prepared by RBA Acoustics dated 8th September 2014 (ref: 5989/NSA rev 2);
- Topographic Survey.
- Email from Jayme Radford of Icen projects dated 26/09/2014

Applicant: Swan Housing

Ownership: Swan Housing

Historic Building: N/A

Conservation Area: N/A

2. EXECUTIVE SUMMARY

- 2.1. Officers have considered the particular circumstances of this application against the Development Plan, national, regional and local guidance and other material planning considerations as set out in this report and recommends the approval of planning permission for the reasons set out in the 'Material Planning Considerations' and 'Recommendation' section of this report.
- 2.2. The application is for the erection of four residential properties with private gardens and areas of landscaping. The proposal also incorporates the re-provision of food growing gardens for the use by residents within Crossways Estate.
- 2.3. Officers consider that the design of the scheme is sympathetic to the site context in terms of its mass, bulk, scale and height. Subject to conditions to secure high quality materials and finishes, officers consider that the scheme would be acceptable and accords with policy 7.4 of the London Plan, Policy
- 2.4. SP10 of the Adopted Core Strategy (2010) and Policies DM23 and DM24 in the Managing Development Document (2013) and guidance within the National Planning Policy Framework (2012).
- 2.5. The technical reports submitted sets out that the proposed development would not cause unduly detrimental impacts to the amenities of existing or future occupiers or result in substantial loss of daylight, sunlight, nor would the proposal result in significant sense of enclosure or loss of outlook.
- 2.6. Both the quantum and quality of private amenity space plus the re-provision of the food growing area are considered to be good and are of a well-considered design and meet the needs of the needs of the Crossways Residential community and accord with Policy 7.22 of the London Plan, Policy SP02 of the Core Strategy (2010), Policy DM4 of the Managing Development Document (2013), which seeks to improve amenity and liveability for residents.
- 2.6. The proposed scheme has attracted significant number of objections from the local community and officers have had regard to the benefits of the scheme in terms of provision family sized housing in the borough against the potential impact from the development to the local community and consider that on balance the scheme is acceptable. The National Planning Policy Framework (NPPF) sets out a presumption favour of granting planning permission in the interest of sustainable development and officers consider that there are significant benefits to the community in terms of the increase in housing supply and the food growing initiative and this on balance, outweighs the harm from the impact of the development. Furthermore, officers consider that the use of planning conditions would mitigate the harm caused by the impacts of the proposal.

3. RECOMMENDATION

- 3.1. That the Committee resolve to **Grant** planning permission subject to the following conditions and informatives set out below:

Compliance Conditions

- (a) Three year time limit
- (b) Compliance with approved plans and documents
- (c) Hours of Construction (8.00 until 17.00 Mondays to Fridays; 8.00 – 13:00 on Saturdays only)
- (d) Power/hammer driven piling/impact breaking (10am – 4pm Mondays to Fridays)
- (e) Lifetime Homes standards
- (f) Compliance with mitigation measures in the submitted noise report
- (g) Code Level 4 – Pre-assessment
- (h) Remove PD rights – control any further extensions/alterations to the houses

Pre - commencement conditions

- (i) Samples and details of all facing materials
- (j) Acoustic Glazing details
- (k) Landscaping details including the details of a replacement tree and proposed boundary treatments
- (l) Details of privacy screens
- (m) Approval of lighting strategy
- (n) Contamination land
- (o) Construction Management/Delivery and Service Plan
- (p) Scheme of highway works
- (q) Details of proposed living roof and specification of PV array

Prior to occupation

- (r) Post Completion Noise Testing
- (s) Secure by Design Certificate
- (t) Code level 4 Certificates
- (u) Refuse storage provision to be provided and retained
- (v) Cycle parking storage details to be submitted/approved and to be provided

- 3.2 That the Corporate Director Development & Renewal is delegated to impose conditions and informatives on the planning permission to secure the above matters

4. PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1 The application site (also known as Site 11) forms part of the Crossways Estate, which was built in the early 1970's. The Estate itself is approximately 3.62 hectares in area and a large proportion of it has undergone extensive regeneration in recent years comprising the redevelopment and refurbishment of three existing tower blocks, the erection of a number of buildings ranging from 3 storeys to 6 storeys in height on previously developed open land including the delivery of open space. It should be noted that the overarching plan for the Estate is defined by a master plan and an outline planning permission approved in August 2005 and the application site forms part of the last phase of the wider estate regeneration.
- 4.2 The application site itself is roughly triangular in shape and measures approximately 873 sq metres. It is situated at the south east corner of the wider application site, adjacent to a railway viaduct to the south. The site tapers down to the west, where

Rainhill Way lies adjacent to the railway line for a short distance. The site is bounded on the north and eastern side by residential houses and flatted developments.

- 4.3 The site is not listed nor does it lie within a conservation area.

Relevant Planning History

- 4.4 **PA/06/01865:** Full planning permission for construction of one, two storey house, one three-storey house plus eight flats in a four-storey block. Refusal dated 02/02/2007. The Council's Refusal was appealed and the appeal dismissed on 24/09/2007.
- 4.5 On 24 September 2007, the Planning Inspectorate dismissed 2 x planning applications (PA/06/886 & PA/06/1865) as well as an enforcement appeal for development of Site 11 Crossways Estate (Co-joined appeals Refs. Nos. APP/E5900/A/07/2041336, APP/E5900/A07/2042697/NWF, APP/E5900/C/07/2042018).
- 4.6 **PA/07/00898:** Retrospective application for the redevelopment of the site to provide 1 x 3 bedroom house and 8 x 1 bedroom flats with associated landscaping. The application was refused by the Council on 26th July 2007 for the following reason:
- “The development causes an unacceptable loss of residential amenity to neighbouring properties Nos. 1-9 Rainhill Way as it appears overbearing by reason of its height and proximity to the site boundary. As such, the proposal is contrary to policies ST4 and DEV1 of the adopted London Borough of Tower Hamlets Unitary Development Plan 1998 and policies CP4, DEV1 and DEV2 of the London Borough of Tower Hamlets Local Development Framework Development Plan Document: Core Strategy and Development Control Submission Document November 2006”
- 4.7 The applicant subsequently appealed the Council's refusal decision, and the Appeal Ref. No. APP/E5900/A/07/2055314/NWF was dismissed by the Secretary of State for Communities and Local Government on 18th February 2008.

Other relevant decisions for Crossways Estate

- 4.8 **PA/03/01683:** Outline Planning Permission for the demolition of 1-43 Holyhead Close as well as refurbishment, including cladding, of three tower blocks, and sub-division of larger flats therein to increase the number of units from 276 to 296 units. Also, new development of 363 units of housing for sale and for rent, in blocks up to 6 storeys high, on land within the estate including designated housing amenity land. The proposal included a new access road and a new community centre, with associated parking and landscaping. Approval dated 5th August 2005.
- 4.9 **PA/06/1852:** (Crossways Estate Phase 5, Land East of Campbell Road, Campbell Road, London, E3) - Full planning permission for the erection of buildings up to six storeys to provide 232 flats was approved by the Development Committee on 10 January 2007.
- 4.10 **PA/06/02095:** Full planning permission for refurbishment and extension of ground and first floors of Priestman Point to provide a new community centre. Approval dated 11 January 2007.
- 4.11 **PA/08/00112:** Phase 5 amendments to proposed tenure within Blocks A and B. Approved 24th July 2008.

- 4.12 **PA/11/00353:** Application under S73 of the Town and Country Planning Act for a minor material amendment to planning permission PA/06/01852 (dated 27th June 2008) by way of varying condition 19 as proposed under PA/11/00319 (non-material amendment to PA/06/01852) relating to Crossways Estate Phase 5, Land East of Campbell Road, London E3. The minor material amendment sought to amend the tenure mix of blocks C & D in phase 5 by swapping 66 one and two-bedroom flats from private to affordable. Application granted consent 30th March 2011.
- 4.13 **PA/12/01019:** Detailed Planning Permission for the construction of 18 residential units comprising of 7 x 1 bed, 7 x 2 bed and 4 x 3 bed properties arranged over 2, 3 and 4 storey linked blocks. Approval dated 01/02/2013.
- 4.14 **PA/13/02513:** Application for Minor Material amendment (S73) on Bow Cross Phase 11, Bow Cross Estate, following a grant of Planning permission dated 01/02/2013, Reference number PA/12/01019 for the construction of 18 residential units comprising of 7 x 1 bed, 7 x 2 bed and 4 x 3 bed (Properties arranged over 2, 3 and 4 storey linked blocks).

Amendment sought:

- Alteration to the site boundary between the site and the Dockland Light Rail Limited site boundary
- Alteration and internal re-modelling of the approved units.

The application was approved on 28/03/2014

5.0 POLICY FRAMEWORK

- 5.1 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:

5.2 Government Planning Policy Guidance/Statements

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

5.3 Spatial Development Strategy for Greater London - Revised Early Minor Alterations to the London Plan October 2013 (LP)

- 3.3: Increasing housing supply
- 3.4: Optimising housing potential
- 3.5: Quality and Design of Housing Developments
- 3.8: Housing Choice
- 5.1: Climate Change mitigation
- 5.2: Minimising Carbon Dioxide emissions
- 5.3: Sustainable Design and Construction
- 5.7: Renewable Energy
- 5.21: Contaminated Land
- 6.3: Assessing effects of development on transport capacity
- 6.9: Cycling
- 6.10: Walking
- 6.13: Parking
- 7.2: An inclusive environment
- 7.3: Designing out crime

- 7.4: Local Character
- 7.5: Public realm
- 7.15: Reducing noise and enhancing soundscapes
- 8.2: Planning Obligations

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

- SP02: Urban Living for Everyone
- SP03 (2): addressing the impacts of noise pollution
- SP05: Dealing with waste
- SP09: Creating safe and attractive street and spaces
- SP10: Creating Distinct and Durable Places

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

- DM3: Delivering homes
- DM4: Housing standards and amenity space
- DM12: Water spaces
- DM14: Managing Waste
- DM22: Parking
- DM23: Streets and the Public Realm
- DM25: Amenity
- DM26: Building Heights
- DM24: Place Sensitive Design
- DM30: Contaminated Land and Development and storage of hazardous substances

5.6 **Other Relevant Documents**

N/A

CONSULTATION RESPONSE

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

5.8 The following internal consultees were consulted regarding the application:

Arboriculture officer

5.9 No objections, although it is noted that the existing tree has an amenity value in the region of £8,000 and the applicant should try and reinstate the tree to mitigate the loss of the amenity/environmental benefits that the existing tree provides.

[Officer Comment: The applicant is seeking to provide two community growing areas within the vicinity of the site and it is considered that will improve the amenity benefits including utility of the site for the local community]

Biodiversity officer

5.10 No objections to the proposal, given that the site is unlikely to be of high biodiversity value and it does not contain habitats or structures likely to support protected species. There are no objections to the loss of one London Plane tree and species of low biodiversity value and overall, it is considered that the proposed development would have a minor adverse impact on biodiversity.

Corporate Access officer

- 5.11 Minor concerns raised with regard to the manoeuvrability of the first floor bathroom of House 1 also the landing of the same floor with regarding to the suitability of siting a chairlift.

[Officer Comment: The comments raised have been incorporated into minor revisions of the first floor scheme, which is now considered to be acceptable.]

Cleansing Team

- 5.12 No objections to the waste management proposals for the houses. The applicant is required to ensure that the refuse collection vehicles have adequate space to manoeuvre bins and that a drop kerb is provided.

[Officer Comment: The requirement for a drop kerb can be addressed by way of a condition. A further condition will be imposed to ensure that the refuse storage provision is retained for the lifetime of the development.]

Energy Efficiency Team

- 5.13 The proposal is to achieve Code for Sustainable Homes Level 4, which is welcomed and this should be secured by condition. The applicant refers to the scheme utilising renewable energy technologies to reduce CO2 emissions and further details of the PV details are required.

[Officer Comment: This requirement is to be met by way of conditions.]

Environmental Health (Land Contamination)

- 5.14 No objection to the proposal subject to a condition being imposed to ensure the land is appropriately remediated.

[Officer Comment: The requirement for a condition is noted and a condition would be imposed]

Environmental Health (Noise and Vibration)

- 5.15 Initial concerns were raised with regards to the vibration impacts on the future occupiers of the development and the applicant has submitted a clarification statement to illustrate the measures to be adopted in order to mitigate the impacts of noise and vibration. If the site is to be used, a high degree of noise insulation will be required to meet the good design standard of BS8233.

[Officer Comment: The additional information has been reviewed and considered to be satisfactory. It is considered that the mitigation measures proposed would be secured by conditions relating to acoustic glazing, methods of construction. Any associated noise and vibration assessment associated with the construction can be controlled via the use of a condition requiring a construction management plan]

Housing

- 5.16 No objections to the proposal. Although the application is a local registered provider, their decision has been to provide the units for sale rather than for social/affordable

or intermediate use. The proceeds of the developer will enable cross subsidy of the wider regeneration underway on the site.

5.17 The following external consultees were consulted regarding the application:

Network Rail

5.18 No comments received

London Underground Limited

5.19 No objections to the proposal, however, it is acknowledged that there are a number of potential constraints on the redevelopment of the site situated close to underground tunnels and infrastructure. The developer would need to demonstrate to the satisfaction of LUL engineers that:

- Right of support is not compromised;
- The development will not have a detrimental impact on structures either in the long or short term;
- The design should be such that the loading imposed on LUL structures are not increased or removed
- No right of support is offered to the development of the land

The key concern for LUL is that the development does not impact on their transport infrastructure and they advised for a condition and informative to be imposed on any grant of planning permission.

[Officer Comment: The requirement for a condition and an informative is noted and would be imposed.]

Thames Water

5.20 No objections

NEIGHBOURS REPRESENTATIONS

5.21 92 planning notification letters were sent to nearby properties. Eight letters of representation were received objecting to the proposal, including two petition letters (the first containing 121 signatures and the second petition letter has 18 signatures). Representations were also made by two local ward councillors.

5.22 In terms of the objections received, a summary of this is set out below:

Land Use

- That the principal of the land use is unacceptable.

[Officer Comment: The surrounding area is residential character and it adjoins a short terrace of three storey houses to the east and there are flatted developments (part,5,4 and 3 storey) to the north of the site. Accordingly, the subject site is considered appropriate for residential use. This is discussed further in the 'land use' section of the report.]

- The developer has exceeded the number of residential units under the outline planning permission.

[Officer Comment: Discussed in detail within the housing section of this report.]

- That the proposal would result in the loss of open space within a densely built up estate and the space is used as child play space.

[Officer Comment: The principle of the residential use of the site has been established by virtue of the outline planning permission in 2005. This is discussed in detail in the land use section of this report.]

- Loss of site for food growing purposes

[Officer Comment: The applicant is seeking to formalise the use of the food growing initiative on the site and re-provide it to a higher standard – this is discussed within the ‘land section’ of this report]

- Whilst there is widespread support for the regeneration of the estate, the principle of this scheme would be unacceptable
- The site has always been an open play space used extensively by the community and it has never been a residential site and is much needed open space. The proposal is contrary to DM10 of the Managing Development Document.

[Officer Comment: The application does not result in the loss of a designated open space and the principle of the residential use is supported and this is discussed in detail within the land use section of this report.]

Design

That the scheme represents poor design which is insensitive to the site context

[Officer Comment: The Council’s Urban Design officer has assessed the scale and design of the proposal provides an acceptable design response given the site context. Subject to condition regarding the facing materials, the proposal would be of high quality, and would add to the variety of architectural styles in the immediate and wider locality.]

Amenity

- The proposal will result in unacceptable impacts on privacy and the levels of natural lighting reaching habitable rooms and gardens in the adjoining neighbours No.’s 17-21 Rainhill Way, 202-220 Bruce road, and 1-9(inc) Rainhill Way
- The proposal will result in a dark secluded area that is not fit for the community and it will result in the loss of the last piece of accessible green space within a concrete jungle.
- The proposal will result in the loss of openness and spaciousness of the site, resulting in undue sense of enclosure
- The proposal will result in loss of privacy

[Officer Comment: The concerns raised on amenity grounds will be addressed within the 'amenity section' of this report'.

Highways:

- The current traffic flow on Rainhill way is outrageous for residents living there and there are no speed humps, by allowing further units , this will exacerbate the traffic flow and lead to serious/fatal accidents

[Officer Comment: The Council's Highway Team have assessed the proposal and raised no objections subject to the development being car free, which should ensure that the future occupiers do not impact on the area through increased traffic congestion]

Other:

- Residents have been ignored in the consultations exercises and as such the proposal is not endorsed by local views

[Officer Comments: Officers always encourage developers to positively engage with residents prior to submitting an application. In relation to the Council's own consultation on the subject proposal, an adequate consultation has taken place in accordance with the Council's statutory obligations and the Statement of Community Involvement].

That the proposal would be out of character with the existing and materials and finishes would detract from the building elevation.

[Officer's response: The proposal was considered by the Council's Urban Design and Conservation Team, who consider that proposal would be sympathetic to the site context. This matter regarding materials can be reserved by condition. The concerns on this ground are assessed in more detail in the material planning considerations section of the report.]

6.0 MATERIAL PLANNING CONSIDERATIONS

Background

- 6.1 The application site has a detailed history, stemming from the grant of an outline planning permission (reference PA/03/01683) in August 2005. The outline planning permission was approved for the wider Crossways Estate which permitted the siting of new buildings and means of access. This included the erection of three and four storey residential buildings on the application site. Various reserved matters and approval of details were subsequently submitted and approved and building works commenced.
- 6.2 During the course of implementing the approved scheme, the approved development was built 3.2 metres further east of the site towards 1-9 Rainhill Way to in order to accommodate the exclusion zone from the railway viaduct and the highway improvements which took place. Enforcement Action commenced via the issue of a Stop Notice dated 20th July 2006. This required the applicant to cease works on site on grounds of the planning contravention that a part three, part four storey building, for use as two dwelling houses and eight flats had been erected contrary to the siting approved by the Council under PA/03/01683 dated August 2005. The Enforcement

Notice was appealed (PINS reference: APP/E5900/C/07/2042018) and later dismissed on 24 September 2007.

- 6.3 Following enforcement action, a retrospective application for planning permission was submitted to the Council (Council's ref PA/06/00886 in June 2006 for the retention of the 2 no. houses and 8 no. flats. The Council refused planning permission for this proposal by notice dated 29th September 2006. The applicant appealed the Council's refusal notice and this was considered on appeal (PINS reference: APP/E5900/A/07/2041336) and simultaneously dismissed on 24th September 2007 together with the enforcement appeal.
- 6.4 It should be noted that the applicant also submitted a further revised application to the consented one to the Council in October 2006 (planning reference: PA/06/01865) for the construction of one, two storey house, one three storey house and eight flats in a four storey block. The application varied from the previously consented scheme approved under PA/03/01683 in that the height of the building was reduced to two storeys adjacent to boundary of 1-9 Rainhill Way. The separating distance between the flank wall and the terrace at its closest point was approximately 9.25 metres, with some 14.6 metres to the three storey element and approximately 19.6 metres to the four storey element. The Scheme was refused by the Council on 02 February 2007. The Council's refusal notice was then appealed.
- 6.5 The appeal scheme (PINS reference: APP/E5900/A/07/2042697) was considered to represent a slight improvement, over and above the previous applications on the site, however, the Inspector concluded that it did not adequately address the harm to neighbours' living conditions, specifically for 1-5 Rainhill Way, a two storey, rather than a three storey flank wall would be within 9 metres away from the property windows and in close proximity to the back gardens. The Planning Inspector concluded that the proposal would lead to unacceptable sense of enclosure and appear overbearing, this related specifically to the three and four storey elements, which was considered to be visually over-dominant, more specifically from the upper floors of the adjacent dwellings to the east. The Inspector also concluded that the occupants of No.'s 7 and 9 would experience serious loss of outlook.
- 6.6 The above appeal scheme was dismissed on 24th September 2007 by an Inspector appointed by the Secretary of State for Communities and Local Government. The Inspector took account of the fact that the application site was heavily constrained and the grounds for refusal of the appeal scheme focused on the level of development relative to its site coverage. It was noted that the developable site area had significantly reduced since the grant of the outline scheme.
- 6.7 In March 2007 under PA/07/00898, an application was submitted for the erection of a house and a block of 8 flats with associated landscaping. It should be noted that this application was also linked to the partially built scheme in place (which was also the subject of enforcement action and an appeal). The scheme was refused by the Council on 26th July 2007. The Council's refusal notice was appealed (PINS reference: APP/E5900/A/07/2055314) and the appeal was dismissed on 18th February 2008 on grounds that the scheme had an overbearing impact sufficient to cause harm on the living conditions of neighbouring residents.

The Proposal

- 6.8 The application scheme has been submitted with a view to addressing the previous reasons for refusal addressed by the planning inspector in respect of the two previous schemes. The scheme proposed is for 4 x 3 storey houses which are designed with greater separating distances between the flatted developments at 202-220 Bruce Grove (18 metres from the interfacing windows) and 16.1 metres from the properties at 1-9 Rainhill Way. The scheme has reduced in mass so as to mitigate the previous impact caused by the part three and part four storey elements.
- 6.9 The proposal is for four x 3 storey houses. The proposal also includes the re-provision of the community food growing garden areas towards the eastern and western end of the site.
- 6.10 The main planning issues for the proposal that the committee must consider relate to:
- Land Use
 - Design
 - Amenity
 - Highways
 - Planning Obligations
 - Local finance considerations
 - Equalities considerations

Principle of Land Use

Land Use

- 6.11 The NPPF identifies as a core planning principle, the need to encourage the effective use of land through the use of previously developed land. Section 6 of the NPPF states that “housing applications should be considered in the context of the presumption in favour of sustainable development”.
- 6.12 The London Plan has a number of policies which seek to guide the provision of affordable housing in London. Policy 3.9 seeks to encourage mixed and balanced communities.
- 6.13 Delivering housing is a key priority both nationally and locally and this is acknowledged within policies 3.3 and 3.4 in the London Plan (2011 as amended) which seek to increase housing supply through intensification of existing mixed uses or on underutilised sites.
- 6.14 Core Strategy 2010 (Core Strategy) policy SP02 sets Tower Hamlets a target to deliver 43,275 new homes (2,885 a year) from 2010 to 2025. An important mechanism for the achievement of this target is reflected in London Plan 2011 (London Plan) policies 3.3 and 3.4 which seek to maximise the development of sites and thereby the provision of family housing to ensure targets are achieved.
- 6.15 It should be noted that the wider Estate is residential in character and the principle of the residential use of the site was previously established in the outline application for the entire Crossways estate regeneration (PA/03/1683), which is a material consideration. The site does not have an allocation in the Managing Development Document (2013). Taking this into account, and given the surrounding area is predominantly residential in character, officers would support use of the site for

residential purposes. The use of previously developed land would be in accordance with the above planning policies.

- 6.16 Concerns have been raised by local residents with regard to current use of the site as open space to serve the Crossways Estate. The existing site is a brownfield site which has been left vacant and now grassed over since the demolition buildings which were subject to the appeal as mentioned earlier in the report, and as such, it is not a designated public open space, the development does not therefore result in the loss of open space at the site.
- 6.17 Whilst the use of the site is acceptable for residential purposes, it is acknowledged it is currently partially used as a temporary community garden facility which is enclosed with fence railings.
- 6.18 Overall, it is considered that the four houses proposed would contribute to meeting the borough's housing need, in line with Policies 3.3 and 3.4 in the London Plan (2011 as amended), Policy DM3 in the Managing Development Document (2013) and Policy SP02 (1c) plus SP02 (5a) in the Core Strategy (Adopted 2010) and guidance set out in National Planning Policy Framework (2012). The above policies and guidance support initiatives to optimise housing supply where appropriate, and the application proposal as it stands would result in further intensification of the residential use of the development, which is supported.

Principle of loss of the existing open space/community garden

- 6.19 Policy 7.22(b) of the London Plan seeks to encourage and support land for growing food near to urban communities. The follow on text within 7.22(c) emphasises that borough's should identify spaces for community gardening, and encourages innovative approaches to securing such provisions.
- 6.20 Objections were received that the proposal will result in loss of open space. The Council's own policy DM10 of the Managing Development Document protects open spaces from development however this policy applies only to designated open spaces such as Metropolitan Open Land, Major and Local Parks as well as public squares, outdoor sports facilities; registered allotment; and burial grounds and is therefore not applicable to the application site. In addition, it is confirmed that across the Estate it has delivered approximately 9,330sq.m. communal open spaces (5,128 sq. m comprises semi private/communal amenity and the remainder being general landscaped areas) for 679 residential units which exceeds minimum standard as set out in the Managing Development Document.
- 6.21 At present, the application site is partially used as a temporary communal food growing garden space for residents on the Crossways estate (area of approximately 209 m²) and it is screened by high metal railings. Officers recognise that the principle of this provision is of significance to local residents and accordingly, the re-provision of the use in a formalised form is supported as this is likely to have long term community benefits within this Estate. The total area proposed for the community food growing proposal will be 370sq.m, which would be located east and western ends of the development site.
- 6.22 Objections have been received on grounds that the proposal will result in the loss of the existing community garden; however, the re-provision of a formalised community garden would continue to benefit the community.

- 6.23 Therefore, given the above, there is no issue with the land use, and the proposed housing on this brownfield site is supported in policy terms.

Housing

Housing Mix

- 6.24 The scheme seeks to provide 100% family sized units (against the borough target of 20%), which is acceptable and accords with Policy 3.8 in the London Plan (2011), policy SP02 of the Core Strategy (2010), policy DM3 in the Managing Development Document (2013), which seeks to optimise the supply of suitable sized family accommodation, where appropriate.
- 6.25 Policy DM3 (3) advises that developments should maximise the delivery of affordable housing on site and DM3 (4b) further states that affordable housing will be calculated “based on the total housing existing or permitted as part of a development, where a scheme proposes additional housing” and the policy is keen to promote mixed and balanced communities, ensuring no overconcentration of one type of housing. As the scheme proposes an uplift of housing units over and above that consented under the outline scheme, it is considered that this policy would be applicable in this instance.
- 6.26 The Housing Strategy Team, were consulted with regard to the proposal and they have confirmed that the total site wide development has resulted in 479 affordable housing units out of a total of 679 units, which in turn has provided 72% affordable units across the site. The proposal results in an additional 16 habitable rooms for private sale, however, it is considered that even with the net uplift, the scheme would still exceed its minimum of 50% affordable housing overall and it is important that a mixed and balanced community is promoted.
- 6.27 Given the high targets set for the provision of new housing in the borough, it is considered that the new houses will contribute towards meeting much needed family housing, whilst optimising the objectives to create a more mixed and balanced community within the Crossway Estate. As such, this meets policy DM3 in the Managing Development Document (2013) and Policy SP02 (1c) plus SP02 (5a) in the Core Strategy (Adopted 2010) and guidance set out in National Planning Policy Framework (2012). The above policies and guidance support initiatives to optimise housing supply where appropriate

Residential Space standards

- 6.28 Policy 3.5 of the London Plan (2011 including alterations) and Policy DM4(1) of the Managing Development Document (2013) require all housing developments to include adequate provision of internal space in order to provide an appropriate living environment for future occupants, to ensure that the minimum space requirement in the London Plan are met.

Table 1

House	Unit Type	Size required GIA sq. m	Size proposed GIA sq. m	pass/fail
1	3 bed/5 persons	102sqm	115 sq.	Pass
2	3 bed/5 persons	102sqm	115 sq.	Pass
3	3 bed/6 persons	107sqm	122 sq m	Pass
4	3 bed/6 persons	107sqm	130 sqm	Pass

6.29 As shown in Table 1 above, the proposal would offer an acceptable internal floor area with well-considered layouts. As such, the internal layout of the units proposed would accord with policy 3.5 of the London Plan 2011 and Policy DM4 in the Managing Development Document (2013).

Private Amenity Space

6.30 Policy 3.5 of the London Plan (2011) and Policies SP02(6b) of the Core Strategy and DM4 of the Managing Development Document set out that a minimum of 5 sq. m of private outdoor space should be provided for 1-2 person dwellings with an extra 1 sq. m should be provided for each additional occupant. Balconies and other private external spaces should have a minimum width of 1500mm.

6.31 In terms of the external amenity spaces, this is provided in the form of ground floor private gardens on the southern end of the site. Three of the houses will also include terraces ranging between 8 sq metres and 14 sq metres at second floor level. In terms of the provision of external amenity space proposed, this is set out in the table below.

Table 2

House	Type	Size required GIA sq. m	Size proposed GIA sq. m	pass/fail
1	3 bed/5 persons	9 sqm	66.4 sq.m	Pass
2	3 bed/5 persons	9 sqm	43.6 sq.m	Pass
3	3 bed/6 persons	9 sqm	32 sq m	Pass
4	3 bed/6 persons	9 sqm	41 sqm	Pass

6.32 Each of the houses will have private amenity space which exceeds policy requirements. The proposed garden spaces are generous in size however would be alongside railway viaduct and the usability would be restricted to a degree. Notwithstanding this, the spaces are considered to have some value for sitting out and likely to have some amenity value for the future occupiers. In addition, the internal dwelling sizes for the proposed houses also well exceed above the minimum standards and therefore the proposal would provide a good balance of amenity offered to the future occupiers. Whilst not meeting the Council's preferred conditions for an amenity space, officers do not consider that in this instance, the shortfall would seriously undermine the positive aspects of the scheme.

6.33 In addition, the proposed garden spaces fall within the buffer zone of the adjacent railway for London Underground Limited (LUL), where access may be required for

maintenance purposes. London Underground Limited has been consulted and no objection was raised against the scheme subject to the Council imposing a condition and informative to safeguard their infrastructure. Officers are satisfied that the garden spaces proposed can be delivered without unacceptably interfering with LUL's need to gain access to parts of the site for maintenance purposes.

Design

- 6.34 The National Planning Policy Framework (NPPF) sets out the Government planning policies for England and how these are expected to be applied. The NPPF constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications.
- 6.35 The NPPF sets out twelve core planning principles which "should underpin both plan-making and decision-taking." These stipulate that, amongst other matters, planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.' Specific advice on design is also provided in Section 7 '*Requiring Good Design*' in which it states that '*good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*' Furthermore, development should 'respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.'
- 6.36 Policy 7.4, 'Local Character' in the London Plan places emphasis on robust design in new developments, with regard to the local architectural character in terms of form, massing, function and orientation and seeks to ensure that new developments make a positive contribution to the character of a place and the street scene. Policy 7.6 in the London Plan seeks highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and optimises the potential of the site.
- 6.37 Policies SP10 and SP12 in the Core Strategy 2010 and policies DM23 and DM24 in the Managing Development Document (2013) seek to ensure that buildings and neighbourhoods are designed to the highest quality standards, using appropriate materials and incorporating principles of good design, to ensure development is sensitive to and well – integrated with their surrounds.
- 6.38 The existing Crossways Estate is of a post war modernist design with a strong character defined by three tower blocks, which provides the vertical focal points on the Estate. Following the Estate regeneration, new relatively low rise flatted developments of varied architectural design have been built. The immediate context of the site includes part five, four and three storey buildings of a contemporary design to the north of the site. To the east of the site is a three storey terrace.
- 6.39 The application scheme will be three storeys in height with dual aspect and the rear and front elevations will be set in at second floor level. The total height of the houses will be approximately 9.2 metres and it will terminate with a flat roof.
- 6.40 The proposal is of brick built contemporary design which follows the horizontality of the new developments within part of the wider Crossways Estate regeneration. The proposed mass, bulk and scale including height are designed to be in keeping with the local character of the area.

- 6.41 The design rationale is a simple, brick building which is rectangular in shape and it will be oriented horizontally across the site from west to east and will have double glazed windows. The design detailing is seeking to provide large windows within the front elevation, set back behind the small front garden area, providing natural surveillance to the adjoining streets.
- 6.42 The design, scale and bulk of the proposed development is considered to be acceptable and the height of the proposed houses will be similar to those of the adjacent buildings (to the east 1-9 Rainhill way is three storeys high and the flatted development to the north of the site is part three, four and five storeys). The proposal therefore accords with Policies SP10 and SP12 in the Core Strategy 2010 and policies DM23 and DM24 in the Managing Development Document (2013) seek to ensure that buildings and neighbourhoods are designed to the highest quality standards, using appropriate materials and incorporating principles of good design, to ensure development is sensitive to and well – integrated with their surrounds.
- 6.43 The proposed houses will also be designed to Lifetime Home Standards and this would be secured through a planning condition and therefore accord with policy SP02 (6) of the Core Strategy (2010).

Amenity

- 6.44 Policy SP10 of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2010) seeks to ensure that the existing and future occupiers are safeguarded from unreasonable deterioration in amenity either through unacceptable reduction in the prevailing levels of sunlight and daylight, unacceptable reduction in outlook, the sky, unreasonable sense of enclosure, and external amenity spaces or unacceptable levels of noise.
- 6.45 Objections were received on grounds that the proposed bulk, mass; scale and height of the proposal would negatively impact existing levels of daylight or sunlight on neighbouring properties and overshadow the adjoining properties external amenity spaces.

Daylight and Sunlight

- 6.46 The application was accompanied by a Daylight and Sunlight Report which sets out the calculations of likely daylight and sunlight impacts which may arise from the proposed development to neighbouring properties. The Report is based upon the Guidelines set out in the Building Research Establishment (BRE) Handbook 'Site Layout Planning for Daylight and Sunlight 2011- A Guide to Good Practice' 2nd Edition, 2011(the "BRE guide") and also British Standard 8206-2:2008 – 'Lighting for Buildings-Part 2: Code of Practice for Good Lighting', to which the BRE guide refer. The report also tests the impacts of lighting levels to determine whether habitable rooms within the proposed building itself will receive adequate daylight and sunlight. The report takes account of the potential shadowing impacts of the proposal on the neighbouring amenity spaces including for the application site.
- Daylight
- 6.47 For calculating daylight impacts to neighbouring properties arising from a new proposal, the BRE (2011) guide emphasises that the vertical sky component (VSC) should be used as the primary method of assessment together with the No Sky line (NSL) assessment in situations where internal room layouts are shown or can be reasonably assumed. The tests are therefore applicable in this instance.

- 6.48 The VSC is a quantifiable measure of the amount of skylight falling on a vertical wall or window. The BRE handbook suggests that if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. The guidance states that if the Vertical sky component with the new development in place, is both less than 27% and less than 0.8 times its former value (more than 20% reduction), then the occupants of the existing building will notice the reduction in the amount of skylight. It should be noted that the VSC calculations only measures light reaching the outside plane of the window under consideration, so the calculations refer to potential light rather than actual light. Depending on the room and window size, the room may still be adequately lit with a lesser VSC value than the targets referred to above.
- 6.49 The NSL is a measurement of the proportion of the room which receives direct sky Light through the window i.e. it measures daylight distribution within a room. The BRE Handbook states that if an area of a room that receives direct daylight is reduced to less than 0.8 times its former value the effects will be noticeable to its occupants.
- 6.50 Where the assessment considers neighbouring properties yet to be built or for the proposed development then Average Daylight Factor (ADF) may be an appropriate method of assessment to supplement VSC and NSL as it takes into account the size of windows in question served by the window. British Standard 8206 recommends minimum standards of Average Daylight Factor (ADF) values for rooms which is dependent on their use. These being:
- 2% for kitchens;
 - 1.5% for living rooms; and
 - 1% for bedrooms
- Sunlight
- 6.51 For calculating sunlight, the requirements for protecting sunlight to existing residential buildings are set out in the BRE guidelines. A good level of lighting will be achieved where a window achieved more than 25% APSH, of which 5% should be in the winter months. When sunlight levels fall below the suggested recommendation, a comparison with the existing condition is advised and if the reduction is less than 0.2, i.e. the window continues to receive more than 0.8 times its existing sunlight levels, the impact on sunlight within the development in place will be acceptable. The BRE guidelines states that sunlight tests should be applied to all main habitable rooms which have a window which faces within 90 degrees of due south.
- 6.52 In relation to sunlight, the annual probable sunlight hours (APSH) considers the amount of sun available in both the summer and winter for each given window which faces within 90° of due south. If the window reference point can receive more than one quarter (25%) of APSH and at least 5% of APSH during the winter months, between 21st September and 21st March, then the room should still receive enough sunlight.
- 6.53 The BRE guidance advise that for a garden area or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on 21st of March. In addition, if, as a result of a new development, an existing garden or amenity area does not reach the area target

above and the area which can receive two hours of direct sunlight on 21st March is reduced by 20%, the loss to the amenity spaces is likely to be noticeable.

6.54 It should be noted that the guidance within the BRE guidelines is not mandatory and the document should not be seen as an instrument of planning policy. Its aim is to assist rather than constrain developers and although it gives numerical guidelines, these calculations should be interpreted flexibly because natural lighting is only one of many factors in site layout design.

- Impact to neighbours

6.55 The neighbouring properties that were assessed are set out below:

- No.'s 17 to 21 Rainhill Way – to the north west of the site
- 202 to 220 Bruce Grove – immediately north of the site
- 1 to 9 Rainhill Ways - east of the site.

17 to 21 Rainhill Way

6.56 30 windows within the above residential block were tested and the tests show that all of the windows would have above target VSC values and therefore these habitable rooms within these properties will continue to receive adequate daylight.

6.57 In respect of sunlight, a total of 30 windows were tested within the developments and all of the 30 windows will continue to meet above target values as set out in the BRE guidelines.

202 – 220 Bruce Grove

6.58 A total of 40 windows within the above residential block were tested and the tests show that all of the windows would have above target VSC values and therefore these habitable rooms within these properties will continue to receive adequate daylight.

6.59 In respect of sunlight, a total of 40 windows were tested within the developments and all of the 40 windows will continue to meet above target values as set out in the BRE guidelines.

1-9 Rainhill Way

6.60 20 windows within the above three storey houses were tested and the tests show that all of the windows would have above target VSC values and therefore the habitable rooms to these properties would continue to receive adequate daylight.

6.62 In respect of the impact of the development on sunlight hours for each given window to the existing buildings, it should be noted that the APSH criteria is not applicable as the only elevations with windows which face 90 degrees due south are windows which serve circulation areas, bathrooms, toilets, store rooms and garages.

6.63 In conclusion and having regard to the daylight and sunlight levels, it is considered that the proposed development will not have a detrimental impact on the adjoining properties.

- Assessment of the proposed development (Site 11)

- 6.64 In considering a residential scheme it is also important to ensure that the living conditions for future occupiers are appropriate and adequate daylight conditions are afforded in accordance with BRE guidelines.
- 6.65 To assess the daylight levels, the proposed rooms tested for ADF and of the 20 rooms were tested and the results show that 19 windows will meet the target values set out in the BRE guidelines.
- 6.67 Although the majority of rooms within the scheme meet the ADF minimum as defined by BRE, the report indicates that one of the window fail the test. The failed window would be to a ground floor kitchen and the ADF values fall just below the BRE target values (achieving 1.9% against the target value of 2%). Given the minor nature of the departure, it is considered that the failure is not so significant as to warrant a refusal of the scheme.
- Impact on existing and proposed garden spaces
- 6.68 In accordance with BRE guidance, the applicant undertook an overshadowing assessment to test whether the proposed development would have any potential impacts on the external garden areas of the following properties:
- 202 to 220 Bruce Grove
 - 1 to 9 Rain Hill Way
- 6.69 The assessment results illustrate that there will not be any noticeable impacts to the garden areas of the properties tested and that all garden areas will receive up to 2 hours of sunlight. It should be noted in the case of 1-9 Rainhill Way that the existing garden areas are already extensively shaded and do not meet the BRE guidance due to the site constraints such as the narrow plot width of the garden, facing onto the high boundary fences to the gardens and extensive shading from the nearby trees. It is considered that on balance, the presence of the development would not significantly worsen the current situation. The BRE guidance allows for the trees and fences over 1.5 metres tall to be factored into the calculations, which needs to be taken into account in this case.
- 6.70 The overshadowing assessment in accordance with BRE guidance was also undertaken to test the impacts of shadowing on the proposed amenity/garden spaces of the proposed development. The results illustrate the proposed community garden areas to the east and west of the site will benefit from adequate sunlight.
- 6.71 In respect of the proposed private amenity spaces for the four houses, the test shows that the desired proportion of garden space (50%) will not be sunlight throughout the year. This is due to the site being within close proximity to the elevated railway viaduct to the south of the site, which presents a significant obstruction. However, at least 20% of the amenity area which will still provide the Council's minimum amenity space standards will received adequate sunlight on 21st March. The level of sunlight to the garden spaces could be improved by removing the obstructions behind (i.e. the railway viaduct) or reducing the development site coverage, however, neither of these options would be feasible in this instance. On balance, and given the site constraints and the site's urban context, the shadowing impacts to the amenity areas are considered to acceptable and would accord with the BRE Guidelines which advises that where gardens are heavily obstructed, the loss should be kept to a minimum.

- 6.72 On balance, it is considered that the daylight/sunlight impacts arising from the development will not significantly impact neighbouring properties or the proposed development and will result in acceptable living conditions for the existing and future residents.

Privacy

- 6.73 Policy DM25 in the Managing Development Document seek to protect the amenity of surrounding existing and future occupiers and provides guidance that a distance of 18 metres between habitable room windows would reduce inter-visibility to a degree that would be acceptable to most people to ensure acceptable level of privacy and overlooking.
- 6.74 The residential block at No.202 – 220 Bruce Grove ranges between 3 and 5 storeys and its rear windows are approximately 16.5 metres from the site, across the other side of Rainhill Way. Given the separation distance over the road, and the general existing block pattern within the immediate surrounding having distances less than 18m, this relationship is considered acceptable, on balance. To the east of the site is the three storey row of terrace houses at No.'s 1-9 (odd) and the application proposal has been designed with a reasonable separation distance of 16.1 metres from the proposed eastern elevation of the proposed development to the nearest window.
- 6.75 The proposed eastern elevation of development has no windows and as such the proximity of the proposal to these buildings raises no significant impacts in terms of unacceptable overlooking or reduction in privacy. In addition, a condition would be imposed to ensure that any building works, including any new insertion of windows which can be carried out without the requirement of a planning permission would be controlled (i.e. restrict permitted development rights).
- 6.76 However, it is noted that the design of house located at the eastern end of the site includes a terrace on the rear southern elevation and future residents could potentially overlook the gardens in the east direction towards 7-9 Rainhill Way. To ensure that the overlooking impact is minimised, the proposal includes a privacy screen to the eastern side of the terrace and it is considered that the proposed height and type of glazing can be conditioned to be retained permanently to safeguard privacy to the affected properties.
- 6.77 In is also noted that the previous appeal decisions for the application site, the Planning Inspector raised no objection to the use of a condition to mitigate potential privacy impacts. It is therefore considered that a condition can be appropriately applied in this case to safeguard privacy to the existing residents to the east.
- 6.78 The residents of terraces at 1-9 Rainhill Way have also raised concerns to their privacy from the proximity of the proposed Community garden area which would be located on the eastern side of the application site. This is due to the existing houses' rear gardens and its accesses would be adjacent the proposed Garden which would be separated by footway. It is considered that, given the existing high brick wall which encloses the existing private garden areas for the residents, there would be no direct overlooking from the users of the community garden area. With regards to the additional concerns raised in relation to the creation of a dark alleyway between the proposed development and the footway, the proposed eastern boundary treatment would be designed to be low and open in character to allow natural surveillance and therefore would not lead to unsafe environment.

Outlook/sense of enclosure

- 6.79 The assessment of sense of enclosure including the impact upon outlook is not a quantifiable measurement and the assessment of this element is normally a matter of judgement. However, it is judged that where there is significant daylight and sunlight infringements or unreasonable reduction in privacy arising from a development, this is normally an indicator that the proposal would be overbearing, resulting in detrimental impacts to outlook and sense of enclosure.
- 6.80 Objections have been received on grounds that the proposal would have unacceptable impact on neighbouring properties. Officers accept that there will clearly be some visual impacts on outlook for the existing occupiers to the east of the site at No.1-9 Rainhill Way; primarily because the new three storey houses are proposed on land which is currently open grassed area. However, given the separating distances proposed (16.1 metres) between the application site and these properties, it is not considered that the impact on outlook would be sufficient to warrant a refusal of the scheme on this ground alone. Additionally, given the urban context of the site, the proposal will not result in unacceptable sense of enclosure for those windows facing onto the new development or to the garden area of the properties.
- 6.81 Similarly, officers have considered the impact of the proposal on the flatted developments to the north of the site and it is considered that there is adequate separation distance between the proposal and these developments (between 16 -18 metres) such that the proposal will not have an overbearing impact on these properties. On balance, it is considered that the impact of the proposal on outlook/sense of enclosure for the surrounding properties would be acceptable and no unduly detrimental impacts will result.
- 6.82 With regard to the living conditions for future occupants of the houses, as discussed earlier, the proposed design would offer acceptable standards of daylight and sunlight within habitable rooms and the degree of enclosure of the site are affected by the site constraints. However, the applicant has made a concerted effort to set back the built form from the viaduct wall and allow greater than the minimum internal space standards for the new houses to compensate for the identified shortfalls. Furthermore, the proposed design ensures that the usability of both the internal spaces and external areas are maximised. Whilst there are some compromise to future occupiers in terms of outlook, this shortfall alone does not justify the refusal of the scheme on this ground

Contaminated land

- 6.83 The NPPF, Policies 5.21 and 5.22 in the London Plan and Policy DM30 in the Managing Development Document (2013), requires suitable site investigation and remediation schemes to be secured and agreed for development proposals on contaminated or potentially contaminated land.
- 6.84 The application was accompanied by a Desk Study Report (reference 13860DS) dated June 2014 which assessed the likely contamination of the site. The document was reviewed by the Council's Environmental Health officer, who advised that subject to conditions to ensure that appropriate mitigation measures are in place, there are no objections on the grounds of contaminated land issues.

Noise

- 6.85 The NPPF seek to ensure that Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:
- Whether or not a significant adverse effect is occurring or likely to occur;
 - Whether or not an adverse effect is occurring or likely to occur; and
 - Whether or not a good standard of amenity can be achieved
- 6.86 Policy 7.15 of the London Plan (2011) sets out guidance in relation to noise for new developments and in terms of local policies and policies SP03 and SP10 of the Core Strategy (2010) and policy DM25 of the Managing Development Document (2013) seek to minimise the adverse effects of noise on new developments.
- 6.87 The application site is bounded on its southern side by an elevated railway viaduct and the northern part of the site fronts onto an estate road. The railway line adjoining the site serves three separate London Underground Lines (LULs) and over ground services makes use of the tracks in both directions. The road traffic along Rainhill Way is considered to use infrequently as it is an estate road.
- 6.88 The application was accompanied by a Noise Survey and Assessment report which was reviewed by the Council's Environmental Health Team (Noise and Vibration). Concerns were raised initially about the impact of noise and vibration on the future and further details were requested about the impact of the proposal on ground-borne noise (reradiated noise from the over ground railway).
- 6.89 The additional information provided has been reviewed and is considered satisfactory. The applicant is advised to ensure appropriate standard of internal noise insulation is provided for the development through the provision of high acoustic performance double glazing, acoustically rated background ventilators and through appropriate methods of construction. These matters would be secured by condition.

Demolition and Construction Noise and Vibration

- 6.90 The Noise Assessment submitted acknowledged the potential for adverse effects from construction and site preparation works, however, it is considered that noise and vibration levels as a result of any implementation works on site can be minimised by mitigation methods such as through appropriate piling methods, fitting equipment with silencers which can be employed to ensure that noise levels are kept to an acceptable minimum.
- 6.91 A series of condition, including the need for a Construction Traffic Management Plan would be applied to ensure that all works accord with best practice.
- 6.92 On balance, officers are satisfied that appropriate conditions can be applied to secure acoustic glazing, and to achieve satisfactory noise levels within each unit to achieve satisfactory living conditions. Furthermore, conditions can be applied mitigate any associated noise and vibration impacts arising from construction which is in line with the objectives in Policy 7.15 in the London Plan (2011), Policy SP10 in the Core Strategy (2010) and Policy DM25 in the Managing Development Document (2013).

Biodiversity

- 6.93 Policy SP04 of the Core Strategy and Policy DM11 of the MDD seeks to protect and enhance biodiversity value through the design of open spaces and buildings and by

ensuring that developments enhance areas of biodiversity value in order to achieve a net gain in Biodiversity. SP04 (2) of the Core Strategy seeks to promote and support new developments that provides green roofs, and other measures to green the built environment.

- 6.94 The Council's Biodiversity officer has been consulted in this regard and the feedback states that the site has limited biodiversity value, although it is recognised that the site could provide a potential habitat for a range of invertebrates, and a food source for seed-eating birds. The proposed development has been assessed on having a minor adverse impact on biodiversity. The applicant's proposal to provide food growing initiatives is welcome and could potentially increase the biodiversity value of the site. A condition is advised to secure full details of the proposed landscaping and also details of green roofs can be secured on the proposed flat roofs. Subject to the conditions advised, it is considered that the proposal would enhance biodiversity on and surrounding the site in compliance with Policy SP04 of the Core Strategy (2010) and Policy DM11 of the MDD.

Trees

- 6.95 Policy 7.21 of the London Plan acknowledges that the role that trees play in terms of the townscape of the built environment and it emphasizes that existing trees of value should be retained and any loss as a result of a development should be replaced following the principle of 'right place, right tree'.
- 6.96 Policy SP04 in the Core Strategy (2010) and Policy DM23 in the Managing Development Document seeks to ensure that developments within the public realm are comfortable and useable.
- 6.97 There are five trees within the application site (Sycamore, London Plane, Ash and 2 x Silver Maple). The proposal seeks the felling one tree (London Plane) on the east part of the site to facilitate the development. The Council's Arboriculture Trees Officer has no objection to the felling of the tree but notes its amenity value. It is noted that the tree to be felled has some amenity value and a replacement tree to mitigate the loss of the amenity/environmental benefits of the existing tree would be conditioned. Tree protection measures would also be conditioned to ensure that the roots of the existing trees are protected during construction periods.

Refuse

- 6.98 All servicing, including refuse recycling collection would take place from Rainhill Way as per the existing situation for the residential properties on the northern side of the road. A separate refuse and recycling bin store is proposed to be located adjacent to the front door of each of the properties.
- 6.99 The Council's Cleansing Team was consulted on the proposal and no objection was raised with regard to the proposed servicing arrangements for the site or the refuse/storage details proposed. It is envisaged that a 278 agreement will be required and this can be addressed by way of a condition. Additionally, a condition will be applied to ensure waste and recyclable storage facilities proposed are secured prior to the first occupation of the development and retained as approved thereafter
- 6.100 The proposal is acceptable in terms of the refuse/recycling provision and servicing proposed and therefore subject to the conditions requested, the scheme would accord with Policy SP05 in the Adopted Core Strategy 2010 and policies DM14 and DM25 in the Managing Development Document (2013), which seek to ensure

adequate waste collection and disposal facilities are incorporated into new developments.

Transportation and Highways

- 6.101 The National Planning Policy Framework (2012) seeks to promote sustainable modes of transport and accessibility and reduce the need to travel by car. Policies 6.3, 6.9 and 6.13 of the London Plan require transport demands generated by new developments to be within the capacity of the existing highway network.
- 6.102 Policy SP09 of the Core Strategy (2010) and Policies DM20 and DM22 of the Managing Development Document (2013) seek to ensure that new developments do not have an adverse impact on the safety and local road network or compromise pedestrian safety. The applicant submitted a Transport Statement to outline the highway related impacts that the proposal would have on the local highway network.

Car Parking

- 6.103 The proposal does not include any onsite car parking spaces and the site benefits from relatively good access to public transport, with PTAL rating of 3. The proposal has been assessed by the Transportation and Highways team, who have raised no objection to the nil parking provision and recommends that a car permit restriction be secured by way of a S106 agreement. It is considered that subject to the legal agreement, the proposal would accord with Policies 6.3, 6.13 of the London Plan, SP09 (4) of the Council's Core Strategy (2010) and DM22 (2) of the Managing Development Document (2013), which seeks to ensure that developments in sustainable locations are car and permit free.

Cycle Parking

- 6.104 The Council's Cycle parking standards [set out in Appendix 2(1)] of the Managing Development Document (2013), requires the provision of one cycle parking space per 1 and 2 bed residential unit and two cycle parking spaces per 3+ bedroom units.
- 6.105 The proposal includes a cycle store which can accommodate up to two bikes within the each of the rear garden of the proposed dwellings. This is considered acceptable given the spatial constraints of the site and a condition will be imposed on the planning permission to ensure that the cycle stores are provided for the future occupiers prior to occupation of the residential units.
- 6.106 Subject to this condition, it is considered that the proposal would accord with Policy 6.9 of the London Plan (2011) and Policy DM22 (4) of the Council's Managing Development Document (2013), which seek to promote sustainable forms of transport and seek to ensure that adequate, safe and secure cycle parking provision.

Energy and Sustainability

- 6.107 At a National level, the NPPF encourage developments to incorporate renewable energy to promote energy efficiency.
- 6.108 The London Plan sets out the Mayor of London's energy hierarchy which is to:
- Use less energy (be lean)
 - Supply Energy Efficiently
 - Use Renewable Energy(Be Green)

- 6.109 The London Plan 2011 also 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).
- 6.110 Policy SP11 of the Core Strategy (2011) requires all new developments to provide 20% reduction in Carbon Dioxide emissions through on site renewable energy generation. Whilst, Policy DM29 within the Managing Development Document requires developments to achieve a minimum of 50% reduction in CO₂ emissions above the Building Regulations 2010 and requires sustainable design assessment tools to be integrated into new developments to ensure that climate change measures are met.
- 6.111 The new houses will be designed to achieve Code for Sustainable Homes Level 4. In addition, a photovoltaic array is proposed on the flat roof area of each house. The Council's Energy Efficiency officer welcomes the integration of renewable energy technologies within the proposal, subject to conditions to secure full details of the PV and the development meeting the Code for Sustainable Homes Level 4. Subject to the conditions above, it is considered that the proposal would accord with Policies 5.3 and 5.7 of the London Plan (2011) and Policy SP11 of the Core Strategy and Policy DM29 of the MDD.

7 Human Rights Considerations

- 7.1 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determinations of this application, members should consider the following:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the 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's interest (Convention Article 8); and
 - Peaceful enjoyment of possession (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 competing interests of the individual and of the community as a whole"
- 7.2 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.
- 7.3 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.

- 7.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power and duties. Any interference with a Convention right must be necessary and proportionate.
- 7.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 7.6 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.
- 7.7 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.

Other Financial Considerations

- 7.8 Localism Act (amendment to S70 (2) of the TCPA 1990)
- Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the authority shall have regard to:
- 7.9 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.
- 7.10 Section 70(4) defines "local finance consideration" as:
- 7.11 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
- 7.12 Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 7.13 Section 70(4) defines "local finance consideration" as:
- 7.14 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.
- 7.15 In this context "grants" might include New Homes Bonus.
- 7.16 These are material planning considerations when determining planning applications or planning appeals.
- 7.17 Officers are satisfied that the current report to Committee has had regard to the provision of the development plan. As regards to local finance considerations, the proposed S.106 package has been detailed in full which complies with the relevant Statutory tests, adequately mitigates the impact of the development and provides necessary infrastructure improvements.

- 7.18 As regards Community Infrastructure Levy considerations, following the publication of the Inspector's Report into the Examination in Public in respect of the London Mayor's Community Infrastructure Levy, Members are reminded that the London Mayoral CIL became operational from 1 April 2012 and is payable on this scheme. The likely net CIL and Cross rail payment associated with this proposal would be in the region of £16, 835.
- 7.19 The New Homes Bonus was introduced by the Coalition Government during 2010 as an incentive to local authorities to encourage housing development. The initiative provides un-ring-fenced finance to support local infrastructure development. The New Homes Bonus is based on actual council tax data which is ratified by the CLG, with additional information from empty homes and additional social housing included as part of the final calculation. It is calculated as a proportion of the Council tax that each unit would generate over a rolling six year period.
- 7.20 Using the DCLG's New Homes Bonus Calculator, and based on the Indicative Scheme this development may generate £5,822 in the first year and a total payment of £34,9334 over 6 years.

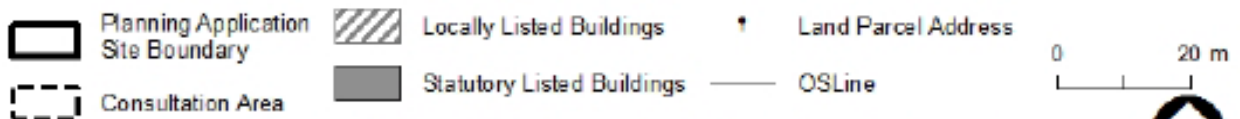
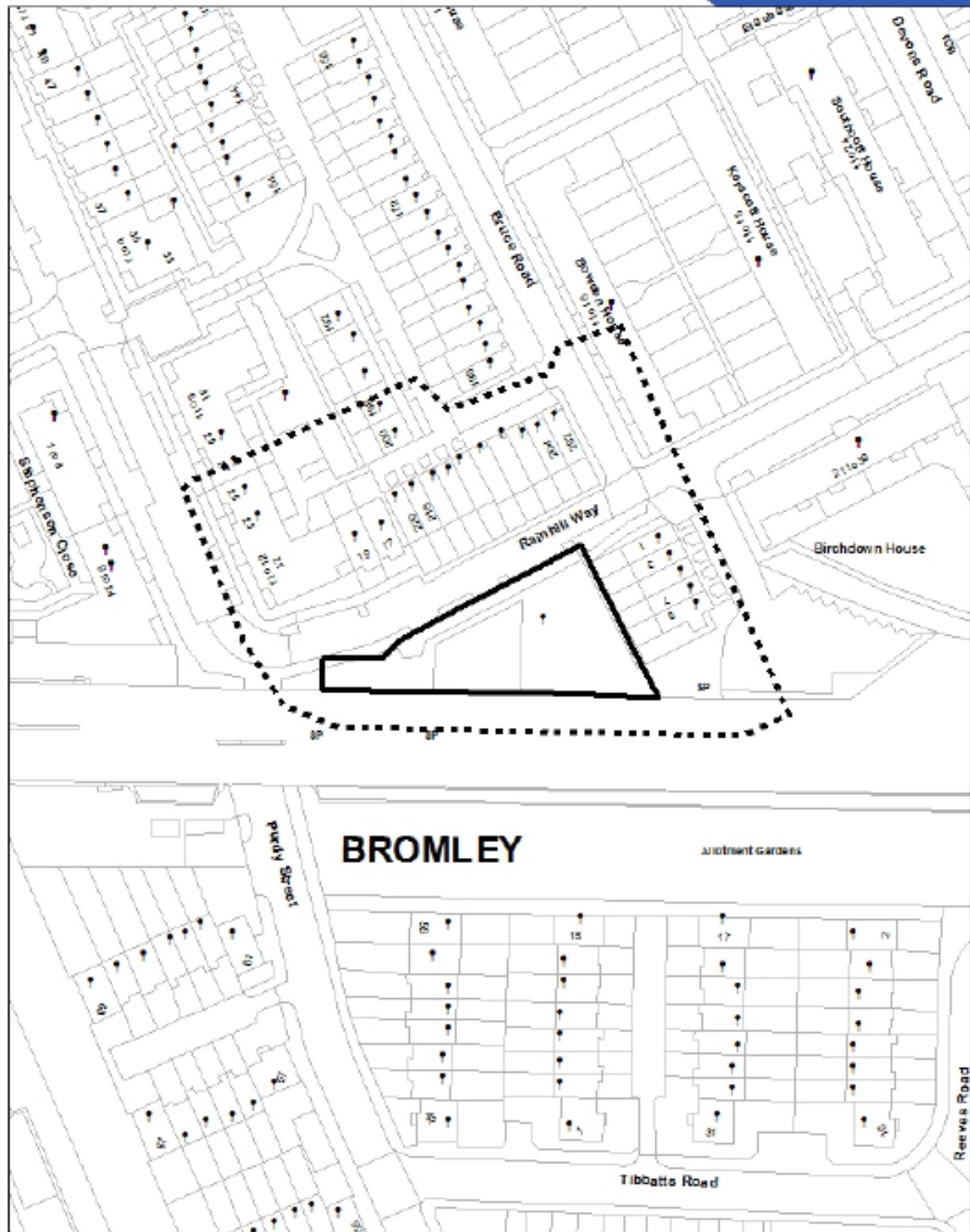
8 Equalities Act Considerations

- 8.1 The Equality Act 2010 provides protection from discrimination in respect of certain Protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs 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:
- 8.2 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.
- 8.3 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.
- 8.4 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation there are no identified equality considerations.
- 8.5 With regard to the proposed development, this allows for an inclusive and accessible development for less-able and able residents, employees, visitors and workers. Conditions secure, inter alia, lifetime homes standards for each of the units proposed.

Conclusion

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

Planning Application Site Map
PA/14/01486



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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