

<b>Committee:</b> Development	<b>Date:</b> 14 May 2014	<b>Classification:</b> Unrestricted
----------------------------------	-----------------------------	--

<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/14/02366
	<b>Ward:</b> Bethnal Green

## 1.0 APPLICATION DETAILS

<b>Location:</b>	Bethnal Green Gardens, Cambridge Heath Road
<b>Existing Use:</b>	Public shelter with kiosk
<b>Proposal:</b>	Change of use to a café with associated alterations including the installation of new glazing, security shutters, kitchen with extract system and toilet facilities.
<b>Drawings and documents:</b>	PA-02 rev 4, PA-05 rev 3, PA-06 rev 3, PA-07 rev 3, PA-09 rev 3, PA-10 rev 3, PA-11 rev 3, and Noise Impact Assessment, ref 5043.NIA.01.
<b>Applicant and owner:</b>	London Borough of Tower Hamlets
<b>Historic Building:</b>	Non-designated heritage asset
<b>Conservation Area:</b>	Bethnal Green Gardens Conservation Area

## 2.0 EXECUTIVE SUMMARY

- 2.1 This report considers an application for conversion of the public shelter in Bethnal Green Gardens to a café, including internal and external alterations.
- 2.2 The main issues addressed in this report are the proposal's impact on the function and attractiveness of Bethnal Green Gardens as a public park, heritage implications of alteration works and amenity impacts which could result from operation of the café.
- 2.3 The public shelter is an attractive art deco or art moderne building, considered to be a non-designated heritage asset. The building contributes to the character and appearance of the Bethnal Green Gardens Conservation Area. However, since its post-war heyday, the shelter has fallen into disrepair and suffers from vandalism and antisocial behaviour, attracting rough sleepers, drug users and rowdy groups drinking alcohol.
- 2.4 Through sensitive alteration works the proposal would introduce a viable café use, ensuring the building's refurbishment and long-term conservation. Expert advice of

the Council's conservation officers has been sought and the detailed design revised to minimise the proposal's visual and heritage impact.

- 2.5 Conservation officers support the proposal and consider that the alterations to the building would safeguard the architectural and historic value of the building and preserve the character and appearance of the Bethnal Green Gardens Conservation area.
- 2.6 The removal of benches within the shelter and introduction of a café use would have no material effect on the availability of public seating within Bethnal Green Gardens while providing an amenity for users of the park and deterring antisocial behaviour. The proposal would result in no adverse effect on the living conditions of nearby residents while removing an antisocial behaviour hotspot.

### **3.0 RECOMMENDATION**

- 3.1 That the Committee resolve to **GRANT** planning permission.
- 3.2 That the Corporate Director Development & Renewal is delegated authority to issue the planning permission and impose conditions to secure the following matters:
- 3.3 Conditions:
- a. Time Limit 3 years;
  - b. Compliance with plans and documents;
  - c. Extract system to be implemented and maintained in accordance with standards;
  - d. Detailed drawings at a scale of no less than 1:5 of all external alterations, including: access ramps, glazing system, toilet door, security shutter and security shutter fascia panel;
  - e. Lighting scheme to deter vandalism and highlight the architecture of the building;
  - f. Schedule of all construction and repair works including method statements;
  - g. Deliveries and servicing plan;
  - h. Cycle parking for staff and visitors;
  - i. Waste management plan;
  - j. Hours of opening of 7am to 8pm seven days a week;
  - k. No music to be played within or outside the premises so as to be audible from the nearest residential properties;
  - l. Detailed furniture layouts to ensure that glazing is not obscured and that the open nature of the shelter is maintained;
  - m. Glazing not to be obscured, no advertisements to be affixed to the building without prior written consent; and
  - n. Removal of permitted development rights for extension and alteration works, no painting of brickwork and masonry.
- 3.4 Any other condition(s) and/or informatives as considered necessary by the Corporate Director for Development & Renewal.

### **4.0 PROPOSAL AND LOCATION DETAILS**

#### **Site and Surroundings**

- 4.1 The application relates to a single storey pavilion building located in the north-eastern section of Bethnal Green Gardens, at the corner of Cambridge Heath Road and Roman Road.

- 4.2 The pavilion consists of three sections: a concealed vent shaft serving the Bethnal Green Underground Station at the northern end, a sheltered area with two benches in the centre and a kiosk with benches, formerly a sun lounge, at the southern end. The kiosk or sun lounge was originally enclosed with crittall windows and is reported to have once been used as an ice-cream parlour during summer months and a tea shop during winter. In recent years it has served as a location for a pop-up café.
- 4.3 There are a number of listed buildings in the vicinity of the site, most notably the Grade I listed Church of St John on Bethnal Green, to the north of the site, and the Grade II listed Bethnal Green Library.
- 4.4 Bethnal Green Gardens is a Council owned park designated as Publicly Accessible Open Space. Due to severance caused by busy roads the park is largely functionally separate from the nearby listed parks of Paradise Gardens and Museum Gardens.
- 4.5 Bethnal Green Gardens form a functional part of the Bethnal Green District Town Centre. The gardens, together with the library, church and museum also form part of a civic cluster as set out in the Core Strategy vision for Bethnal Green.
- 4.6 The site is located within close distance of the Bethnal Green Station and benefits from excellent public transport accessibility (PTAL rating of 6a). There are numerous bus routes stopping nearby and a number of cycle hire stations are located within a short walking distance. Both Cambridge Heath Road and Roman Road are LBTH adopted highways.
- 4.7 The nearest residential properties are located within Swinburne House, some 22m to the east of the pavilion.

### **Background and Planning History**

- 4.8 Since its post-war heyday, the public shelter has fallen into disrepair and suffers from vandalism and antisocial behaviour, attracting rough sleepers, drug users and rowdy groups drinking alcohol; creating a maintenance liability for the Council. The crittall windows to the sun lounge or kiosk in the southern section of the building have been removed with metal plates welded onto the crittall frame. More recently the west-facing bench has been vandalised and subsequently removed by the Parks Service.
- 4.9 The Parks Service is looking to bring the shelter back into use and ensure its refurbishment and future maintenance at no cost to the Council. The proposal to tender the lease for the operation of a private café was approved by the Cabinet on 23<sup>rd</sup> July 2014.
- 4.10 As the building is in a poor condition it is estimated that approximately £180,000 of capital investment would be required for the conversion and refurbishment works. It would be the basis of the lease arrangement that 100% of that investment is delivered by the lessee and not the Council. A lease of 15 years has been determined as the term necessary to make the investment sufficiently attractive to bidders. The lease would also provide an annual rental income for the Council.
- 4.11 The Council's Asset Management Service would manage the tendering process and advise the Parks Service on the terms of the lease. The criteria for awarding the lease are yet to be finalised but would likely include the following:
- Financial background due to investment required;
  - Rental offer;

- Quality of the bill of fare (including fair trade products, organic produce and healthy menus);
  - Pricing of the bill of fare;
  - Social Enterprise aspect of the business;
  - Proposed theme in terms of design for the café;
  - Experience in the catering and service provider area; and
  - Support to the local economy through local employment and supply of goods.
- 4.12 Planning permission for conversion of the pavilion into a café was originally sought in 2011. Following amendments to the scheme, approval was granted under delegated authority in May 2011 (ref PA/11/00371). However, this permission has not been implemented within the statutory time limit and subsequently lapsed in May 2014.
- 4.13 An application for a similar proposal was submitted on 30<sup>th</sup> April 2014 (ref PA/14/01170) and withdrawn three months later to facilitate revisions and clarifications requested by planning and conservation officers.

### **Proposal**

- 4.14 The current application proposal is very similar to that previously approved. The application seeks permission for conversion of the single storey public shelter into a café (Use Class A3) with associated alterations including the installation of new glazing, security shutters, kitchen with an extract system and toilet facilities.
- 4.15 The proposal would not result in an increase to the size of the building although the central open section on the shelter would be enclosed by glazing. The café seating area would measure approximately 25sqm, most likely seating between 15 and 20 patrons depending on the layout of internal furniture. During summer months the park facing glazing would be retracted to one side allowing for tables to spill out onto the generous hardscaped area outside the pavilion.
- 4.16 The premises would be wheelchair accessible with a Building Regulations Part M compliant toilet located at rear. The toilet would not be accessed directly from the café's seating area due to space constraints.
- 4.17 The southern part of the shelter would serve as a kitchen area with a store. The kitchen would be of a size and specification typical of a small café rather than a restaurant and house a 4 plate electric hob and oven with a domestic kitchen extract system.
- 4.18 The proposal would complement the Parks Section's plans for the conversion of the public toilets in Museum Gardens, next to the north-eastern entrance of the Bethnal Green Station, as per planning permission ref PA/13/01551 of 11/10/2013, and the associated Cabinet's approval of 23/07/2014. This planning permission provides for a larger café with a roof terrace as well as public conveniences within the existing toilet block.

## **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**

National Planning Policy Framework 2012  
National Planning Policy Guidance 2014 with subsequent alterations

### **5.3 London Plan consolidated with alterations since 2011**

- 2.9 - Inner London
- 2.18 - Green infrastructure: the network of open and green spaces
- 4.7 - Retail and town centre development
- 6.3 - Assessing effects of development on transport capacity
- 6.9 - Cycling
- 7.1 - Building London's neighbourhoods and communities
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.4 - Local character
- 7.5 - Public realm
- 7.6 - Architecture
- 7.8 - Heritage
- 7.15 - Reducing noise and enhancing soundscapes
- 7.18 - Protecting local open space and addressing local deficiency

### **5.4 Core Strategy 2010**

- SP01 - Refocusing on our town centres
- SP03 - Creating healthy and liveable neighbourhoods
- SP04 - Creating a green and blue grid
- SP05 - Dealing with waste
- SP06 - Delivering successful employment hubs
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating distinct and durable places
- SP12 - Delivering placemaking (Bethnal Green)

### **5.5 Managing Development Document 2013**

- DM0 - Delivering sustainable development
- DM1 - Development within the town centre hierarchy
- DM10 - Delivering open space
- DM20 - Supporting a sustainable transport network
- DM22 - Parking
- DM23 - Streets and the public realm
- DM24 - Place-sensitive design
- DM25 - Amenity
- DM27 - Heritage and the historic environment

### **5.6 Supplementary Planning Documents**

Bethnal Green Gardens Conservation Area Character Appraisal (LBTH 2009)  
Planning for the Historic Environment Practice Guide (English Heritage 2012)  
Conservation Principles, Policies and Guidance (English Heritage 2008)

## **6.0 CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

#### **LBTH Environmental Health – Noise**

6.3 The submitted Noise Impact Assessment has been reviewed. The contents are satisfactory to ensure that no nuisance would be caused to nearby residents.

*[Officer comment: Implementation and maintenance of the extract system in accordance with the Noise Assessment would be secured by condition.]*

#### **LBTH Transportation and Highways**

6.4 No objection to the principle of the proposal, however cycle parking for staff and visitors should be provided and details of servicing and deliveries submitted.

*[Officer comment: Provision of cycle stands and submission of a Delivery and Servicing Plan would be secured by condition.]*

#### **LBTH Inclusive Access Officer**

6.5 Ramped access at gradient no higher than 1:12 should be incorporated.

*[Officer comment: The proposal has been amended to incorporate access ramps at the requested gradient.]*

#### **20<sup>th</sup> Century Society**

6.6 The Society has reviewed the revisions and is pleased to see the retention of more historic fabric including the original doors and crissall window frames. However, the Society still wishes to object to the application as it would result in the loss of the current openness of the structure and cause harm to the building's unusual architectural interest.

6.7 Part of the special architectural interest of this building is its open character with covered benches for visitors to the park, 'book-ended' by brick drums either end. The structure makes a positive contribution to the character of the conservation area and the Society is concerned that the plans to convert it to a café would harm its unique character.

6.8 The Society remains of the view that a more sensible approach would be to re-open the small kiosk, requiring minimum intervention and leaving the current openness intact.

*[Officer comment: Heritage matters and the Society's concerns are addressed in the material considerations section of this report as well as by the conservation officer, below. The current openness of the structure, where it is possible to see through the shelter, is not original. Historic photographs dating to the early 1950s, just after completion of the structure, show that the shelter has originally been subdivided in half with a solid brick wall faced with ceramic tiles. It is understood that this wall has been removed to provide more intervisibility and natural surveillance, in an attempt to deter antisocial behaviour. While a division into a more open central area and two solid brick drums either side has clearly been the architect's intention, and together with the slim roof canopy, is integral to the design of the building, this openness would not be significantly harmed by insertion of recessed glazing and security shutters. The less than substantial harm resulting from the proposed alteration works*

*would be offset by the public benefits of the proposal, such as provision of a useful amenity for users of the park, removal of an antisocial behaviour hotspot and the refurbishment and long term conservation of this non-designated heritage asset.]*

**LBTH Conservation Officer** (*verbatim*)

- 6.9 Proposals for the conversion of the Holden and Heaps shelter built in Bethnal Green Gardens to provide a café have been carefully considered to enable the existing historic character and fabric of this art moderne building to be retained. The proposals enable the reuse of this building in a manner sympathetic to its architectural character, with the central section of the shelter, which originally housed benches, being enclosed by frameless glazing behind the existing canopy supports. A toilet is carefully introduced, being accessed to the rear of the building, whilst the step line to the projecting floor slab of the building is to be retained, necessary access being provided by the provision of ramps beyond the slab of a distinctly different character.
- 6.10 These proposals are to be welcomed; minimal alterations will secure the future of this small but important building, providing a publically accessible use and a source of income for its continued maintenance and repair.

*[Officer comment: Heritage matters are addressed in more depth in the Material Planning Considerations section of this report.]*

**London Underground Limited**

- 6.11 No objection subject to submission of detailed schedules of alteration works and method statements to ensure that the operation of the Bethnal Green Station is not impacted.

*[Officer comment: Submission of the requested details would be secured by condition.]*

**7.0 LOCAL REPRESENTATION**

- 7.1 Public consultation took place in accordance with statutory requirements. This included a total of 61 letters which were sent to neighbours and interested parties, a press advert published in East End Life and site notices displayed outside the application site.

- 7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	Objecting: 59 (of which 48 are pro-forma)	Supporting: 14
No of petitions received:	0	1 with 130 signatures

- 7.3 The following issues were raised in objection to the proposal:
- a) Loss of public access to the sheltered seating as well as privatisation and commercialisation of the park.
  - b) Significant harm to the architectural and historic significance of the heritage asset, in particular resulting from loss of the structure's open character,

installation of security shutters, loss of teak benches, removal of sections of brick wall and loss of internal ceramic tiles.

- c) Lack of local need for a café and competition with the café which is to open in the Museum Gardens' toilet block contributing to poor viability of the enterprise and resulting in further harmful alterations and extensions to the building.
- d) Change of use to a café would not be necessary to restore the public shelter as other funding sources could be available.
- e) Lack of detailed drawings, inaccuracies or conflicting information in submitted documents.

7.4 The following issues were raised in support of the proposal:

- a) The proposal would represent good re-use of existing structure and would safeguard the asset's future.
- b) The building would be put to best use, of service to the community, and would be a useful and valued addition to the park, to the benefit of the amenity of park users.
- c) Safety would be improved and the existing antisocial behaviour hotspot removed.
- d) The alteration works would be minimal and sensitive.
- e) The pop-up café has revitalised the park and a café should become a permanent feature.

7.5 The Reverend Prebendary Alan Green, the Rector of St John on Bethnal Green has submitted a representation supporting the conversion of the pavilion. The conversion is described as sympathetic and the Reverend supports the views of Ms Pascale Pinxt who is the current operator of the pop-up café, these views are set out below. However, the Reverend also raises concerns about the inclusion of security shutters and the sealing off of the southern kiosk or sun lounge section.

7.6 Mses Pascale Pinxt & Poly Pinxt, the founders of the pop-up café have submitted a letter of support. The letter describes the neglected state and antisocial behaviour from which the building currently suffers stating that each weekend they have had to clear rubbish, including syringes, and wash away human waste before opening to the public. In their view, a permanent café would turn the underused shelter into a thriving feature of the park and improve safety. Nevertheless, Mses Pinxt consider that the installation of security shutters would not be appropriate and would detract from the building. They are also of a view that the southern kiosk or sun lounge section should not remain inaccessible to the public, the crital windows should be fully restored and the original teak benches and ceramic tiles are capable of being preserved. Mses Pinxt have commissioned an alternative design for the conversion which they intend to submit for approval if their bid for the lease is successful.

7.7 Mses Pinxt initiated the petition in support, with signatures gathered from the customers of the pop-up café. It is the case officer's understanding that the signatures were gathered mostly during the London Open House weekend last year. At that time, Mses Pinxt were displaying their own plans for the conversion of the shelter rather than the plans submitted by the Council's Parks Section. Members are therefore advised to treat the petition as supportive of the principle of the café



proposal but give lesser weight to the petition as an endorsement of the specific alteration works as discussed in this report.

## **8.0 MATERIAL PLANNING CONSIDERATIONS**

8.1 The main planning issues raised by the application that the Committee must consider are:

1. Land use - including the principle of café use and impact on the function and attractiveness of Bethnal Green Gardens as a public park.
2. Heritage and design implications of the proposed alterations works.
3. Amenity impacts which could result from operation of the café.

### **Land Use**

8.2 The National Planning Policy Framework (the NPPF) sets out the Government's land use planning and sustainable development objectives. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role, a social role and an environmental role. These roles are mutually dependant and should not be undertaken in isolation.

8.3 The Core Strategy vision for Bethnal Green, set out in the annex to policy SP12, is for Bethnal Green to draw upon and respect its natural and historic assets to reinforce its distinct identity. Bethnal Green Town Centre is to build on its role as the retail, commercial and civic hub of the area, making it a place to work, shop and socialise.

8.4 Three of the SP12 priorities and principles for the place of Bethnal Green are relevant to the proposal, these are:

- To improve Bethnal Green town centre as a place for commerce, retail and small and medium enterprises.
- To reinforce the civic hub in and around Bethnal Green tube station and town centre, encompassing the Museum of Childhood, St John's Church, York Hall and the historic green spaces.
- Development and regeneration should protect and promote the conversion and conservation of historic and older buildings so that they may be brought into beneficial reuse.

### **Employment**

8.5 Paragraph 18 of the NPPF states that the planning system should operate to encourage and not act as an impediment to sustainable growth. Significant weight should be placed on the need to support economic growth through the planning system. This is embraced by the London Plan and the Council's Strategic objective SO16 and policy SP06 of the Council's Core Strategy. These policies seek to support the growth of existing and future businesses in accessible and appropriate locations and to promote the creation of a sustainable, diversified and balanced economy with job opportunities provided in each place, in, and at the edge of town centres.

- 8.6 The proposal would likely result in employment of 2 or 3 staff and the lease agreement would ensure that local employment and local supply of goods are given a priority by the future operator. The proposal would thus make a positive contribution to the local economy in line with the above policies.

#### Open Space

- 8.7 Paragraphs 70 and 73 of the NPPF ask local planning authorities to guard against unnecessary loss of valued facilities and services and stress that access to high quality open space and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. This is addressed by policy 2.8 of the London Plan, Core Strategy policies SP03 and SP04, and the Managing Development Document policy DM10. These policies aim to create a network of high quality natural environment of green publicly accessible open spaces and safeguard against any loss of open space which could occur as a result of development.
- 8.8 The proposal would result in loss of covered public benches within the central section of the shelter and their replacement with café seating for paying customers. This has given rise to objections from local residents who are concerned about privatisation and commercialisation of the designated Publicly Accessible Open Space.
- 8.9 Cafes are a common feature in London's parks adding to the parks' amenity, function and value. Due to the size of Bethnal Green Gardens and quantity of freely available benches the café would not lead to undue privatisation or commercialisation of the park whilst also acting as a deterrent to antisocial behaviour.
- 8.10 The proposed café does not involve any extension or alteration works which would involve expansion of the building or encroachment onto green space of the park. Although, the hardscaped area in front of the public shelter would be used for additional tables and seating for the café during the summer months - this would not result in displacement of any park activities.
- 8.11 As there is a significant number of other freely accessible benches located throughout Bethnal Green Gardens, the harm resulting from loss of public seating within the shelter would be negligible. In officers' view this negligible harm would be clearly outweighed not only by the significant net increase in seating overall but also by the positive contribution the new café would make to the amenity offer of Bethnal Green Gardens as a public park.
- 8.12 The proposal would support the role of Bethnal Green Gardens as Publicly Accessible Open Space in accordance with the overarching objectives of the aforementioned policies.

#### Town centre impact

- 8.13 In line with the National Planning Policy Framework, the London Plan policies 2.15 and 4.7 require for town centre uses such as shops and restaurants to be focused in town centres on sites on the edges of centres that are well integrated with existing centre.
- 8.14 The Core Strategy policy SP01 seeks to ensure that town centres are active, well-used and safe during day and night. The policies encourage evening and night time economy uses that contribute to the vibrancy, inclusiveness and economic vitality. Policy DM1 of the Managing Development Document expands on strategic policy

SP01 and, to support the vitality and viability of town centres, specifically directs A3 uses such as a café to within the boundaries of designated town centres.

- 8.15 Whilst the site is formally within an edge of centre location of both the Bethnal Green and the Roman Road West District Town Centres, respectively 90m west and 130m east of the application site, Bethnal Green Gardens form a functional part of the Bethnal Green centre. The gardens, together with the library, church and museum also form part of the Bethnal Green civic cluster as set out in the Core Strategy vision for the place of Bethnal Green.
- 8.16 Having regard to the scale and type of the proposed use, it would not materially draw trade away, nor deter investment in, surrounding town centres. The proposed use is considered to be acceptable in relation to the Council's town centre hierarchy and would support the vitality and viability of the Bethnal Green civic cluster and town centre, in accordance with the above policies.

### **Heritage & Design**

- 8.17 The National Planning Policy Framework emphasizes the importance of preserving and taking opportunities to enhance heritage assets and requires any development likely to affect a heritage asset or its setting to be assessed in a holistic manner. The relevant London Plan policies are 7.4, 7.6 and 7.8. These policies broadly aim to ensure the highest architectural and design quality of development and require for it to have special regard to the character of its local context. Similarly, the Core Strategy policy SP10 aims to protect and enhance borough's conservation areas and to preserve or enhance the wider built heritage and historic environment of the borough to enable creation of locally distinctive neighbourhoods with individual character. Policy SP10 also sets out the broad design requirements for new development to ensure that buildings, spaces and places are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds. Policy SP10 is realised through the detailed development management policies DM23, DM24 and DM27 of the Managing Development Document.
- 8.18 With regard to alterations to heritage assets, policy DM27 specifies that alterations should not result in an adverse impact on the character, fabric, identity or setting, be appropriate in terms of design, scale form, detailing and materials, and enhance or better reveal the significance of the asset.
- 8.19 Further to the above policies, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, places a statutory duty for the local planning authority to pay special regard to the desirability of preserving or enhancing the appearance and character of conservation areas.
- 8.20 Paragraph 131 of the NPPF states that in determination of applications, local planning authorities should take account of:
- Desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
  - The positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality.
  - The desirability of new development making a positive contribution to local character and distinctiveness.

- 8.21 Paragraph 135 of the NPPF requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account - a balanced judgement is required having regard to the scale of any harm or loss, and the significance of the asset.
- 8.22 The public shelter was designed by the renowned London Underground architect Charles Holden and his assistant and successor Stanley Heaps. The building was likely designed in 1939 in an art-deco or art moderne style typical of the period and constructed as part of the Bethnal Green Underground Station which opened in 1946. It is likely that the shelter has opened in the late 1940s or early 1950s.
- 8.23 The public shelter features in Pevsner's 'Buildings of England, London 5 – East' where it is described as "elegantly modernist, wholeheartedly in the manner of Holden's stations with rounded ends and a thin projecting concrete roof". While not a listed building, it is considered to be a non-designated heritage asset worthy of protection. The building makes a positive contribution to the character and appearance of the Bethnal Green Gardens Conservation Area within which it is located. The building has also featured in London Open House last year.
- 8.24 In consultation with conservation officers the proposed alterations to the shelter have been reduced in scope in comparison to the now expired planning permission and now include:
- Removal of teak benches;
  - Removal of a section of internal brick wall to create a serving counter with access hatch;
  - Removal of a section of external brick wall in the eastern elevation to create a door to the wheelchair accessible toilet;
  - Installation of recessed frameless fixed glazing to the eastern elevation;
  - Installation of recessed frameless retractable glazing to the western, park facing, elevation;
  - Installation of metal grille roller shutters;
  - Internal subdivision of the southern part of the shelter to form toilet, store and kitchen areas, removal of internal tiling;
  - Addition of wheelchair access ramps.
- 8.25 Objectors raise concerns that the above works would result in harm to the architectural and historic significance of the public shelter, in particular through removal of benches and sections of wall and installation of a security shutter.
- 8.26 Objectors and the 20<sup>th</sup> Century Society are also concerned by the loss of the current openness of the structure causing harm to the building's unusual architectural interest derived from the buildings open character of covered benches for visitors to the park, 'book-ended' by brick drums at either end.
- 8.27 Paragraph 17 of the National Planning Policy Guidance states that whether a proposal causes substantial harm is a judgement for the decision maker, having regard to the circumstances of the case and the National Planning Policy Framework. The NPPG goes on to state that in general terms, substantial harm is a high test, so it may not arise in many cases. It is the degree of harm rather than the scale of the development that is to be assessed. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all.
- 8.28 Paragraph 83 of the English Heritage Planning for the Historic Environment Practice Guide states that some non-designated heritage assets are of heritage significance

but not at a level that would pass the threshold for statutory designation. Such assets can, singularly or collectively, make an important contribution to the environment. The desirability of conserving them and the contribution their setting may make to their significance is a material consideration, but individually less of a priority than for designated assets. The criteria for assessment of impact should thus be proportionate to the nature and the lower level of the non-designated asset's significance.

- 8.29 Furthermore, the Practice Guide explains that a proposal may harm or enhance significance or it may be neutral. It may have a combination of these effects. Differing and often conflicting heritage impacts accruing from the proposals are to be weighed against both each other and any other material planning considerations that would arise as a result of the development proceeding.
- 8.30 Potential heritage benefits of proposals are set out in paragraph 79 of the practice guide as:
- sustaining or enhancing the asset's significance;
  - reducing or removing risks to a heritage asset;
  - securing the optimum viable use in support of long term conservation;
  - positive contribution to economic vitality and sustainable communities;
  - appropriate design for its context and a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment; and
  - revealing the significance of the asset and enabling enjoyment of it by members of the public.
- 8.31 The proposed alteration works would be minimal and of a sympathetic design. No unnecessary alterations would take place. The frameless glazing and grille type security shutters would be recessed behind the existing iron support columns, preserving the distinct original architectural composition of the building.
- 8.32 Officers are confident that the works would not detract from the openness of the structure as originally envisaged by the architect, not only due to the transparent quality of recessed frameless glazing but also because originally the public shelter's central section was subdivided by a solid tiled partition wall which divided the shelter into east and west facing halves. It is understood that this wall was later removed in an attempt to address antisocial behaviour issues. As the frameless glazing to the park facing elevation would be retractable, the café would be open to the park during warmer months when the park is likely to be the busiest and when the non-designated heritage asset would be appreciated by most members of the public.
- 8.33 The addition of security shutters is considered to be largely unavoidable due to the likelihood of antisocial behaviour and damage to the glazing. Structures located in parks in the borough are frequently subject to vandalism. The metal shutter would be of a grille design so that it would remain see-through, preserving the general openness of the building and maintaining an attractive frontage. The fascia panel obscuring the shutter box would be painted matt white and would be recessed – it would not unacceptably detract from the slim roof profile of the shelter as it would appear similar to the existing soffit downstand which currently runs across the centre of the shelter where the partition wall once stood. It is important to note that the shutters would be fully retracted during the opening times which are likely to largely coincide with the opening times of the park. This would ensure that the shutter is not visible at times when the park is used by the majority of people. Oblique night time views from Roman Road would not be significantly affected.
- 8.34 The sections of brick work to be removed are located internally and at rear. Their removal would not affect the primary, park facing elevation of the public shelter.

- 8.35 Through sensitive alteration works the proposal would introduce a café use, ensuring the building's refurbishment and long-term conservation. The National Planning Policy guidance states that it is important that any new use of the heritage asset is viable, not just for the owner, but also for the future conservation of the asset so as to avoid successive harmful changes carried out in the interest of repeated speculative and failed uses. Officers are satisfied that the viability of the café use has been established through the success of the pop-up café scheme. Permitted development rights for alterations to the building would be removed to secure its special interest from unsympathetic further alterations. A lighting scheme would also be secured by condition to highlight architectural features and to deter vandalism.
- 8.36 Expert advice of the Council's conservation officers has been sought and the detailed design revised to minimise the proposal's visual and heritage impact. Conservation officers support the proposal and consider that the alterations to the building would safeguard the architectural and historic value of the building and preserve the character and appearance of the Bethnal Green Gardens Conservation area.
- 8.37 The harm arising from the conversion works, including the removal of benches, addition of a shutter and demolition of sections of brick wall, while regrettable, would clearly be minimal and less than substantial in its impact on the historic and architectural value of the non-designated heritage asset. Such a less-than-substantial harm would be outweighed by the public benefits of the scheme such as provision of a useful facility within the park, removal of an antisocial behaviour hotspot and refurbishment and long-term conservation of the building. Viewed holistically, the historic and architectural value of the public shelter would be appropriately safeguarded for the future generations.
- 8.38 Due to the minimal nature of the proposed alterations and the generous separation distance from the nearby listed buildings, the proposal would have no material effect on their setting.
- 8.39 The Character Appraisal for the Bethnal Green Gardens Conservation Area stresses that the area is of a predominantly civic and green character, rather than of a residential character. Café use of the shelter would be conducive to the civic and green character of the area. In accordance with the above policies, proposal would preserve the character and appearance of the conservation area.
- 8.40 The operators of the pop-up café are promoting an alternative conversion scheme retaining some of the teak benches and tiling as well as re-introducing crittall windows to the southern kiosk or sun lounge. This scheme could well manage to preserve more original features although it would likely adversely impact on the original architectural composition and the sense of openness of the central section of the building. Without significant amendments the alternative scheme is would not be an optimum viable use in comparison to the application proposal. As such, the Committee should note that the scheme before them should be considered on its own merits with limited weight given to what is a speculative scheme which has not yet been submitted for planning approval or been subjected to formal public consultation.
- 8.41 Questions were raised by objectors about the possibility of other sources of funding to be found to secure the renovation and maintenance of the building. While it might be possible that other sources of founding could be secured, no specific funding streams have been identified; there are also many significant conflicting pressures on the Council's budget, including S106 and Community Infrastructure Levy funding streams. S106, CIL and external funding would also not normally provide for

maintenance and on-going repairs. Taking into account the above and the limited heritage impact of the proposal, the proposed conversion is considered to be an optimal solution to secure repairs and long term maintenance of the non-designated heritage asset.

- 8.42 In conclusion, it is considered that the proposals heritage impact would be acceptable. Through minimal and sensitive alteration works, the proposal would introduce a viable café use, ensuring the non-designated asset's refurbishment and long-term conservation in accordance with the aforementioned policies and guidance.

### **Amenity**

- 8.43 According to paragraphs 109 and 123 of the NPPF the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to noise pollution. Planning decisions should aim to
- avoid noise from giving rise to significant adverse impacts on health and quality of life;
  - mitigate and reduce to minimum other adverse impacts on health and quality of life arising from noise, including through the use of conditions;
  - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established; and
  - identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 8.44 These objectives are reflected in policy 7.15 of the London Plan, policy SP03 of the Core Strategy and policy DM25 of the Managing Development Document. In particular, policy DM25 seeks to safeguard the amenity of existing and future nearby residents and users of the public realm.
- 8.45 There are three potential sources of noise disturbance which could affect amenity. The first is the noise from coming and goings and the use of the café by members of the public, the second is the noise arising from the operation of the kitchen extract system, while the third is noise caused by deliveries and servicing.
- 8.46 The nearest residential properties are located within Swinburne House, some 22m to the east of the public shelter. None of the objectors have raised amenity as a reason for objection while one letter of support was received from a resident who supports the proposal as it would remove an antisocial behaviour hotspot which has previously caused disturbance to residential amenity.
- 8.47 The opening hours would most likely directly tie in with the opening hours of the park and would be stipulated in the lease agreement between the Council and the operator. Indicative opening hours set out in the application are between 10:00 and 18:00 seven day a week, including Bank Holidays, however, to provide flexibility to the future operator of the business and to adequately safeguard amenity of neighbours the maximum extent of opening hours would be secured by a planning condition to between 7:00 and 20:00. The hours of servicing and deliveries would be controlled through the submission of a Delivery and Servicing Plan, also secured by condition.

- 8.48 The submitted Noise Impact Assessment has been reviewed by the Council's Environmental Health noise expert who confirmed that the specification of the proposed extract system is adequate to ensure that no disturbance would occur to neighbours. Implementation and maintenance of the extract system in accordance with the findings of the assessment would be secured by condition.
- 8.49 A condition would also restrict the playing of music or amplified sound so that it would not be audible from the nearest residential properties.
- 8.50 Overall, subject to the aforementioned conditions, the proposal would result in no adverse amenity impact to the adjoining occupiers or users of the public realm while improving the amenity of the area through removal of an antisocial behaviour hotspot and introduction of passive surveillance which would contribute to safety and perceived safety in the area, in line with the aforementioned policies.

### **Highways, transportation, servicing and waste**

- 8.51 Policy 6.3 of the London Plan and SP09 of the Core Strategy aim to ensure that development has no unacceptable impact on the safety and capacity of the transport network. This is supported by part 2 of policy DM20 of the Managing Development Document. Furthermore, policy 6.3 of the London Plan and policy DM22 of the Managing Development Document set standards for bicycle parking for staff and visitors. Policies SP05 of the Core Strategy and DM14 of the Managing Development require provision of waste and recycling storage facilities.
- 8.52 The Council's Highways Section raises no objection to the application subject to cycle parking spaces being provided for staff and visitors and submission of details of servicing and deliveries. These details would be secured by condition.
- 8.53 Subject to the condition requested by London Underground Limited requiring submission of full details and method statements of all alteration works, the proposed works would not affect the operation of the Bethnal Green Station ventilation shaft in the northern section of the shelter.
- 8.54 Details of waste storage facilities would be provided as part of a Waste Management Plan to be secured by condition.
- 8.55 Subject to above conditions, the proposal would not have any unacceptable highways, transportation, servicing or waste storage implications.

### **Human Rights Considerations**

- 8.56 Section 6 of the Human Rights Act 1998 prohibits authorities from acting in a way which is incompatible with the European Convention on Human Rights. The relevant rights include:
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and



- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

8.57 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 a local planning authority.

8.58 Members need to satisfy themselves that any potential interference with Article 8 rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must carefully consider the balance to be struck between individual rights and the wider public interest.

### **Equalities act Considerations**

8.59 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, gender 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. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to:

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

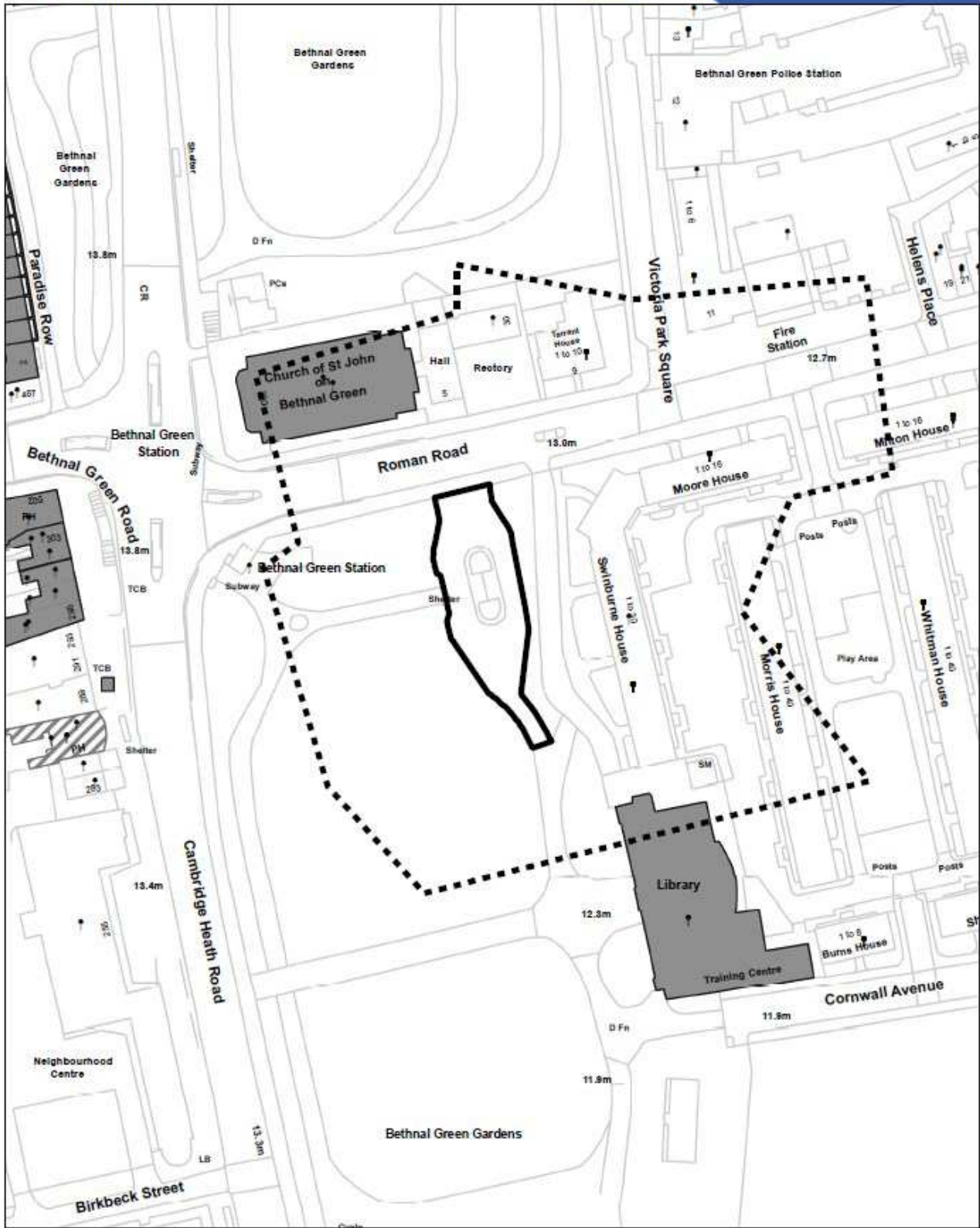
## **11.0 CONCLUSION**

11.1 All other relevant policies and considerations have been taken into account. It is recommended that Planning permission should be GRANTED.

## **12.0 SITE MAP**

Please refer to the next page of this report.

**Planning Application Site Map**  
PA/14/02366



- Planning Application Site Boundary
- Consultation Area
- Locally Listed Buildings
- Statutory Listed Buildings
- Land Parcel Address
- 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.  
© Crown copyright and database rights 2015 Ordnance Survey, London Borough of Tower Hamlets 100019288

