




# Equality Impact Assessment: (EqIA)

See  
Appendix A



Current  
decision rating

## Section 1: Introduction

### Name of Proposal

Full Planning Application for “Demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and nightclub and photography/ filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works”

### Service area & Directorate responsible

Planning and Building Control

### Name of completing officer

Rikki Weir

### Approved by Director/Head of Service

Paul Buckenham

### Date of approval

26-08-2022

### Conclusion

The EqIA has helped inform the Council in the determination of the current full planning application (PA/21/02513) in respect of 60-70 & 100 The Highway and 110 Pennington Street. The determination of the application is considered to have had regard for the statutory obligations imposed by the Equality Act upon the Council. It is considered the scheme would have potential negative impacts on three of the nine protected characteristic groups (age, gender reassignment and sexual orientation) resulting principally in relation to changes to the existing nightclub known as E1. E1 is a 1,600 capacity nightclub of London-wide cultural significance.

The impacts are considered to be acceptable in regard to the Equality Act if the outlined mitigation measures are secured. The Local Planning Authority recommend that the mitigation measures are secured, subject to the planning application being approved by Development Committee with the relevant section 106 planning obligations and conditions secured with the consent.

Without the mitigation measures being secured, the impacts on persons within the protected characteristic groups of age, gender reassignment and sexual orientation would be disproportionate and the Local Planning Authority would therefore recommend that the proposal should be rejected.



## **The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:**

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advancing equality of opportunity between those with 'protected characteristics' and those without them
- Fostering good relations between those with 'protected characteristics' and those without them

### **Section 2 – General information about the proposal**

The proposal is a full planning application for residential and industrial led redevelopment on a plot of land at 60-70 & 100 The Highway and 110 Pennington Street, located within the St Katharine's and Wapping Ward.

The development would involve demolition of all the existing industrial, employment, nightclub and photography/ filming studio uses within the predominantly 2-3 storey buildings on the site. The proposed development consists of the provision of predominantly 5-8 storey buildings including residential, industrial and employment uses along with a replacement nightclub and photography/ filming studio venue.

A nightclub has operated on the site since the early 2000s. Studio Spaces have operated on the site since 2011. Studio Spaces run their premises as a photography/ filming studio venue during the daytimes and as a nightclub mainly on Friday and Saturday nights.

The nightclub has hosted a wide range of popular events over the years, attracting internationally renowned DJs and club nights. The venue was recently listed as the 45<sup>th</sup> best nightclub in the world (DJ Mag). The venue has a capacity of 1,600 and hosts events mainly on Friday and Saturday nights from evening until morning.

In the past couple of years, E1 has become a hub for LGBTQ+, kink and sex-positive events with established promoters such as Klub Verboten, P\*ssy Palace and Torture Garden hosting nights at the venue. For the reasons above, E1 is considered to be a cultural attraction of London-wide importance in regard to the music/ nightclub scene.

The importance of the venue to the LGBTQ+, kink and sex-positive communities was recently highlighted around the time of the Licensing Sub-Committee on 26 July 2022 which sought to remove the 'no nudity' condition within the premises license in order to protect the future of LGBTQ+, kink and sex-positive events. This application received one written objection from the Local Licensing Authority and 203 written letters of support from the general public. A 'Save Kink Spaces' protest took place outside the Town Hall and the motion garnered national media interest. Within media coverage and during the Licensing Sub-Committee submissions, the venue was described as a safe and inclusive space for the LGBTQ+, kink and sex-positive communities. Subsequently the Local Licensing Authority agreed to remove the 'no nudity' condition of the premises license.

The planning application would provide a replacement space for the nightclub and photography/ filming studio venue. The proposed space would be 968sqm whereas the existing space is 1,123sqm, however the replacement space would be purpose-built to the latest policy standards. A construction phasing plan has been provided to show that the nightclub and photography/ filming studio venue could benefit from continuous operation, with the replacement space being constructed prior to demolition of the existing space, allowing the potential for the existing operator to move across without a gap in operation.

It is considered that the proposed development could potentially negatively impact on protected characteristic groups, notably – age, gender reassignment and sexual orientation. Section 4 will assess the impacts of the proposed development on protected characteristic groups, outline mitigation required and discuss what has been agreed by the developer and if that would be sufficient.



### **Section 3 – Evidence (Consideration of Data and Information)**

#### **Planning policy documents (with reference to most relevant planning policies):**

- National Planning Policy Framework (2021)
- London Plan (2021): policies GG1, D5, HC5, HC6,
- Tower Hamlets Local Plan 2031 (2020): policies D.TC5, S.CF1, D.CF2

#### **Supplementary Planning Documents:**

- Social Infrastructure (2015)
- City Fringe Opportunity Area Planning Framework (2015)
- Accessible London: Achieving an Inclusive Environment (2014)
- Planning for Equality and Diversity in London (2007)

#### **Other Relevant Documents:**

- LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–present, published by UCL Urban Laboratory (2017)
- Recorded homophobic hate crimes soared in pandemic, figures show (Guardian, December 2021)
- Share of adult population going to pubs, bars or clubs as a free time activity in England in 2017/18 by age, by Statista.com
- Cultural Infrastructure Plan, published by the GLA (2019)

#### **Relevant Statutory and Non-Statutory Responses Received:**

- GLA including Culture at Risk Unit
- LBTH Housing including Occupational Health

#### **Census:**

The equality profile of residents drawn from the Census is available on the Council's website, on the Statistics Pages and with that section the *Diversity* sub-section.

[http://www.towerhamlets.gov.uk/lgnl/community\\_and\\_living/borough\\_statistics/borough\\_statistics.aspx](http://www.towerhamlets.gov.uk/lgnl/community_and_living/borough_statistics/borough_statistics.aspx)

However there is no local data analysis in respect of gender reassignment, sexual orientation for the Borough of Tower Hamlets. A statistical bulletin has been published by the Office for National Statistics about the LGB community nationally. It is worth noting that transgender has not been included in the definition. The bulletin provides a LGB estimate for the size of the community in London.

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2018>.

#### **LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–2017:**

A report (commissioned by the GLA) titled "*LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–2017*" published by UCL Urban Laboratory (September 2017) has provided valuable information in respect to issues surrounding LGBTQ+ cultural night time venues and event spaces in London, including some individual focus on the Joiners Arms.

In respect of this scheme the following report findings are relevant:

- Since 2006, the number of LGBTQ+ venues in London has fallen from 121 to 51, a net loss of 58% of venues.



- This compares to drops of 44% in UK nightclubs (2005–2015), 35% in London grassroots venues (2007–2016) and 25% in UK pubs (2001–2016).
- Between 2006 and 2017 bars make up the largest proportion of identified operational LGBTQ+ venues (30%), followed by nightclubs (23%), public houses (24%), performance venues (19%), cafes (3%) and other/ unspecified (2%).
- 38% of LGBTQ+ venue closures were influenced by redevelopment with 21% venues converted to non-LGBT venue, 7% closures due to lease expiration/ renegotiation, and 19% closures for other/ unknown reasons.
- Members of the LGBT+ completed in depth survey as part of the report's research. These surveys revealed *“how the heritage of LGBTQ+ people is embedded in the fabric and specific cultures of designated LGBTQ+ venues and events. They also stress that venues are important spaces for education and intergenerational exchange”*
- The most valued LGBTQ+ spaces were experienced as non-judgemental places in which diverse gender identities and sexualities are affirmed, accepted and respected. These were sometimes described as ‘safe spaces’. What this means to individuals varies, according to personal preferences, experiences and the specific forms of discrimination and oppression that people are vulnerable to (e.g. transphobia, homophobia, racism, ableism).
- Spaces that are/were more community-oriented, rather than commercially driven, are considered vital and preferable by many within LGBTQ+ communities.
- LGBTQ+ nightlife spaces were seen as important places to express LGBTQ+ rights and the community rituals that have helped people to survive forms of oppression and discrimination, from one generation to another. Venues were seen to contain, embed or communicate LGBTQ+ heritage in their fabric and atmospheres, and to provide a structure that holds specific communities together.
- The report notes the significant drop in LGBTQ+ venues is also alarming when seen alongside other recent data. For instance, according to Metropolitan Police data, homophobic hate crime in London rose by 12% over the year to March 2017, to over 2,000 recorded incidents.

### **Recorded homophobic hate crimes soared in pandemic, figures show (Guardian, December 2021)**

- Police forces recorded 2,389 homophobic and 371 transphobic offences in June 2021, the highest number of any calendar month in the past three years. This equates to about 80 homophobic and 12 transphobic offences a day, roughly double the 38 and six per day in January.
- Hate crime is defined by the Home Office as “any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic.”
- Reports of sexual orientation hate crimes recorded by UK police forces rose from an average of 1,456 a month from January to April 2021 to 2,211 on average from May to August 2021
- From January to August 2021, at least 14,670 homophobic hate crime offences were recorded, compared with 11,841 in the same period of 2020 and 10,817 in 2019. During the same time



period, police recorded 2,129 transphobic offences – well above the 1,606 offences in 2020 and 1,602 in 2019.

**Share of adult population going to pubs, bars or clubs as a free time activity in England in 2017/18, by age**

- More than half of all English residents between the ages of 16 and 64 visited pubs, bars or clubs as a free-time activity during 2017/18. Those aged 25 to 44 were the most likely to attend a pub, bar or club, with 59.3 percent of respondents in that age category visiting such an establishment.

**Name of officer completing the EqIA:** Rikki Weir

**Service area:** Planning and Building Control

**EqIA signed off by:** Paul Buckenham

**Date signed off:** 26/08/2022



## Section 4 – Assessing the impacts on users

Protected Characteristic Group	Potential Impact	Reason and Nature of Impact	Mitigation Required
Age (All age groups)	Positive	<p>Child play space would be provided for new residential units.</p> <p>The development would provide accommodation suitable for a range of age groups.</p>	Secure full details of play space by planning conditions, subject to approval.
	Negative	Nightclubs tend to be most frequented by younger adults, who would be most affected by the potential loss of the existing nightclub.	<p>Ensure the continued operation of the nightclub by making sure that there would be fair conditions for an operator to take up the replacement space.</p> <ul style="list-style-type: none"> <li>The use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li> <li>A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such</li> </ul>

			<p>spaces, so that prospective nightclub operators would not be priced out.</p> <ul style="list-style-type: none"> <li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li> <li>• Significant fit out costs contribution and/or fit out works should be secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which could threaten business viability and also make the replacement space unattractive for a prospective new operator.</li> <li>• Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
	Negative	Younger people would be impacted by residents of new homes within the development	<ul style="list-style-type: none"> <li>• Adequate internal noise insulation for new residential units should be secured so that new residents would</li> </ul>



		potentially complaining about the noise and activity from the Tobacco Dock nightclub (15 nights a year) which could result in its operations being stymied.	<p>not be unduly impacted by noise and to ensure the scheme complies with agent of change of principles from events at Tobacco Dock. Residents should be able to have their windows closed whilst not overheating. Complaints from residents would jeopardise the operation of the nightclub.</p> <ul style="list-style-type: none"> <li>• A Deed of Easement for Noise should be secured to ensure that new residents are aware of existing noise levels from nightclub events which occasionally take place at Tobacco Dock and normal noise levels from events can be maintained without being unnecessarily curtailed by complaints.</li> </ul>
<b>Disability</b> (Physical, learning difficulties, mental health and medical conditions)	Positive	The scheme would result in improved disability access arrangements for the nightclub along with the provision of wheelchair accessible residential units and car parking spaces.	Secure full details of all access arrangements, accessible residential units and car parking spaces by planning conditions, subject to approval.
<b>Sex</b>	Neutral	The proposal is not expected to have any adverse effect with regard to sex.	None
		Those who undergo gender	Ensure the continued operation of the





<b>Gender reassignment</b>	Negative	reassignment would be impacted by potential loss of the nightclub as a safe and inclusive space, or from the operator of the replacement space potentially no longer running LGBTQ+, kink and sex-positive events.	nightclub by making sure that there would be adequate conditions for an operator to take up the replacement space. <ul style="list-style-type: none"><li>• The use of the space should be secured as Sui Generis and for the specific nightclub and photography/filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li><li>• A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such spaces, so that prospective nightclub operators would not be priced out.</li><li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li><li>• Significant fit out costs contribution and/or fit out works should be secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which</li></ul>
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			<p>could threaten business viability and also make the replacement space unattractive for a prospective new operator.</p> <ul style="list-style-type: none"> <li>• Even if the nightclub reopened in the replacement space, if there was a new operator, they could have a different ethos and decide not to run LGBTQ+, kink and sex-positive events. Therefore, a strategy should be secured which agrees that the operator of the replacement space markets and provides events space to LGBTQ+, kink and sex-positive club promoters, ensuring a certain minimum proportion of events take place within the venue.</li> <li>• Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
<b>Marriage and civil partnership</b>	Neutral	The proposal is not expected to have any adverse effect with regard to marriage and civil partnership.	None
<b>Religion or philosophical belief</b>	Neutral	The proposal is not expected to have any adverse effect with regard to religion or belief.	None



<b>Race</b>	Neutral	The proposal is not expected to have any adverse effects with regard to race.	None
<b>Sexual orientation</b>	Negative	LGBTQ+ persons would be impacted by potential loss of the nightclub as a safe and inclusive space, or from the operator of the replacement space potentially no longer running LGBTQ+, kink and sex-positive events.	<p>Ensure the continued operation of the nightclub by making sure that there would be adequate conditions for an operator to take up the replacement space.</p> <ul style="list-style-type: none"> <li>• The use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li> <li>• A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such spaces, so that prospective nightclub operators would not be priced out.</li> <li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li> <li>• Significant fit out costs contribution and/or fit out works should be</li> </ul>

			<p>secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which could threaten business viability and also make the replacement space unattractive for a prospective new operator.</p> <ul style="list-style-type: none"><li>• Even if the nightclub reopened in the replacement space, if there was a new operator, they could have a different ethos and decide not to run LGBTQ+, kink and sex-positive events. Therefore, a strategy should be secured which agrees that the operator of the replacement space markets and provides events space to LGBTQ+, kink and sex-positive club promoters, ensuring a certain minimum proportion of events take place within the venue.</li><li>• Adequate noise insulation of the nightclub in regard to new residential units on-site, along with adequate noise insulation of new residential units on-site to ensure they meet policy requirements. Residents should be able to have their windows</li></ul>
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			<p>closed whilst not overheating. Complaints from residents would jeopardise the operation of the nightclub.</p> <ul style="list-style-type: none"> <li>Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
<b>Pregnancy and maternity</b>	Neutral	The proposal is not expected to have any adverse effect with regard pregnancy and maternity	None

<b>Other Groups</b>	<b>Potential Impact</b>	<b>Reason and Nature of Impact</b>	<b>Mitigation Required</b>
<b>Socio-economic</b>	Positive	Job opportunities, affordable workspace, affordable housing would be provided by the proposed development.	Full details would be secured by planning conditions and legal agreement.
<b>Parents/ carers</b>	Positive	Provision of wheelchair accessible units and affordable housing.	Full details would be secured by planning conditions and legal agreement.
<b>Any other group</b>	N/A	N/A	N/A

The scheme is considered to have potential negative impacts to 3 of the protected characteristic groups, namely age, gender reassignment and sexual orientation. In light of the negative impacts outlined, mitigation measures have been recommended which would ensure that the negative impacts would be safeguarded against and that protected characteristic groups would be protected.

In summary, the following mitigation measures are required:



- Use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.
- Right of first refusal to Studio Spaces/ E1 for Unit 1 and Unit 2 with marketing strategy only to nightclub operators at a comparable market rent, secured by legal obligation. If the current operator decided not to take on the space then the marketing strategy should include an obligation to market the daytime use of the space for cultural/ creative uses
- Construction phasing plan to ensure continuous operation of nightclub, secured by legal obligation. The phasing should ensure that the nightclub should be able to stay in their existing premises until the replacement space is fit out an appropriate specification and they are offered a lease for the replacement space
- Strategy to host a proportion of LGBTQ+ events (with opportunities for kink and sex-positive events), secured by legal obligation
- Noise mitigation strategy for nightclub with details to be secured by planning conditions
- Noise mitigation strategy for new residential units with details to be secured by planning conditions
- Opening hours of the nightclub as existing, secured by planning condition
- The fit out of the nightclub space would need to be carried out by the developer to a specification that the nightclub operator is satisfied with or a financial contribution to cover fit out should be provided to the nightclub operator
- Deed of easement for noise with Tobacco Dock, to be secured by legal agreement

These above measures would enable the proposed development to safeguard against impacts on protected characteristic groups, helping to reduce social inequalities and ensure a stronger community cohesion in accordance with the Equality Act and the Development Plan.

In considering potential action points to mitigate impacts of the development upon protected characteristic groups, the Council acting as the Local Planning Authority needs to act within the constraints imposed by planning legislation including considerations given to the National Planning Policy Framework in respect of what is deemed reasonable, proportionate and enforceable planning conditions and s106 planning obligations.

The Local Planning Authority needs to have due regard to the Equality Act in reaching conclusions on this planning application; equally, the Council needs to make decision in accord with the Development Plan, including safeguarding the amenity of the neighbouring properties, particularly in respect of noise.

## **Section 5 – Impact Analysis and Action Plan**



<b>Recommendation</b>	<b>Key activity</b>	<b>Progress milestones including target dates for either completion or progress</b>	<b>Officer responsible</b>	<b>Progress</b>
Subject to planning consent being granted for the scheme, secure the mitigation measures by Section 106 legal agreement and planning conditions	Secure the mitigation measures by Section 106 legal agreement and planning conditions	Committee report (with EqIA) to be published one week before Development Committee.  Decision to be decided by Development Committee.	Rikki Weir, case officer, in co-operation with LBTH Legal Services (Planning)	Dependent on decision made

## **Section 6 – Monitoring**

Have monitoring processes been put in place to check the delivery of the above action plan and impact on equality groups?

Yes?

No?

Describe how this will be undertaken:




If the planning application is approved, the Head of Terms, within the Section 106 Agreement shall include a monitoring process involving the Borough and Greater London Authority. Specifically, the GLA would be involved in the process in establishing the appropriate criteria for a marketing strategy and a strategy to host a proportion of LGBTQ+, kink and sex-positive events.

This EqIA would accompany any Committee Report and be a material planning consideration in determination of the planning application.



## Appendix A

### Equality Impact Assessment Decision Rating

Decision	Action	Risk
<p>As a result of performing the EqIA, it is evident that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a Protected Characteristic under the Equality Act. It is recommended that this proposal be suspended until further work is undertaken.</p>	<p><b>Suspend – Further Work Required</b></p>	<p><b>Red</b></p> 
<p>As a result of performing the EqIA, it is evident that there is a risk that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, there is a genuine determining reason that could legitimise or justify the use of this policy.</p>	<p><b>Further (specialist) advice should be taken</b></p>	<p><b>Red Amber</b></p> 
<p>As a result of performing the EqIA, it is evident that there is a risk that a disproportionately negatively impact (as described above) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p>	<p><b>Proceed pending agreement of mitigating action</b></p>	<p><b>Amber</b></p> 
<p>As a result of performing the EqIA, the proposal does not appear to have any disproportionate impact on people who share a protected characteristic and no further actions are recommended at this stage.</p>	<p><b>Proceed with implementation</b></p>	<p><b>Green:</b></p> 