

**Town and Country Planning Act 1990**

## **LOCAL PLANNING AUTHORITY**

### **STATEMENT OF CASE**

<b>Site at:</b>	De Paul House (Panda House), 628-634 Commercial Road, London, E14 7HS
<b>Appeal by:</b>	Rooms and Studios Management Ltd
<b>PINS Reference:</b>	APP/E5900/W/20/3250665
<b>LPA Reference:</b>	PA/19/00804

Council of the London Borough of Tower Hamlets  
Place Directorate  
2nd Floor, Town Hall  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

**Contact:** Aleksandra Milentijevic  
**Tel:** 020 7364 7029  
**Email:** Aleksandra.Milentijevic@towerhamlets.gov.uk

## Contents

	Executive Summary .....	3
1.0	Introduction.....	5
2.0	Site and Surroundings.....	8
3.0	Planning History .....	9
4.0	Planning Policy Context.....	11
5.0	Development Plan Policies and Other Material Considerations .....	13
6.0	The Council's Case .....	19
8	Section 106 Obligations and Community Infrastructure Levy .....	55
8.0	Planning Conditions .....	56
9.0	Appendices.....	69

## Executive Summary

This Council's Statement of Case refers to the refused planning application for the appeal proposal including a mix of hostel and large-scale houses in multiple occupation (HMO) rooms which fails to meet a significant number of development plan policies.

Firstly, the appellant has failed to demonstrate how the proposed HMO accommodation addresses the borough's housing need. The appellant's needs assessment is too narrow in scope to properly address this issue. Given the relatively high rental levels of the proposed HMO accommodation, the appeal proposal cannot be secured as "low cost housing". Local Plan Policy DH7 provides that if the development will not secure long term low cost housing it is alternatively required to provide an appropriate level of affordable housing in line with policy DH2. The appellant claims that the appeal proposal cannot provide any affordable housing based on its viability assessment. However, that viability assessment is not robust. In the appellant's own evidence, the assumptions adopted in its viability assessment in relation to Benchmark Land Value are inaccurate. The Council's independent viability review evidences further inaccuracies in the appellant's viability evidence with respect to inaccurate existing hostel rental values, floorspace calculations and inflated build costs. The Council's experts BNP Paribas found that a range of affordable housing options could be delivered through the appeal proposals.

Secondly, the proposed height, massing and design of the proposed development would cause harm to Our Lady Immaculate and St Frederick Roman Catholic Church and the St Anne's Church conservation area and would fail to respect the local character. The public benefits of the proposed development are not considered sufficient to outweigh the harm caused to the non-designated and designated heritage assets. In addition, there are concerns over the level of impact on heritage assets given the lack of information regarding archaeology.

Thirdly, the proposed HMO accommodation would provide poor quality housing accommodation which is not in accordance with the development plan policies. This includes poor daylighting levels to the proposed communal indoor spaces and insufficient quantum of communal outdoor amenity space.

Fourthly, the appellant has not provided an appropriate transport assessment in order to determine the level of required mitigation measures to ensure that the

appeal proposal does not adversely impact on the capacity and safety of the highways network, as required by development plan policies.

Fifthly, the proposed development fails to provide adequate and sufficient cycle and waste storage areas for future occupiers.

Sixthly, the appeal proposal has not provided an air quality assessment, nor it has provided an appropriate energy and sustainability strategy, which results in the appeal proposal being in conflict with the relevant environmental policies of the development plan.

In reaching its decision, the Council has acknowledged public benefits arising from the appeal proposal primarily the economic benefit. However, many of the alleged benefits have modest significance and need to be viewed in the context of the proposed development's various failures to meet the development plan policies.

Taken together these objections result in overall development plan conflict which is not outweighed by the scheme's modest benefits. Moreover, the Council considers that the first (affordable housing/land use) and second (heritage harm) reasons for refusal would, of themselves, warrant refusal of the appeal proposal.

## 1.0 Introduction

- 1.1. On 11 April 2019 the London Borough of Tower Hamlets (LBTH) in its role as the local planning authority (LPA) received an application for planning permission for the following proposal at 628-634 Commercial Road, London, E14 7HS:

*Demolition of existing building and erection of a building of up to five-storeys and two set back floors plus a lower ground floor to provide 109 rooms for short-term hostel and HMO accommodation.*

- 1.2. The description of the development has been subsequently amended to the following:

*Demolition of existing building and erection of a building of seven storeys, inclusive of two set back floors, plus a lower ground floor to provide 109 rooms for short-term hostel and HMO accommodation. (amended description)*

- 1.3. On 12 March 2020, the application was reported to the Development Committee. Members of the Development Committee voted in favour of officers' recommendation for refusal of the proposed development for the reasons set out in the Committee report.

- 1.4. The application was refused on the following grounds:

### Reason 1

The proposed development fails to demonstrate the need for the proposed large-scale HMO use on the site. In addition, the proposal fails to provide affordable housing contribution. The proposed development would be contrary to policies S.H1, D.H2, D.H7 of the Tower Hamlets Local Plan 2031 (2020).

### Reason 2

The scale, height and massing of the proposed seven storey building would neither preserve or enhance the character and appearance of St Anne's Conservation Area and would cause (less than substantial) harm to the significance of the designated heritage asset. The site layout and scale of the proposed development fails to follow good urban design principles indicating the proposed over-development of the site and does not include high quality design details. The impact on archaeology has not been assessed within the application. The proposed development would be contrary to Chapters 12 and 16 of the National Planning Policy Framework (2019),

London Plan (2016) policy 7.4 and 7.8 and Local Plan policies S.DH1, D.DH2 and S.DH3 of the Tower Hamlets Local Plan 2031 (2020) and the St Anne's Church Conservation Area Character Appraisal and Management Guidelines (2009).

Reason 3

The proposed HMO accommodation would not provide adequately lit communal indoor amenity spaces. There would also be a lack of communal amenity space for future occupiers of the proposed HMO accommodation. The quality of the proposed shared living accommodation would not be acceptable and in accordance with Chapter 12 of the National Planning Policy Framework (2019), policy 3.5 of the London Plan (2016) and S.H1, D.H2, D.H3, D.H7 and D.DH8 of the Tower Hamlets Local Plan 2031 (2020).

Reason 4

The proposal fails to ensure that the operational needs of the proposed development would not adversely impact the safety and capacity of the transport network. Insufficient information has been provided to ensure that the proposed wheelchair car parking space would not impact the safety of the transport network along Island Row. Insufficient Trip Generation data has been provided and an adequate Servicing and Delivery Plan has not been provided. This is contrary to Chapter 9 of the National Planning Policy Framework (2019), London Plan (2016) policies 6.3, 6.9, 6.12 and 6.13 of the London Plan (2016) and Local Plan policies S.TR1, D.TR2, D.TR3 and D.TR4 of the Tower Hamlets Local Plan 2031 (2020).

Reason 5

The proposal has not provided a sufficient amount of cycle storage, and the storage that is provided would not meet policy requirements due to its location and accessibility, which contradicts Chapter 9 of the National Planning Policy Framework (2019), London Plan (2016) policies 6.9 and 6.13 and Local Plan policy D.TR3 of the Tower Hamlets Local Plan 2031 (2020). The proposal also fails to demonstrate that sufficient waste storage capacity, management and collection would be provided to satisfy the requirements of policy D.MW3 of the Tower Hamlets Local Plan 2031 (2020).

Reason 6

In the absence of sufficient information, including an air quality assessment and energy assessment based on the GLA's Energy Assessment guidance and recommendations for the use of SAP10 carbon factors, the proposed development would not be in accordance with Chapters 14 and 15 of the National Planning Policy Framework (2019), London Plan (2016) policies 5.2 and 7.14, and Local Plan policies D.ES1 and D.ES7 of the Tower Hamlets Local Plan 2031 (2020).

Reason 7

In the absence of the s106 agreement to provide the relevant financial and non-financial contributions to mitigate the impacts of the development, the proposal fails to comply with policy D.SG5 of the Tower Hamlets Local Plan 2031 (2020).

- 1.5. On 9 April 2020, the appellant lodged an appeal against the Council's refusal of planning application reference PA/19/00804, the start date for which was 11 April 2020.

## 2.0 Site and Surroundings

### Appeal Site and Surrounding Area

2.1 The site is identified in a red line boundary as shown in the figure below.

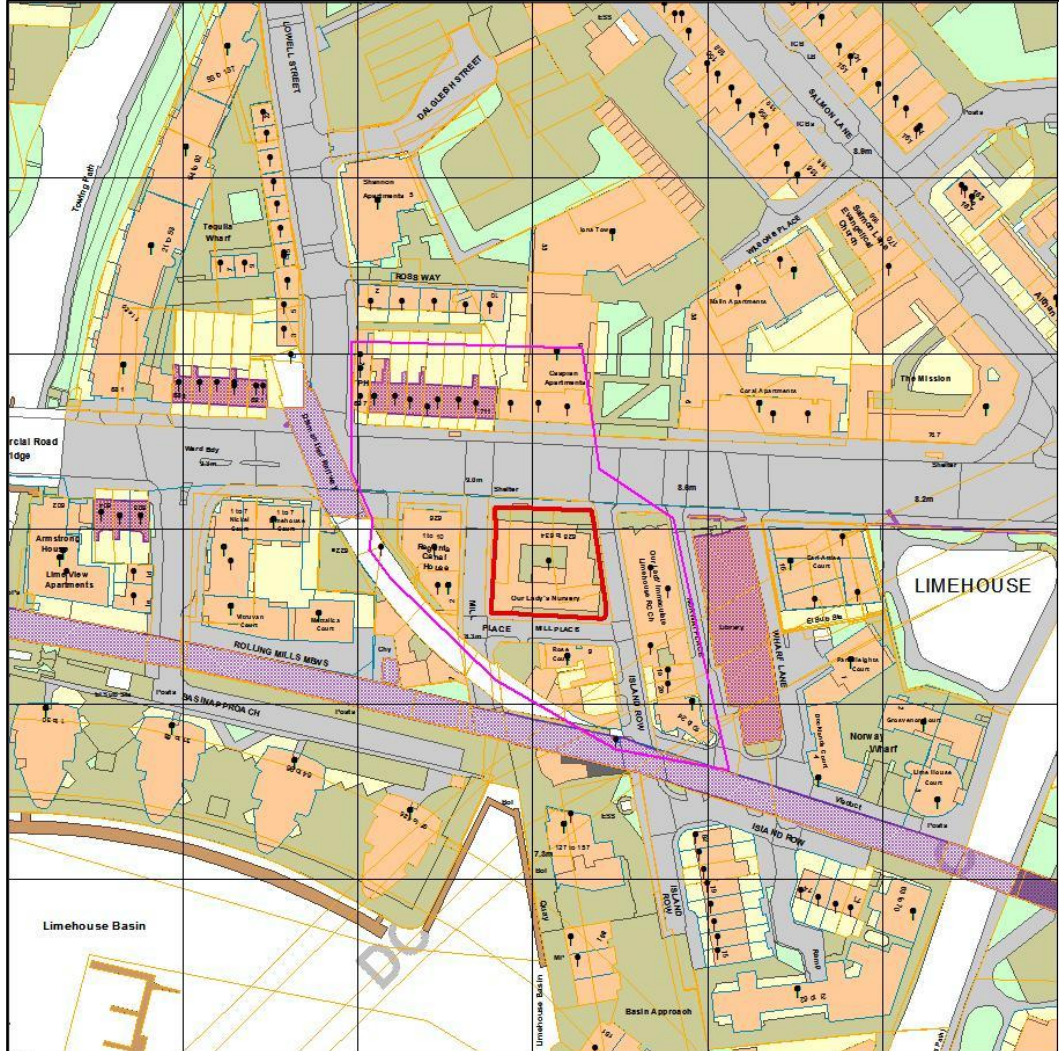


Figure One: Appeal Site Location

- 2.2 The appeal site is approximately 0.09 hectares in size and is located on the south side of Commercial Road. The site is bounded by Mill Place to the south and west and Island Row to the east.
- 2.3 Immediately to the east of the appeal site is the Our Lady Immaculate and St Frederick Roman Catholic Church. To the west sits a residential block known as the Regent's Canal House which is six storeys in height.
- 2.4 Rose Court is a residential building situated immediately to the south of the application site, on the opposite side of Mill Place. The building is three storeys in



height along its western part (reaching four storeys to the rear when including the excavated floor) and four storeys along the eastern part.

- 2.5 The appeal site is bounded by Commercial Road (the A13) to the north. Commercial Road is a red route.
- 2.6 The development on the northern side of Commercial Road is a six storey residential building known as the Caspian Apartments. The Coral Apartments is a part-six part-seven storey residential building to the east of the Caspian Apartments.
- 2.7 The appeal site comprises one existing building which is 3 storeys in height to the front but rises to 4 due to a stair overrun on its north-eastern corner. The existing building steps down to 2 storeys and a single storey with a concrete boundary wall at the rear.
- 2.8 The appeal site has an established hostel land use (Sui Generis Use Class) comprising 52 bedrooms. The surrounding area is predominantly residential in character, but includes a mix of other uses including commercial uses, and leisure and educational uses further to the west.
- 2.9 The appeal site is situated in an area of very good public transport facilities and has a PTAL of 5, 1 being (very poor) and being 6b (excellent). Limehouse Station is situated within 400m of the site to the west and offers connections to the City of London via Docklands Light Railway (DLR) and c2c trains to the Essex Coast. There are a number of bus routes along Commercial Road offering connections to Central and East London.
- 2.10 The appeal site is not listed, but lies within the St Anne's Church conservation area and is also within an Archaeological Priority Area (Tier 2).
- 2.11 The Limehouse District Library is grade II listed, including its gate piers and iron railings. The DLR railway viaduct further to the south is grade II listed, as well as the railway bridge on Commercial Road situated to the north-west of the site.
- 2.12 There are two grade II listed Georgian terraces situated on the opposite side of Commercial Road between the listed railway bridge.

### **3.0 Planning History**

- 3.1 This section provides an overview of the appeal site's planning history. The Council will refer to the planning history of neighbouring sites where relevant.

Appeal site

- 3.2 Temporary planning permission under reference PA/00/01481 was granted on 21<sup>st</sup> January 2002 for the retention of use as a hostel for the occupation of homeless persons (retrospective application).
- 3.3 Planning applications under references PA/04/00062 and PA/04/00426 were submitted but later withdrawn for the demolition of the former hostel and redevelopment to provide an eight storey building comprising 58 residential units and 195sqm of commercial space on the ground floor.
- 3.4 Planning application reference PA/05/01822 was granted on 14<sup>th</sup> August 2006 for the removal of condition 1 of planning permission ref PA/00/01481. The removal of condition 1 allowed the continued use of the property as a hostel.
- 3.5 Planning permission under reference PA/11/02318 was granted on 25<sup>th</sup> June 2012 for the refurbishment and extension to the existing hostel building to increase the height to between three and five storeys with set-back upper floors to provide an additional 33 rooms (resulting in an increase from 41 to 74 rooms) with associated improvements to communal areas, elevations and landscaping, together with provision of enhanced refuse / recycling storage, cycle storage and motorcycle parking.
- 3.6 Planning permission under reference PA/15/01882 was refused on 13<sup>th</sup> July 2017 (delegated decision) for the demolition of existing building and erection of a building up to six storeys plus basement for use as short term accommodation (100 rooms). The planning application was refused for the following reasons:
- Failure to demonstrate the need for additional hostel accommodation
  - Visual intrusion and harm caused to the St Anne's Church conservation area as a result of the proposed height, bulk and detailed design
  - Adverse impact on residential amenities in terms of loss of outlook and unneighbourly sense of enclosure
  - Failure to demonstrate adequate servicing and delivery arrangements and the provision of an off-street blue badge spaces
  - Absence and failure of demonstrating an air quality neutral assessment

Neighbouring sites – 767-785 Commercial Road, London, E14 7HG

- 3.7 Planning permission under reference PA/16/03657 was granted on 29<sup>th</sup> March 2019 for the demolition of 785 Commercial Road (behind retained façade) and 767 Commercial Road and mixed-use redevelopment of site to accommodate

2,459sqm of Class B1(a) office space within restored Sailmaker's Warehouse, 134-room sui generis communal living accommodation and associated facilities on east and west sites, and 272dqm of Class B1(a) office space and 9 self-contained Class C3 residential flats on the corner site of 767 Commercial Road.

#### Pre-application Advice

- 3.8 The Appellant engaged in pre-application discussions with the local planning authority in June 2018. A formal pre-application meeting was held on 10 August 2018. Following the meeting, a formal pre-application advice letter was issued on 20 December 2018 which raised concerns over the land use and objections to the proposed scale, height, massing, layout, design, as well as highways arrangements and refuse and cycle storage.

## **4.0 Planning Policy Context**

### **Overview**

- 4.1 The Council identify the following key legislation and national, regional and local planning documents policies that are relevant to its determination of the appeal.
- 4.2 Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require applications for planning permission to be determined in accordance with the Development Plan for the area unless material considerations indicate otherwise. For such purposes the Development Plan for the London Borough of Tower Hamlets comprises:

### **Development Plan**

- 4.3 For the purposes of Section 38, the Development Plan for the London Borough of Tower Hamlets comprises the following:
- The London Plan (MALP) (2016)
  - Tower Hamlets Local Plan 2031 (2020)

### **Site Designations**

- 4.4 The appeal site sits within the following planning designations:
- St Anne's Church Conservation Area
  - Archaeological Priority Area
  - Air Quality Management Area (this applies to the whole extent of the borough)

- Green Grid Buffer Zone

4.5 The site is within the Central Sub-Area and the Limehouse Neighbourhood Planning Area.

#### **Relevant Legislative Requirements**

4.6 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) imposes a general duty on planning decision-makers in the exercise of planning functions, and of particular relevance by section 66(1):

*(1) In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

4.7 As regards conservation areas, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) provides a general duty in the exercise of planning functions, that:

*‘with respect to any buildings or other land in a conservation area ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.*

4.8 With regards to non-designated heritage assets (in this context, this refers to those building(s) which make a positive contribution to the Conservation Area despite not being statutorily listed in their own right), paragraph 197 of the NPPF states that:

*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.’*

#### **National Policy and Guidance and other material considerations**

4.9 The LPA will refer to the National Planning Policy Framework (NPPF) together with the National Planning Practice Guidance (NPPG) and supplementary planning guidance published by both the Mayor of London, Tower Hamlets Council and Historic England.

## 5.0 Development Plan Policies and Other Material Considerations

- 5.1 The LPA will seek to agree a list of policies generally relevant to the application in the Statement of Common Ground.
- 5.2 The key Tower Hamlets Local Plan, GLA London Plan and national policies relevant to the assessment of the appeal are as follows:

### **GLA London Plan (2016)**

- 3.3 – Increasing housing supply
- 3.5 – Quality and design of housing developments
- 3.8 – Housing choice
- 3.9 – Mixed and balanced communities
- 3.11 – Affordable housing targets
- 3.12 – Negotiating affordable housing on individual private residential and mixed use schemes
- 3.13 – Affordable housing thresholds
- 5.2 – Minimising carbon dioxide emissions
- 5.3 – Sustainable design and construction
- 5.17 – Waste capacity
- 5.18 – Construction, excavation and demolition waste
- 5.21 – Contaminated land
- 6.3 – Assessing effects of development on transport capacity
- 6.9 – Cycling
- 6.10 – Walking
- 6.13 – Parking
- 7.1 – Lifetime neighbourhoods
- 7.2 – An inclusive environment
- 7.3 – Designing out crime
- 7.4 – Local character
- 7.5 – Public realm
- 7.6 – Architecture
- 7.8 – Heritage assets and archaeology
- 7.14 – Improving air quality

- 7.15 – Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 7.19 – Biodiversity and access to nature
- 8.2 – Planning obligations
- 8.3 – Community infrastructure levy

**LBTH Tower Hamlets Local Plan 2031 (2020)**

- D.SG5 – Developer contributions
- S.DH1 – Delivering high quality design
- D.DH2 – Attractive streets, spaces and public realm
- S.DH3 – Heritage and the historic environment
- D.DH4 – Shaping and managing views
- D.DH8 – Amenity
- S.H1 – Meeting housing needs
- D.H2 – Affordable housing and housing mix
- D.H3 – Housing standards and quality
- D.H7 – Housing with shared facilities (houses in multiple occupation)
- S.ES1 – Protecting and enhancing our environment
- D.ES2 – Air quality
- D.ES3 – Urban greening and biodiversity
- D.ES5 – Sustainable drainage
- D.ES7 – A zero carbon borough
- D.ES8 – Contaminated land and storage of hazardous substances
- D.ES9 – Noise and vibration
- D.MW3 – Waste collection facilities in new development
- S.TR1 – Sustainable travel
- D.TR2 – Impacts on the transport network
- D.TR3 – Parking and permit-free
- D.TR4 – Sustainable delivery and servicing

**National Planning Policy Framework (NPPF, 2019)**

**Chapters:**

Introduction

- 2 - Achieving sustainable development

- 3 – Plan making
- 4 – Decision making
- 5 – Delivering a sufficient supply of homes
- 8 – Promoting healthy and safe communities
- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving well designed places
- 14 - Meeting the challenge of climate change, flooding and coastal change
- 15 - Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

#### **LBTH Supplementary Planning Documents and other Guidance**

- Development Viability SPD (2017)
- Planning Obligations SPD (2016)
- St Anne’s Church Conservation Area Character Appraisal and Management Guidelines (2007)

#### **London Plan Supplementary Planning Guidance/Documents**

- Affordable Housing & Viability (2017)
- Housing SPG (2016)
- Accessible London: Achieving an Inclusive Environment (2014)

#### **Other Relevant Documents**

- Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (Historic England, 2008)
- Conservation Area Designation, Appraisal and Management – Historic England Advice Note 1 (2016)
- Making Changes to Heritage Assets, Historic England Advice Note 2 (2015)
- Managing Significance in Decision-Taking in the Historic Environment Good Practice Planning Advice Note 2 (Historic England, 2015)
- The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) (Historic England, 2017)
- Managing Heritage Assets – A Guide for Local Government (Historic England, October 2016)

- “Site layout planning for daylight and sunlight: a guide to good practice” (Building Research Establishment, 2011)
- Large Burial Grounds, Guidance on sampling in archaeological fieldwork projects (Advisory Panel on the Archaeology of Burials in England, 2015)
- Guidance for Best Practice for the Treatment of Human Remains Excavated from Christian Burial Grounds in England (Advisory Panel on the Archaeology of Burials in England, 2017, Second edition)

### **Site Specific Guidance**

#### *Tower Hamlets Local Plan 2031 (2020)*

- 5.3 The application sits within the Central sub-area of the borough. As defined in the Tower Hamlets Local Plan 2031 (2020), the Central sub-area is a collection of vibrant and distinctive town centres, transport interchanges and residential areas.
- 5.4 The vision for the Central sub-area is set out on page 222 of the Tower Hamlets Local Plan 2031 (2020) whilst a set of development principles for the Central sub-area are set out on pages 224-226 of the Tower Hamlets Local Plan 2031 (2020).
- 5.5 The development principles seek to create attractive and distinctive places through the creation of a scale and form of development that provides a consistent and coherent setting for the area and which relates to the prevailing townscape, as well as responding positively to the surrounding context including conservation areas and heritage assets which define the local character.
- 5.6 In terms of meeting housing needs, the development principles state that developments should provide a range of housing typologies whilst maximising the provision of family housing which can benefit from access to the areas open and water spaces.
- 5.7 The development principles for the Central sub-area seek to improve air quality and reduce exposure to poor air quality.

#### *Tower Hamlets Urban Structure and Characterisation Study*

- 5.8 The Urban Structure and Characterisation Study (2009) identifies 24 places within the borough and includes a character assessment for each of them.
- 5.9 The application site is located within the “Limehouse character” area. This area is largely residential in use and characterised by historic warehouse conversions, modern developments and post-war estates. Commercial Road contains a mix of low- to medium-rise commercial and residential uses.



- 5.10 The Urban Structure and Characterisation Study Addendum (2016) recognises the changes which have occurred since 2009 along Commercial Road between Limehouse DLR Station and Salmon Lane and highlights the potential for improvements of the pedestrian pavement and public realm along Commercial Road around the Limehouse DLR Station and St Anne’s Church.

### **Emerging Planning Policy**

- 5.11 The Mayor of London’s Draft New London Plan with Consolidated Suggested Changes was published in July 2019. The Examination in Public (EiP) took place in January 2019. Generally, the weight carried by the emerging policies within the Draft New London Plan is considered significant as the document has been subject to EiP, incorporates all of the Mayor’s suggested changes following the EiP and an ‘Intent to Publish’ was made by the Mayor of London. However, some policies in the Draft New London Plan are subject to Secretary of State directions made on 13/03/2020, these policies are considered to have only limited or moderate weight. The statutory presumption still applies to the London Plan 2016 up until the moment that the new plan is adopted.

### GLA Draft London Plan

- D1 – London’s form and characteristics
- D3 – Inclusive design
- D4 – Housing quality and standards
- D5 – Accessible housing
- D8 – Public realm
- D11 – Safety, security and resilience to emergency
- H1 – Increasing housing supply
- H4 – Delivering affordable housing
- H5 – Threshold approach to applications
- H16 – Large-scale purpose-built shared living
- HC1 – Heritage conservation and growth
- G6 – Biodiversity and access to nature
- SI1 – Improving air quality
- SI2 – Minimising greenhouse gas emissions

- SI13 – Sustainable drainage
- T4 – Assessing and mitigating transport impacts
- T5 – Cycling
- T6 – Car parking
- T6.1 – Residential parking
- T7 – Deliveries, servicing and construction
- DF1 – Delivery of the plan and planning obligations

## 6.0 The Council's Case

- 6.1 The seven reasons for refusal of the application have been set out above in Section 1. The following sections draw the attention to the relevant pages in the Committee report and planning policies, expand upon the reasons for refusal and provide further assessment.
- 6.2 The Council will justify its reasons for refusal and demonstrate that the scheme conflicts with the development plan and national planning policy. In addition, the Council will, where relevant, respond to the information supplied and presented by the appellant in their Statement of Case.

### **1<sup>st</sup> reason for refusal – Need and Affordability**

- 6.3 This reason for refusal comprises the following three elements:
- (i) the appellant has failed to satisfy the policy requirement to demonstrate an identified need for this type of development (need argument) (see Policy D. H7 1a);
  - (ii) further, and in any event, the housing provided is not low cost housing as defined by the Local Plan (affordability argument) (see Policy D.H7 1c);
  - (iii) Nor does the proposal provide an appropriate amount of affordable housing (viability argument) (see Policy D. H7 1a).

### *Policy Framework*

- 6.4 London Plan policy 3.8 seeks to ensure that *'new developments offer a range of housing choices, in terms of the mix of housing sizes and types, taking account of the housing requirements of different groups and the changing roles of different sectors in meeting these'*.
- 6.5 Tower Hamlets Local Plan 2031 (2020) policy S.H1 seeks to *'secure a delivery of at least 58,965 new homes across the borough (equating to at least 3,931 per year) between 2016 and 2031'*. Part 1.a. of the policy seeks to achieve the delivery of housing units through *'ensuring that development does not undermine the supply of self-contained housing – in particularly family homes'*. Part 2 of the policy requires developments to *'contribute towards the creation of mixed and balanced communities that respond to local and strategic need'*.

- 6.6 Tower Hamlets Local Plan 2031 (2020) policy D.H2 requires developments to *‘maximise the provision of affordable housing in accordance with a 70% rented and 30% intermediate tenure split’*. Part 3 of that policy requires development to *‘provide a mix of unit sizes (including larger family homes) in accordance with local housing need’*, as outlined in the table below:

<b>Unit size</b>	<b>Market</b>	<b>Intermediate</b>	<b>Affordable rented</b>
<b>1 bed</b>	30%	15%	25%
<b>2 bed</b>	50%	40%	30%
<b>3 bed</b>	20%	45%	30%
<b>4 bed</b>			15%

[Tower Hamlets Local Plan 2031, Policy D.H2: Affordable Housing, part 3.](#)

- 6.7 Tower Hamlets Local Plan 2031 (2020) policy D.H7 states the following:  
*‘1. New houses in multiple occupation will be supported where they:*  
*a. meet an identified need*  
*b. do not result in the loss of existing larger housing suitable for family occupation*  
*c. can be secured as a long-term addition to the supply of low cost housing, or otherwise provides an appropriate amount of affordable housing*  
*d. are located in an area of high transport accessibility*  
*e. do not give rise to any significant amenity impact(s) on the surrounding neighbourhood, and*  
*f. comply with relevant standards and satisfy the housing space standards outlined in Policies D.H3 and D.DH8.’*

This policy requires *all* of the criteria 1a-f to be met by a proposal for it to be supported by the development plan.

- 6.8 The supporting text to policy D.H7 provides (as relevant):

*‘9.69 The Greater London Authority (GLA) household projections suggest there is an increasing demand for HMO-style accommodation in the borough, particularly among young people. The number of ‘other type’ households (which includes HMOs) headed by persons aged 16- 34 is projected to rise from 12,295 in 2016 to 16,555 in 2031. High quality, large-scale HMOs can help meet this need. This will need to be demonstrated with regards to the specific scheme and location (Part a). Applications should seek to address housing need, as outlined in Policies S.H1 (see paragraph 9.21) and D.H2.’ (underlining added)*

*‘9.70 Part 1(a), (b) and (c) ensures development contributes towards maintaining mixed and balanced communities. Our affordable housing service – using the*

*evidence from the latest strategic housing market assessment – will assess the proposed rent levels to determine whether the development would primarily provide housing with shared facilities for people with low incomes. Where it would not meet the housing needs of those on low incomes, developments will be required to meet the affordable housing requirements outlined in Policies S.H1 and D.H2. Affordable housing contributions will be sought from all residential developments (as per the GLA’s Housing Supplementary Planning Guidance).*’ (underlining added)

6.9 As outlined in paragraph 9.69 of the Local Plan, the Council recognise that high-quality and of large scale HMOs can contribute towards meeting the overall housing need for the borough, subject to the development demonstrating an identified need in the context of wider strategic housing need, as well as with regards to the specific location.

6.10 However, it must be acknowledged that the inclusion of D.H7 1.a. and the requirement to demonstrate an identified need is not met simply by reference to that overall picture of background demand. The inclusion of criteria 1a requires an applicant to demonstrate the need for the specific type of low cost accommodation in this specific location, rather than referring generally to demand across the borough.

6.11 With regards to part 1.c. of policy D.H7, paragraph 9.69 provides the following:

*‘9.69 ...In addition reflecting the changing role of HMO-style accommodation in the borough and the acute shortage of affordable housing, it is appropriate that all forms of market housing (including HMOs) contribute towards meeting the high affordable housing need.’*

6.12 The policy requirement is either to secure future HMO developments as low cost housing, or require proposals to meet appropriate affordable housing requirements stipulated by policies S.H1 and D.H2. In order to ensure this requirement of the policy is met and to ensure the long-term provision, proposed developments would need to enter into Section 106 agreements as required by policy D.SG5 of the Local Plan as follows:

*‘1. Development will be expected to:*

*a. ...*

*b. enter into Section 106 agreements to provide affordable housing and make provision to mitigate the impacts of the development where*

*necessary or appropriate, having regard to any relevant supplementary planning documents or guidance...'*

- 6.13 Policy D.H7 also requires HMO developments to meet the relevant space standards and ensure proposals do not give rise to any significant amenity impacts to their surrounds.

*Need and affordability of the proposed HMO accommodation*

- 6.14 In terms of meeting criteria D.H7 1a (need), the Council welcomes the submission of a Demand Assessment and Market Analysis (DAMA) report prepared by Knight Frank (Appendix 2 A's SoC). It is unfortunate that this document was not provided to the Council at the application stage, as requested multiple times by officers.

- 6.15 However, the Council does not consider that the DAMA satisfies criteria 1.a. of policy D.H7 for the following reasons:

(a) the overview provided of the private rented sector (PRS) market does not fully address the borough's housing needs for all types of housing, in particular, affordable housing. As such, it does not justify how the proposed development addresses the borough's overall housing need;

(b) it fails to specify a need for this type of accommodation in this location. In particular, the DAMA fails to take account of the recently approved shared living scheme at 765-785 Commercial Road (LBTH reference: PA/16/03657) for 134 number of rooms and explain why a very similar type of development is justified in very close proximity to this approved scheme. The DAMA states at para.6.3 that *'There are no schemes in the development pipeline identified as co-living in Tower Hamlets.'* However, that assessment omits a major consented co-living scheme.

(c) Moreover, and as explained further below in the context of 1.c. of policy D.H7 (affordability), the proposal is not for genuine low cost housing, as defined by the Local Plan. That being the case, the appellant has not shown a need for additional HMO accommodation of this scale, in this location which does not add long-term to the supply of low cost housing;

(d) The DAMA assess the need for rental accommodation for up to 6 months when that is not the sort of accommodation that is being provided by the proposed scheme. The proposed development would secure short-term leases of up to three months in respect of the hostel use and up to 12 month tenancies in

respect of the HMO use. The need for the latter sort of accommodation has not been assessed.

- 6.16 The appellant has omitted a key material consideration in terms of the correlation between the need and proposed development. Due to the proximity and similarity of the consented development at 767-785 Commercial Road to the proposed development at the appeal site, it is crucial to understand how this has impacted the need for further large-scale HMO in the immediate area.
- 6.17 The appellant does acknowledge the nearby consented co-living scheme at 765-785 Commercial Road in paragraph 4.3 of their Statement of Case. The appellant seeks to rely on the Council's support for that development in that location to support the current appeal proposal. However, it is not appropriate to simply read across from the approved scheme 765-785 Commercial Road to the present scheme. When the scheme at 765-785 Commercial Road was approved that was against a different development plan framework and was supported on the basis that it added to the creation of mixed and balanced communities by diversifying the housing offer in the area. In respect of the appeal scheme there is a different policy framework in the Local Plan and different context in terms of housing need, not least because planning permission has already been granted for another very similar scheme in the same location. It is far from clear that more such housing is needed in this location.
- 6.18 As stated above in the Policy Framework section, the planning policy recognise that high-quality and of large scale HMOs can contribute towards meeting the overall housing need for the borough, however, the appellant has not demonstrated a need in the context of wider strategic housing need, as well as with regards to their location and the fact that the area includes an approved scheme of the same nature. Given the above, the Council considers the evidence provided of need to satisfy criterion 1a is deficient.
- 6.19 In terms of affordability and satisfying Policy D.H7 1c, the Local Plan requires new HMOs to be secured '*as a long-term addition to the supply of low cost housing, or otherwise provides an appropriate amount of affordable housing*'.
- 6.20 There is difference drawn in the policy between low cost housing and affordable housing. Low cost housing is intended to meet the needs of people on low incomes. It is subject to assessment by the Council's affordable housing service by reference to the evidence from the latest strategic housing market assessment (SHMA) (Local Plan para. 9.70). It is only where a proposal would not meet the housing needs of

those on low incomes, that the requirement to provide an appropriate level of “affordable housing” as defined in the Local Plan applies.

- 6.21 The Council does not consider that the proposed development would provide “low cost housing”. The appellant’s case is that provided the proposed rent levels are lower than ‘Tower Hamlets average asking rents’ (SoC 4.9-4.10) based on average rental levels in the private rented sector that satisfies the requirement to provide low cost housing for people on low incomes. However, basing its affordability levels on market rents and average incomes is the wrong approach.
- 6.22 The appellant’s Statement of Case in part 2. of paragraph 3.2, paragraphs 4.10, 4.11 and 4.15, and third bullet point of paragraph 5.2 states that the proposed development would provide low cost housing. As outlined in paragraphs 7.22-7.25 of the Committee Report, the Council disagrees that the proposal will provide low cost housing.
- 6.23 In accordance with policy D.H7, in order to provide affordable shared accommodation, the proposal would need to meet the housing needs of those on low incomes. By reference to According to the latest Strategic Housing Market Assessment (2017), this would include people in receipt of housing benefit support. The Local Housing Allowance (LHA) for the relevant area in which the application site is situated (referred to as the Inner East London Broad Rental Market Area) equates to £108.30 per week/ £469.30 per month (February 2020) for shared accommodation rate (single room). The local housing allowance is expected to increase in April 2020 and would be £110.14 per week/ £478.52 per month for shared accommodation. That is the benchmark against which the affordability of the appellant’s proposal needs to be measured in order to represent low cost housing.
- 6.24 The affordability analysis by Knight Frank is based on an average income of £42,602. It is not based on low incomes but on average incomes which also appear to be high as defined by Knight Frank. The Council would like to draw the Inspector’s to the fact that the Council uses median incomes to determine affordability. This is because average incomes can become skewed by very high and very low numbers. The median income in Tower Hamlets for 2019 was £30,370. The Council’s source for this is CACI Paycheck.
- 6.25 The appellant sets out the proposed rental levels for its scheme in Table 20 of the DAMA report. It states that a single room would have an average rent of £1,000, a double room for single use would rent at £1,083 and a shared double room would be rented £542.



- 6.26 It is clear that the appellant's proposed rental levels would be substantially higher than those based on the LHA and calculated for shared accommodation (single room) at £478.52 per month. Even taking the proposed rent for a shared double room, the rental levels for such a room would clearly exceed rental levels affordable to those on low incomes (see policy D.H7 and para. 9.70 of the supporting text).
- 6.27 By way of comparison, whereas the monthly rental price for the proposed HMO use would be £1000 for a single room within the shared accommodation, other affordable housing products, which are self-contained and comprise greater levels of amenity would be substantially cheaper. So, for example, a one bedroom flat on London Affordable Rent (2019/2020) is £155.13 per week / £672.23 per month, and Tower Hamlets Living Rent (2019/20) £197.18 per week / £854.45 per month. On any view, therefore, it is clear that the proposed development would not secure low cost housing for those on low incomes.
- 6.28 The DAMA report goes on to make a number of assumptions in section 2.3 Outlook with regard to the market and behaviours of a recovery or 'relaxation' of conditions relating to the COVID-19 pandemic. This is high risk given that communities are still living with the virus and responses to all aspects of living remain conservative. In so far as such considerations are relevant, that fact that some people may not wish to live in such close quarters so as to enable and practice social distancing would need to be taken into account.
- 6.29 To summarise, the appellant has failed to demonstrate how the proposed development addresses the borough's housing need, as outlined in policies S.H1 and D.H2, as required by policy D.H7. In addition, the proposed development fails to provide low cost housing as required by policy D.H7. The Council concludes that the proposed rental levels would not meet the need of people on low incomes and as such would not contribute towards meeting the borough's affordable housing need as required by policy D.H7 1.c. The proposal is, therefore, required to contribute towards the provision of affordable housing in accordance with policy D.H2 which requires a minimum of 35% and a 70/30 social/ intermediate split. We turn to the viability position and the affordable housing provision next.

*Affordable housing provision*

- 6.30 Given that the proposed HMO accommodation cannot be secured as low cost housing, the appeal proposal is required to provide an appropriate amount of affordable housing (Local Plan policy D.H7 1.c.). The fact that the appellant has

provided viability information to justify the lack of affordable housing in the scheme appears to admit of the fact that the proposal would not supply low cost housing.

- 6.31 The appellant's Financial Viability Assessment (FVA) was reviewed by the Council's internal viability team at the application stage. At that stage (see paragraphs 7.26-7.27 of the Committee Report), the applicant was seeking to justify the provision of 0% of affordable housing within this scheme. The Council's officers in the Viability Team provided comments on the FVA and found a broadly similar deficit for a policy compliant development providing 35% affordable housing (£6.88 million deficit) as for a scheme modelled with 0% affordable housing (£6.29 million deficit). The view of officers was that the information presented at that stage was inaccurate and/or that the scheme as proposed is not deliverable in reality.
- 6.32 At the appeal stage, the Council has instructed external consultants, BNP Paribas, to review the originally submitted FVA and a viability note by James Brown submitted with the appellant's Statement of Case. The BNP Paribas report is included as Appendix 1 to the Council's Statement of Case. The appellant continues to maintain its position that nil affordable housing can be delivered through its scheme.
- 6.33 The BNP Paribas report tests a number of different scenarios to see how residual land value is affected based on various assumptions shown in table 7.7.1 of the BNP Paribas report. The report concludes that the applicant is able to provide at least 35% affordable housing contributions for the site.
- 6.34 In headline terms the difference between the parties relate to:
- Existing hostel rental value
  - Floorspace calculations
  - Build costs
  - Benchmark Land Value
- 6.35 Appendix 2 to the Council's Statement of Case provides a summary of the areas of disagreement. The Council will aim to work on these with the appellant through the Statement of Common Ground. However, the Council would like to use the opportunity in the Statement of Case and highlight the most significant points which remain in dispute.
- 6.36 Firstly, the Council disagrees with the rental value of the existing hostel. As BNP Paribas explain in paragraph 8.2 of the report, one of the significant flaws in the appraisals undertaken by both Rapleys and James Brown relates to how the hostel

is valued. The appellant's consultants have valued the hostel rooms on the same basis as the HMO rooms, resulting in room rates which represent a small fraction of the room rates currently charged. This is arguably the primary reason for their appraisals showing such significant deficits.

- 6.37 In addition, it is also counterintuitive that the same room rate would apply to hostel and HMO units given that the latter are intended for longer term occupation and the former for short term stays. Rapley's rental rate applied to the Hostel accommodation equates to £2.73 per night for a bed in a single room and £2.96 per night for a double room. By comparison, the Appellant is in fact currently charging between £14.00 to £24.00 per night for beds in shared rooms of up to 12 beds, or £79.20 for a twin room and £84.60 per night for a double room. This is a clear error by both Rapleys which is repeated by James Brown.
- 6.38 The BNP Paribas report has assumed that the hostel rooms are charged at £2,108 per single room and £2,256 per double room in line with rates currently charged (see detailed schedule at Appendix 3 of the BNP Paribas report). This increases total revenue from Rapley's £1,382,150 per annum to £1,797,048 per annum.
- 6.39 Secondly, the Council disagrees with the indicative floorspace presented by the appellant. Paragraphs 3.6 and 3.7 of the BNP Paribas report explain there is an error in the Architect's schedule (attached to the Appellant's FVA at Appendix 2). The schedule double counts the ancillary space on the ground floor by including it both in their "total ancillary" area for the hostel and the HMO. Their schedule indicates that the total ancillary floorspace extends to 1,917.6 square metres, whereas the total should be 1,681.30 square metres.
- 6.40 In addition, and perhaps more significantly, there is a substantial disparity between the gross floor area shown by the Architect's schedule (3,832 square metres when corrected for the issue discussed in the previous paragraph) and the gross area assumed in the Cost Plan (4,551.40 square metres). It is unclear why the cost plan shows a gross floor area which is 719 square metres (18.7%) larger than the Architect's floor area. This could have significant consequences for the accuracy of the Cost Plan which the Appellant has relied upon.
- 6.41 Thirdly, the Council considers the appellant's anticipated costs to be high and overinflated.
- 6.42 A review of the appellant's build costs has been completed by a cost consultant, RLF. The RLF cost plan review is appended to the BNP Paribas report (Appendix 4).

- 6.43 RFL have found that the appellant’s costs are overstated by 8.63% which equals to £1,250,140. This has a further impact on the scheme and its potential to provide affordable housing.
- 6.44 Fourthly, the Council disagrees with the appellant’s Benchmark Land Value (BLV) and the appraisal results which indicate that no affordable housing can be provided.
- 6.45 The BNP Paribas report tests a number of different rental scenarios as indicated in Table 7.4.1 of the BNP Paribas report below.

**Table 7.4.1: Rental scenarios tested**

Scenario	Overall tenure split	Rent per annum (incorporating hostel)	Rent per Hostel unit	Rent per HMO unit
A	Applicant’s rents, none secured as affordable through Section 106 agreement	£1,347,786	£26,041	£12,690
B	100% London Living Rent, 35% secured as such in Section 106 agreement	£1,390,284	£26,041	£13,416
C	65% London Living Rent, 35% Tower Hamlets Living Rent	£1,326,959	£26,401	£12,334
D	65% London Living Rent, 35% Tower Hamlets Affordable Rent	£1,286,955	£26,401	£11,650

- 6.46 As indicated in table 7.6.1 below, the appeal proposal can viably provide a range of affordable options.

**Table 7.6.1: Appraisal results (residual land values - £ millions)**

	Residual land value	Appellant’s benchmark land value	Surplus
Rental Scenario A	£7,674,009	£5,890,000	£1,784,009
Rental Scenario B	£8,300,164		£2,410,164
Rental Scenario C	£7,367,159		£1,477,159
Rental Scenario D	£6,777,758		£887,758

- 6.47 The Council would like to highlight that Rental Scenario B is not considered appropriate for the following reason. The appeal proposal represents a form of shared accommodation. By contrast, London Living Rent (2020/21) of £1,118 is applicable to a one-bedroom flat. The two housing products do not share the same amenities. As such, securing this rental scenario would not satisfy the affordable housing requirements of policies S.H1 and D.H2 of the Local Plan.

- 6.48 Nonetheless, Rental Scenarios C and D indicate that the appeal proposal is able to provide a more appropriate mix of affordable housing with significant surpluses which contradicts the evidence presented by the appellant.

*Summary*

- 6.49 The Council considers that the submitted needs assessment fails to demonstrate the need for the proposed type of accommodation, which not genuinely low cost. In any event, the proposed development fails to provide appropriate level of affordable housing contributions as required by the development plan. As such, the 1<sup>st</sup> reason for refusal stands.

**2<sup>nd</sup> reason for refusal – Design and Heritage**

- 6.50 The Council has carried out an assessment of the proposed seven storey development in paragraphs 7.59-7.127 of the Committee Report in terms of the design and heritage implications. The assessment includes the following:

- Paragraphs 7.59-7.88 assessment of the design implications
- Paragraphs 7.89-7.127 heritage assessment
- Paragraphs 7.119-7.125 balance of heritage harm and public benefit
- Paragraphs 7.126-7.127 assessment of archaeological impacts.

- 6.51 The reason for refusal can be broken down into four elements concerning the design and heritage impact. The first element relates the height and massing of the proposed seven storey building and its impacts on the St Anne's Conservation Area. The second element concerns the site layout and scale of the proposal. The third element relates to design detailing and articulation of the building. Finally, the fourth element of the reason for refusal refers to the archaeology on the site.

- 6.52 The appellant has criticised the officer's presentation of the proposed scheme and alleged use of an outdated CGI. As a matter of fact, officers were aware of the updated plans and reflected those changes in a Committee Update Report. As such, members of the Development Committee made a decision on 12<sup>th</sup> March 2020 based on the latest information submitted by the appellant.

**Heritage Impacts on the Conservation Area**

- 6.53 Paragraph 190 of the NPPF states '*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking*

*account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'*

6.54 The Council relies on the St Anne's Church Conservation Area Character Appraisal and Management Guidelines (CACAMG) which sets out an appraisal of the baseline position and the CA's significance. The Council relies on the assessment of its expert heritage officers in terms of the proposal's impact on heritage assets.

6.55 The St Anne's Church CACAMG provides, as relevant:

*'Further to the west along Commercial Road and Wharf Lane stands the 1900 built Limehouse District Library, originally the Passmore Edwards Library. Grade II listed, the library was constructed of white stone and yellow brick, with its ground floor of rusticated white stone. The library is 2 storeys tall plus basement and attic. In the 1970s, the Limehouse Library became the home for the Borough's non-fiction collection. The library is currently closed and awaits future development. On the opposite side of Norway Place is the notable Our Lady Immaculate Catholic Church Limehouse (consecrated in 1945) which completes this grouping of significant public buildings.' (underlining added)*

*Significance of Our Lady Immaculate Church within the CA*

6.56 The Council's assessment of the significance of the surrounding CA is outlined in paragraphs 7.107-7.115 of the Committee Report. As the CAAMG makes clear, the prevailing character of the conservation area is defined by various buildings surrounding St Anne's Church (ecclesiastical grade I listed) which represents a focal point and visual marker in Limehouse. The area also evidences the maritime history and strong industrial character associated with the viaducts and the Limehouse Cut which divides the area.

6.57 Along the southern side of Commercial Road, a number of principal public buildings frame the prominence and importance of St Anne's Church. These include the Limehouse Town Hall (grade II listed) and former British Sailors Society (grade II listed; also known as The Nelson's Wharf) on either side of Newell Street; the Limehouse District Library (grade II listed) situated between Wharf Lane and Norway Place, and Our Lady Immaculate and St Frederick Roman Catholic Church immediately adjacent to the library building. The south-eastern side of the conservation area is characterised by residential blocks of varying heights and a Victorian terrace along East India Dock Road.

- 6.58 Along the northern side of the conservation area, various grade II listed and non-listed buildings in a terrace that runs from 789-821 Commercial Road contribute to the appreciation of the conservation area with their varying facades and a staggered streetscape frontage which is predominant three storeys in height. On the opposite side of St Anne's Church is the former ships chandler's workshop and sail loft known as the Former Caird and Rayner Premises (grade II listed). Along with the Limehouse Cut and grade II listed viaduct along the southern edge of the conservation area, these elements illustrate the area's rich industrial past.
- 6.59 Our Lady Immaculate and St Frederick Roman Catholic Church is of particular importance in this context as it completes this grouping of significant public buildings and is located directly adjacent to the application site which sits to the west. The church is of an Italianate inter-war style and its tower represents a landmark in the area given its height and prominent location on Commercial Road.
- 6.60 It is clear that Our Lady Immaculate Church makes a positive contribution to the significance of the CA as reflected in the CAAMG. It is a non-designated heritage asset in the conservation area. Any harm to the church itself falls to be considered as part of a balanced judgment in accordance with para. 197 of the NPPF. In terms of any harm arising to the conservation area (the designated heritage asset), such harm must be afforded great weight and be weighed against any public benefits of the scheme in accordance with para. 196 of the NPPF.

*Existing position*

- 6.61 In terms of the prevailing heights of the buildings surrounding the appeal site, the Limehouse District Library to the east of the church is two storeys in height. Whilst the stair enclosure of the existing building, which is due to be demolished reaches four storeys in its north-eastern corner which is adjacent to the church, the predominant height of the building is three storeys. The current arrangement allows for the Church and its tower to be appreciated in its entirety.
- 6.62 The street elevation of the Our Lady Immaculate and St Frederick Roman Catholic Church consists of the flank semi-circular apse and a northeast tower. Three distinct sections of the tower can be defined: base (bottom), lantern (window) and pyramidal roof spire (top).
- 6.63 The highest part of the adjacent library and the existing hostel building sit well below the lantern part. Once again, the low-scale nature of the existing buildings on each side of the Church ensure that its local landmark position is preserved. The lower scale of the buildings immediately surrounding this grouping helps retain their

prominence, in particular the landmark nature of the tower to Our Lady Immaculate Church.

*Policy framework*

6.64 London Plan (2016) policy 7.8 states that *‘development affecting heritage assets and their settings should conserve their significance by being sympathetic to their form, scale, materials and architectural detail’*.

6.65 Tower Hamlets Local Plan 2031 (2020) policy S.DH3 requires proposals to *‘preserve or, where appropriate, enhance the borough designated and non-designated heritage assets in a manner appropriate to their significance as key and distinctive elements of the borough’s 24 places’*. The policy further states the following:

*‘Proposals to alter, extend or change the use of a heritage asset or proposals that would affect the setting of a heritage asset will only be permitted where:*

*a. they safeguard the significance of the heritage asset, including its setting, character, fabric or identity*

*b. they are appropriate in terms of design, height, scale, form, detailing and materials in their local context*

*c. they enhance or better reveal the significance of assets or their settings*

*d. they preserve strategic and locally important views and landmarks, as defined in Policy D.DH4, and*

*e. in the case of a change of use from a use for which the building was originally designed, a thorough assessment of the practicability of retaining its existing use has been carried out outlining the wider public benefits of the proposed alternative use.’*

6.66 Part 6 of Tower Hamlets Local Plan 2031 (2020) policy S.DH3 is of a particular relevance to the proposal. It provides:

*‘Significant weight will be given to the protection and enhancement of the borough’s conservation areas (as shown on the Policies Map), including their setting. Development within a conservation area will be expected to preserve or, where appropriate, enhance those elements which contribute to their special character or appearance. There will be a presumption in favour of the retention of unlisted buildings that make a positive contribution to the character and appearance of a conservation area. Planning applications should explore opportunities from new*



*development within conservation areas and their setting to enhance or better reveal their significance.'*

*Harm arising from the appeal proposal to the designated and non-designated asset – Height and Massing*

- 6.67 The height of the proposed seven storey building will result in harm to the non-designated heritage asset, Our Lady Immaculate and St Frederick Roman Catholic Church. The overall height of the proposed building would reach the top part of the tower's lantern section. In particular, the two setback floors would introduce the massing which would undermine the Church's strong presence within the existing townscape. This would disrupt the full appreciation of the church as an important focus in this particular location. As such, the Church would lose its landmark position which currently positively contributes to the character and appearance of the St Anne's Church conservation area by framing the public buildings that define the setting of St Anne's Church and the conservation area named after it.
- 6.68 The Council considers that the excessive height and massing of the proposed development would also have a harmful impact on the wider conservation area which is characterised by a grouping of significant public buildings that provide an appropriate context to the significant of the St Anne's Church and are completed with the Our Lady Immaculate Church to the west. As a result, it is considered that the proposal would cause harm to the conservation area and the heritage assets contained within it. That harm to the conservation area would be less than substantial. In accordance with the national planning policy, the identified harm should be weighed against the public benefits of the scheme.
- 6.69 Overall, the height and massing are deemed to be overbearing, resulting in harm, albeit less than substantial, to the conservation area. Throughout the pre-application and planning process this concern was raised repeatedly by officers who recommended that the scale be reduced to something more akin to the three to five storeys which was approved for an extension to the existing hostel (LBTH reference: PA/11/02318).
- 6.70 The height of the proposal reduces the prominence of the church tower and lessens its significance as a landmark. A reduction in height and massing would preserve the prominence of the tower of Our Lady Immaculate church in the townscape and provide an appropriate setting to the grouping of St Anne's Church, the Limehouse District Library and Our Lady Immaculate Church in the Conservation Area.

6.71 Paragraph 32 of Appendix 4 Heritage Note of the appellant's Statement of Case seeks to minimise the harm and states:

*'The Our Lady Immaculate & St Frederick Church has always been seen within an urban context and elements of its architecture are appreciated from different positions. As a component of the townscape of a busy thoroughfare and appreciation of its qualities will mostly be a dynamic one passing from east-west or vice versa when different elements will reveal themselves at different moments.'*

6.72 Whilst the Council does not disagree, what the appellant's heritage assessment fails to appreciate is that the immediate context of the conservation area in this location is lower in scale, allowing these public buildings of design and heritage value to be read as distinct from the wider urban context. The proposed seven storey building is informed by the contemporary buildings to the north and west rather than the lower scale building in its immediate surrounds and the conservation area in which it is situated.

6.73 The Council does not consider that setting back the two upmost floors is sufficient to address the impact of the appeal proposal's excessive height.

6.74 The nearest listed building to the appeal site is the Limehouse District Library. The appellant states that the proposal would benefit the setting of the listed building; the Council disagrees. If anything, there would be a harmful, albeit indirect, impact to the setting of the listed library building.

6.1 In summary, the Council considers that the appeal scheme would result in:

- a. Harm to the non-designated Church (para. 197 balance);
- b. Less than substantial harm to the St Anne's Church conservation area (para. 196 balance).
- c. Slight indirect harm to the Limehouse library

The balancing exercise in respect of each of these aspects of harm is set out below.

6.2 As required by paragraphs 196 and 197 of the National Planning Policy Framework (2019), the Council has carried a balancing exercise in the section below.

*Design Impact – Site Layout and Scale*

*Policy Framework*

6.3 The applicable policy framework in terms of design is as follows. Chapter 12 of the NPPF states that good design is a key aspect of sustainable development, creates

better places in which to live and work, and helps make development acceptable to communities (paragraph 124).

- 6.4 London Plan (2016) policy 7.1 states that *'The design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability, and accessibility of the neighbourhood'*.
- 6.5 London Plan (2016) policy 7.4 states that *'development should have regard to the form, function and structure of an area, and the scale, mass and orientation of surrounding buildings'*. The policy provides five assessment criteria. Boroughs should consider the different characteristics of their area where character should be sustained, protected and enhanced through managed change.
- 6.6 London Plan (2016) policy 7.6 which states that *'Architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. It should incorporate the highest quality materials and design appropriate to its context.'*
- 6.7 Tower Hamlets Local Plan 2031 (2020) policy S.DH1 states that *'Development is required to meet the highest standards of design, layout and construction which respects and positively responds to its context, townscape, landscape and public realm at different spatial scales, including the character and distinctiveness of the borough's 24 places ... and their features. To achieve, development must:*
- *be of an appropriate scale, height, mass, bulk and form in its site and context;*
  - *represent good urban design;*
  - *ensure the architectural language: scale, composition and articulation of building form, design of detailing, elements and materials applied on elevations, complements and enhances their immediate and wider surroundings'*
- 6.8 Tower Hamlets Local Plan 2031 (2020) policy D.DH2 states that *'Development is required to contribute to improving and enhancing connectivity, permeability and legibility across the borough, ensuring a well-connected, joined-up and easily accessible street network and wider network of public spaces'*.
- 6.9 The site layout and scale of the proposed building fails does not meet the policy requirements for good urban design. The Council welcomes the efforts to pull back the building line along Commercial Road from the original proposals. However, notwithstanding this improvement, the building still occupies nearly the full extent of the site and substantially increases the plot coverage when compared to the existing building. The space around the building is not generous; in particular it creates a

very tight pinch point to the north east. The creation of a pinch point fails to represent good urban design and is detrimental to the street scene. In addition, the remaining provision of public realm would be poor as it would cater for parking, deliveries and servicing.

6.10 The proposed layout and building alignment would result in the creation of a pinch point in the north-eastern corner of the site (corner with Island Row) which is not acceptable given Commercial Road is a busy road with a high level of footfall. The existing building step backs towards the northern side of the site to provide more pedestrian space as they approach Commercial Road. The proposed building fails to enhance connectivity due to the poor layout arrangement.

6.68 To maximise development on site, the entrance to the building has been sunk. Whilst amendments have been made to increase the prominence of the main entrance, the proposed design still does not accord with good urban design principles. The sunken entrance is more synonymous with overdevelopment and fails to improve legibility and create active frontages along Commercial Road.

6.69 The ground floor level, including the main entrance, is proposed to be below the street level. This would result in the reduced visibility of the main entrance and a poor presence of the communal spaces along the streetscape. As such, the proposed development fails to provide natural surveillance and contribute to the creation of a lively and attractive street as required by policy.

The proposed development thus fails to provide a development which satisfy the requirements of good urban design.

The Appellant suggest (Paragraph 30 of Appendix 4 Heritage Note in its Statement of Case) *'The building has been designed to be read, along Commercial Road, in three parts – with the three bays to the east and west reflecting a rhythm and proportion, particularly the horizontality of the windows, that recognises the architectural proportions of some of the surrounding Victorian buildings.'*

6.70 The Council, in addition to its concerns with the overall scale, bulk, height and massing, is also concerned about the overall appearance of the building. The proposed fenestration is considered excessive and does not respect the local character which is characterised by more rationalised window proportions. Also, the two set back floors fail to achieve consistency with the lower floors and as such they appear out of context and do not help to articulate the building's form.

6.71 The fenestration to the top floors also appears confused and does not relate to the more rational design direction of the rest of the building or wider area. The design of both parts (main body and set back upper floors) is banal. It lacks considered detailing and refinement that adds character and interest which is a key feature of Victorian buildings which the appellant claims the proposal is informed by. For example, brick or stone detailing which might have given texture and depth to the façade is absent here. Overall, the quality of the design is not sufficient to overcome impacts of the scale and height of the building on the character of the Conservation Area.

Archaeology

6.72 London Plan (2016) policy 7.8 states that *‘New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving the asset.’*

6.73 Tower Hamlets Local Plan 2031 (2020) policy S.DH3 states the following: *‘Development that lies in or adjacent to archaeological priority areas (as shown on the Policies Map) will be required to include an archaeological evaluation report and will require any nationally important remains to be preserved permanently in situ, subject to consultation with Historic England.’*

6.74 The Council welcomes the submission of a desk-based archaeological assessment (DBA) which is included as Appendix 6 to the appellant’s Statement of Case. Further specialist advice was sought from the Greater London Archaeology Advisory Service (GLAAS) by the Council in respect of the additional information forming part of the appeal submission documents.

6.75 The early OS mapping shows the location of a Congregationalist Chapel on the appeal site. This raises the possibility of an associated burial ground that could be impacted by the proposed development.

6.76 Post-medieval burial grounds are archaeological heritage assets, and though they are normally considered as undesignated heritage assets, some have potential to be nationally important. In order to properly assess and consider mitigation measures, as well as the inclusion in a balancing exercise, further assessment should be provided by the appellant.

- 6.77 The submitted DBA concludes that the chapel had no associated burial grounds, however, the evidence cited for this is the lack of burial ground on the nineteenth century mapping. The mapping is not considered to be detailed and in order to reach a properly informed decision, further information is required on the chapel, derived from archive and desk-based research, to better help rule out the presence of a burial ground.
- 6.78 The Council does not consider that the concerns over the potential presence of burial grounds can be dealt by way of a two-staged planning condition. The detailed assessment should inform the decision-making properly as explained above. As such, the Council disagrees with the appellant's statements in paragraphs 4.30 and 4.31 of their Statement of Case that the proposal is unlikely to create disturbance and can be deal post-planning.
- 6.79 The relevant guidance on burial grounds, as recommended by GLAAS, has been included in Section 5 under sub-section 'Other Relevant Documents'.

*Balancing harm and public benefits*

- 6.80 Paragraph 196 of the National Planning policy Framework (2019) states the following:
- '196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 6.81 Paragraph 196 of the National Planning Policy Framework (2019) provides:
- 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*
- 6.68 Paragraphs 14 and 43 of Appendix 4 Heritage Note of the appellant's Statement of Case conclude that there would be no harm caused to the designated and non-designated heritage asset. Notwithstanding this it carries out a balancing exercise in paragraph 4.5 of their Statement of Case. The Council disagrees with the appellant's assessment considers there will be less than substantial harm to the conservation area, as well as harm to the non-designated Church which has been

separately considered. Such harm to the CA needs to be given substantial weight and falls to be balanced against the public benefits of the scheme.

6.69 Whilst the appellant has stated that the proposal would result in no harm, paragraph 4.5 of the appellant's Statement of Case includes a balancing exercise. The Council clearly disagrees with the appellant's assessment that the appeal scheme would result in no harm and considers there will be less than substantial harm to the non-designated heritage asset and the conservation area.

6.70 The Council acknowledges the following are public benefits of the proposal scheme:

- The replacement of the existing building which aside from its scale and massing, does not contribute positively to the conservation area;
- The provision of public realm along the eastern part of the site;
- The provision of a disabled wheelchair space on site and cycle parking;
- The provision of wheelchair accessible accommodation;
- Future landscaping and biodiversity upgrades;
- Creation of new jobs on the site, including construction jobs, and six full-time and two part-time jobs; and
- Employment and enterprise contributions, including any local expenditure.

6.71 However, the weight to be attributed to these benefits is modest. In particular, the Council attributes limited weight to the replacement of the existing building given the proposed development would fail to comply with multiple planning policies which require proposals to provide an appropriate design and preserve or enhance the local character, as well as and environmental policies that seek to preserve the environment, including air quality and energy efficiency and sustainability.

6.72 Officers do not consider the proposed public realm along the eastern part of the site to be a public benefit given it would be used for servicing requirements of the scheme, therefore offering up limited public benefit. The proposed development is likely to have an adverse impact on the safety and capacity of the transport network given that the applicant failed to provide an appropriate strategy which would seek to mitigate any adverse impacts. This is discussed further below in the Transport section.

6.73 The Council does not consider that the proposed mix of HMO and hostel uses on site to be a public benefit given the scheme does not comply with policy D.H7 as it

fails to contribute to the borough's housing need. In addition, the quality of these facilities is inadequate. This also diminishes the public benefit of the proposed wheelchair units within the scheme.

- 6.74 The Council has acknowledged some benefits from the proposed landscaping and urban greenery on the site. However, the Council disagrees with the appellant's claim that these would provide a substantially improved amenity space on the site (see 3<sup>rd</sup> reason for refusal).
- 6.75 Whilst the provision of a disabled wheelchair space on the site is welcomed, it should be noted that this a requirement for a policy compliant scheme. Concerns have been raised in relation to its location and potential adverse impact on the surrounding transport network, discussed further below. In addition, the proposal would fail to provide appropriate accessibility and capacity arrangements for cycle and waste storage.
- 6.76 The Council acknowledges the direct and indirect employment benefits, as well as the increase in local expenditure from future occupants. However, it is worth highlighting that any policy-compliant scheme would give rise to such benefits. Of itself these benefits are incapable of outweighing the harm.
- 6.77 The Council disagrees with the appellant that the proposed development would encourage sustainable modes of travel given the failure to meet the minimum cycle parking standards (see 5<sup>th</sup> reason for refusal).
- 6.78 In summary, it is considered that the public benefits are limited and do not outweigh the less than substantial harm caused to the St Anne's Church conservation area and the harm to the non-designated heritage assets Our Lady Immaculate Church. Accordingly, the proposal fails to satisfy the requirements of London Plan (2016) policy 7.8, and Local Plan policy S.DH3 of the Tower Hamlets Local Plan 2031 (2020) which require developments to preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets.

### *Summary*

- 6.79 Overall, the Council considers that the proposed development would harm a non-designated heritage asset and the St Anne's Church conservation area and would not achieve an appropriate design that would respect the local character. The public benefits of the proposed development are not considered sufficient to outweigh the harm caused to the heritage assets. In addition, there are concerns over the level of impact on heritage assets given the lack of information regarding archaeology.



**3<sup>rd</sup> reason for refusal – HMO accommodation quality**

- 6.80 The third reason for refusal can be broken down into two elements, the inadequacy of (a) communal indoor amenity spaces and (b) communal outdoor amenity spaces.
- 6.81 On a strategic level, London Plan (2016) policy 3.5 requires housing developments to *‘be of the highest quality internally, externally and in relation to their context and to the wider environment’*.
- 6.82 Policy D.H7 Part 1.f. of Tower Hamlets Local Plan 2031 (2020) requires new HMOs to *‘comply with relevant standards and satisfy the housing space standards as outlined in Policies D.H3 and D.DH8’*. The supporting text provides:  
  
*‘9.72 HMO developments must provide high quality living space, in line with relevant standards as outlined in Policies D.H3 and D.DH8. Applicants should also ensure that HMOs satisfy the appropriate environmental health and fire safety standards.’*
- 6.83 Tower Hamlets Local Plan 2031 (2020) policy D.H3 part 1. requires development *‘to demonstrate that, as a minimum it meets the most up-to-date London Plan space and accessibility standards’* while part 5 of this policy requires development *‘to demonstrate how it will meet the following minimum amenity space (private, communal and child play space) standards on site’*.
- 6.84 Policy D.DH8 Part 1.c. of the Local Plan 2031 (2020) requires developments to *‘ensure adequate levels of daylight and sunlight for new residential developments, including amenity spaces within the development’*. The supporting text to the policy provides:  
  
*‘8.88 Part 1(c) seeks to ensure that the design of new development optimises the levels of daylight and sunlight. Part 1(d) seeks to ensure that new developments minimise the impact of the loss of daylight and sunlight and unacceptable overshadowing (including on amenity space and public open space).*  
  
*8.89 A sunlight and daylight assessment must accompany all major planning applications and/or smaller schemes where adverse effects on daylight and sunlight levels are anticipated. It should follow the methodology set out in the most recent version of Building Research Establishment’s ‘site layout planning for daylight and sunlight’ guidance and the British Standard Code of Practice for daylighting, the results of which must be submitted with the planning application. Daylight and sunlight assessments should also include consideration of the potential*

*redevelopment of adjacent sites, so as not to prejudice their redevelopment, see Part 1(d).'*

*Daylighting of the communal indoor amenity spaces*

- 6.85 Paragraph 42 of Appendix 5 Design Note of the appellant's Statement of Case states in respect of lighting of internal spaces:

*'Only D.DH8 refers to daylighting of communal spaces. The reason for refusal is not specific that it applies to natural daylight alone. There is so far as I can see no minimum lighting level set out in planning policy for communal space in HMO's. There are light levels set out in the building regulations. I can confirm that the building regulations lighting levels can be achieved, and compliance would be demonstrated through detailed design at that stage...Much of the communal space is kitchen areas. In residential houses for example there is no requirement for daylighting levels in kitchens. However, in the proposal these spaces are well lit by natural daylight.'*

- 6.86 The Council considers this is incorrect and draws the Inspector's attention to policy D.DH8 of the Tower Hamlets Local Plan 2031 (2020) which provides details on these matters and requires adequate levels of daylight and sunlight for new residential developments by reference to the BRE's 'Site layout planning for daylight and sunlight' guidance.

- 6.87 The appellant's assessment of daylighting levels is based on the height and position of windows and communal areas (set out in 45 and 46 of Appendix 5 Design Note). It provides:

*'45 All of these spaces without exception have large almost full height (floor to ceiling, approximately 2.4m high) glazed windows. If for example you examine the typical second floor plan 189-CDA-A2-02-DR-A-05-0102 Revision 01, there are one very large window approximately 3m wide and a second window around 1600mm wide. The room is approximately 6.5m deep. We believe there would be an excellent level of daylight. Examining the ground floor plan 189-CDAA2-00-DR-A-05-0100 Revision 7 both communal spaces benefit from a long full height strip of windows facing Commercial Road and secondary windows to the sides. This is in my opinion a very good level of natural daylighting.*

*46. I have concluded that the natural daylighting level achieved is very high and indeed it would be hard to increase it further. Overall, the designs including artificial lighting can meet the requirements of planning policy D.DH8 and building*

*regulations. I do not believe contrary to the council's assertion that the communal accommodation will not be adequately lit.'*

- 6.88 The above note produced by the scheme's architect contradicts and is not supported by the appellant's own submitted Daylight and Sunlight Assessment.
- 6.89 The Council's assessment based on that daylight assessment is that both living/kitchen/dining (LKD) windows on the first and second floors would fail to achieve the minimum ADF of 2%. Out of these, the south-facing LKD windows would achieve ADF close to 2% (1.75% - first floor and 1.94% - second floor); however, the north-facing LKD windows would achieve significantly less than 2% (0.81% - first floor and 0.95% - second floor). Similarly, the north facing LKD window on the third floor would achieve 1.07% against the 2% minimum ADF requirement.
- 6.90 The proposed LKD areas would serve as a primary social space for a number of occupiers. As such, it is considered that all of the communal spaces should meet the minimum ADF requirements. In light of this, the results presented are unacceptable with regards to Local Plan policy D.DH8 which requires all new residential development to achieve adequate levels of daylight and sunlight.
- 6.91 However, given that the social spaces would serve a significant number of occupiers who rely on these spaces within the context of an HMO, it is considered that all such communal spaces should meet the minimum daylight and sunlight requirements as promoted by the BRE's guidance. The architect's claim that the communal spaces would achieve "very good" daylight levels is at odds with the appellant's own evidence produced by daylight specialists. Great weight can be attached to the ADF levels produced which fall to viewed in light of the BRE guidelines and wider policy framework. The proposed development would not achieve satisfactory daylighting levels and is conflict with policies D.H7 and D.DH8.

*Communal outdoor amenity spaces*

- 6.92 The Council's assessment found that the proposed development fails to provide sufficient communal outdoor amenity spaces for future HMO occupiers. This is addressed in paragraph 7.44 of the Committee Report and paragraph 1.5 of the Committee Update Report.
- 6.93 Paragraph 51 of Appendix 5 Design Note of the appellant's Statement of Case states:

*'In terms of outdoor amenity space, the proposal provides 345.4m<sup>2</sup> (calculated as all outdoor amenity space together, whereas the requirement is for 110m<sup>2</sup>. What*

*you can include in the calculation of amenity space is not precise in policy terms. But looking at the minimum, if you count balcony and terrace space only the provision 110m<sup>2</sup>. So, in our view either way it is with this is policy compliant.'*

- 6.94 The appellant's does not provide details as to what spaces it has included in the 345.4 sqm. In addition, the Council would like to highlight the supporting text of policy D.H3 of the Tower Hamlets Local Plan 2031 (2020) which states that communal amenity space should support a range of activities including space for relaxation, gardening, urban agriculture and opportunities to promote biodiversity, ecology and intergenerational community cohesion.
- 6.95 Paragraph 16 of Appendix 5 Design Note of the appellant's Statement of Case states that there is no policy requirement for the quality of balconies, the Council would like to draw the attention to paragraph 9.47 of policy D.H3 of the Tower Hamlets Local Plan 2031 (2020) which states that outdoor amenity space should be well located, well designed and functional. The communal outdoor amenity spaces should satisfy the policy requirements both in terms of quantity and quality.
- 6.96 Whilst the Council is concerned about the quality of balconies located along Commercial Road, this does not conflict with the development plan. However, the inadequacy of the appeal proposal to provide sufficient quantum of communal outdoor amenity spaces remains the Council's reason for refusal.

#### *Summary*

- 6.97 The Council considers that the quality of communal spaces is particularly important given that these would be the only socialising and living spaces for a number of occupants. The Council considers that the proposal fails to deliver appropriate accommodation for future HMO occupiers as evidence in the Committee Report and above.

#### **4<sup>th</sup> reason for refusal – Highways impact**

- 6.98 Transport implications and assessment of the impact are contained within paragraphs 7.168-7.178 and 7.186-7.190 of the Committee Report. This reason for refusal can be separated into three areas: servicing, accessible parking and information used to inform the appellant's transport assessment.

#### *Policy Framework*

- 6.99 London Plan (2016) policy 6.3 requires development proposals to '*ensure that impacts on transport capacity and the transport network, at both a corridor and local*

*level, are fully assessed. Development should not adversely affect safety on the transport network’.*

6.100 Tower Hamlets Local Plan 2031 (2020) policies S.TR1 requires developments to ‘not adversely impact the capacity, quality, accessibility and safety of the transport network in the borough’. Local Plan policy D.TR2 requires development, where relevant, to ‘*contribute and deliver appropriate transport infrastructure and/or effective mitigation measures*’. Local Plan policy D.TR4 states the following:

*‘1. Development that generates a significant number of vehicle trips for goods or materials during its construction and/or operational phases is required to demonstrate how:*

*a. impact to the transport network and amenity will be avoided, remedied or mitigated through transport assessments, construction management and logistic plans and delivery and servicing plans*

*b. delivery of goods and servicing will be provided within the site to encourage shared arrangements and timing of deliveries, unless demonstrated it can take place on-street without affecting highway safety or traffic flow*

*c. movement by water and/or rail; and the use of low emission vehicles, electric vehicles, bicycles and freight consolidation facilities have been prioritised, and*

*d. deliveries to sites will be reduced through suitable accommodation and management.’*

*Servicing*

6.101 As stated in paragraph 7.174 of the Committee Report, adequate availability of space for on-street servicing and deliveries activities for the proposed development cannot be guaranteed as the public highway can be used for any member of the public legitimately carrying out activities allowed for under the waiting and loading restrictions in place. Nonetheless, an on-street servicing and deliveries can be accepted subject to appropriate detailed plans and mitigation measures put in place. The appellant has proposed a Service Management Plan, however, further consideration should be given to the difficulty that they have no jurisdiction over the use of the public highway and cannot control how or when the service bay can be used.

6.102 It should be noted that the changes to the on-street parking regime would be required to accommodate the servicing proposals. This is subject to separate

consultations outside of the planning process as it involves changes and acceptable of these changes cannot be guaranteed.

- 6.103 As stated in paragraph 7.170 of the Committee Report, there are concerns over the swept paths of servicing vehicles ‘clipping’ the kerbs. This could potentially cause pedestrian safety issues, as well as damage to the public highway.

*Accessible parking*

- 6.104 As addressed in paragraph 7.177 of the Committee Report, there are concerns about the size and location of the proposed on-site accessible car parking space.

- 6.105 Accessible bays are required to be larger than conventional parking bays to allow for greater access. To the rear of the parking bay there should be a 1.2m wide safety zone behind the car for boot access and cars with rear hoists or wheelchair access. The proposed accessible bay fails to provide this arrangement. In addition, the car would overhang the proposed bay as shown on the provided tracking details which indicates the inadequate design.

- 6.106 The tracking details show a car reversing into the space. It could be argued that vehicles could drive into the space in forward gear but since the space is adjacent to a wall there would be no intervisibility between driver / pedestrians / other vehicles. With regards to visibility, whether the vehicle is reversing in or out, this presents safety issues. Given that the bay is situated alongside a solid wall and has parking bays on the road adjacent to the bay, there is restricted visibility which could present a safety concern for the driver who may have limited mobility, pedestrians and other vehicles.

- 6.107 The tracking diagram supplied shows that even if a vehicle was reversed into the space then it would be problematic to exit the space, with the vehicle body touching, if not overhanging the pedestrian footway. The appellant’s Statement of Case states that drivers are able to shunt backwards and forward to complete the movement satisfactorily if not able to do so in a single sweep. This is not acceptable, particularly for registered blue badge drivers whose movements may be impaired.

*Transport assessment information*

- 6.108 As stated in paragraph 7.186 of the Committee Report, the submitted surveys used to inform the transport assessment of the appeal proposal are over a decade old surveys from a site in Liverpool. This data is considered outdated and incompatible with a Central London site.

6.109 In addition, the appellant's Statement of Case states that the current development on the appeal site is underutilised. The service demand assessment has been done through the use of current development; however, in light of the response in the appellant's Statement of Case, the Council questions the accuracy of the highways impacts presented by the appellant at the appellant as the transport assessment is based on an *underutilised* site.

*Summary*

6.110 The Council considers that the appellant has not provided sufficient information to ensure that the impact on the safety and capacity of the highways network can be clearly assessed and as such, accordingly mitigated. In addition, the proposed accessible car parking space on the site is too small, has visibility issues and requires the driver to manoeuvre excessively to enter and exit the site.

**5<sup>th</sup> reason for refusal – Cycle and waste storage**

6.111 This reason for refusal includes the appeal proposal's failure to provide adequate cycle and waste storage for the proposed development.

*Cycle storage*

6.112 London Plan (2016) policy 6.9 requires developments to '*provide secure, integrated, convenient and accessible cycle parking facilities*'. Similarly, London Plan (2016) policy 6.13 requires development to '*meet the minimum cycle parking standards*'.

6.113 Tower Hamlets Local Plan 2031 (2020) policy S.TR1 requires developments to '*prioritise the needs of pedestrians and cyclists*' while policy D.TR3 of the local plan requires developments '*to comply with the parking standards for vehicles and bicycles*'.

6.114 The draft London Plan policy T5 indicates that a room in large-scale purpose-built shared living should be treated as a studio (C3) in terms of the cycle parking provision. Given the development plan's strategic aim to encourage sustainable modes of transport, particularly cycling, the Council has adopted these minimum standards in the absence of any other standards in the adopted development plan policies for the proposed use. In addition, given the long-term nature of the HMO use, this is considered appropriate.

6.115 As such, the proposed development would be required to provide the following quantum of cycle parking:

- Hostel use: 2 long-stay spaces and 1 short-stay space

- HMO use: 84 long-stay spaces and 3 short-stay spaces.

6.116 A total of 12 cycle spaces proposed by the appeal proposal clearly fails to secure the provision of the minimum required cycle storage spaces for the HMO use.

6.117 The appellant has stated in their Statement of Case that access to the cycle storage is via a platform lift alongside the western elevation on Island Row. As stated in paragraph 7.172 of the Committee Report provided below, this was not consistent throughout the submission documents:

*'7.172 The proposed cycle parking is situated on the basement level. The submitted documents do not show a clear and consistent strategy on how the cycle parking would be accessed. The floor plans show a cycle lift, however, the elevations do not show any lift enclosure. In addition, the submitted Transport and Planning Statements state that access to the cycle store would be via a lift through the main core of the building.'*

6.118 Further information has been provided in the appellant's Statement of Case states that access to the basement will be via an external platform lift without enclosure which would be controlled by staff at the reception. The Council considers that this would not provide a safe and secure solution to accessing the cycle store. This proposal would leave the cycle store open to the elements when in use and would not stop unauthorised users from 'tailgating' authorised users of the cycle facilities. No secondary access arrangements to the cycle store have been provided in the event that the lift is out of service.

6.119 As addressed in paragraph 7.182 of the Committee Report, the proposed shared space for cycle and general storage is not considered to be acceptable. A self-contained cycle storage which can be safely accessed from within the building should be provided.

*'7.182 The proposed cycle storage basement also would be shared with general storage area which the applicant has not identified the purpose of. Its inclusion in the cycle storage area is considered unacceptable in principle from a security point of view. In addition, there are concerns around the potential obstruction of the proposed cycle spaces due to the shared storage area.'*

6.120 The appellant's assumption that the majority of staff will live close by and as such would not require cycle parking for staff has not been evidence. The Council questions this assumption and requires the provision of cycle parking for staff as required by the planning policy.



*Waste storage*

6.121 London Plan (2016) policy 5.17 states that *'suitable waste and recycling storage facilities are required in all new developments'*.

6.122 Tower Hamlets Local Plan 2031 (2020) policy D.MW3 requires new developments to *'include sufficient accessible space to separate and store dry recyclables, organics and residual waste for collection, both within individual units and for the building as a whole'*.

6.123 The assessment of waste implications, including storage and management, is included in paragraphs 7.200-7.202 of the Committee Report and states:

*'7.200 The proposed waste storage would be situated in the basement of the proposed building. Recycling and general bins are proposed in one area, while other storage would be shared with the cycle storage area.*

*7.201 In terms of capacity, the applicant has failed to address the policy requirements and demonstrate how it would incorporate sufficient waste storage and ensure that dry recyclables, organics and residual waste can be segregated. In terms of location, the proposal for a joint cycle and waste storage is not considered acceptable in principle given the level of obstruction that is likely to happen.*

*7.202 The proposed waste storage would be collected from the refuse platform lift situated adjacent to the public footway along the eastern side of the site. The applicant has not submitted sufficient information to explain how waste would be satisfactorily managed and collected with the adverse impact on this section of the highways.'*

6.124 The appellant has not addressed this issue in their Statement of Case. Therefore, the concerns previously raised over waste storage capacity and location still apply.

*Summary*

6.125 To summarise, the appellant has failed to provide a policy compliant scheme as the proposed development fails to deliver adequate cycle and waste storage. As such, the Council reason for refusal remains.

**6<sup>th</sup> reason for refusal – Environmental matters**

6.126 This reason for refusal relates to the appeal proposal's failure to provide an air quality assessment and an adequate energy and sustainability strategy. The assessment of environmental matters of energy and sustainability and air quality are provided in paragraphs 7.193-7.199 of the Committee Report.

*Air quality*

- 6.127 London Plan (2016) policy 7.14 requires developments to *'be at least 'air quality neutral' and not lead to further deterioration of existing poor air quality (such as areas designated as Air Quality Management Areas'*.
- 6.128 Policy D.ES2 of the Tower Hamlets Local Plan 2031 (2020) requires an air quality impact assessment as part of the planning applications for major developments and new build developments in areas of sub-standard air quality.
- 6.129 No air quality assessment had been provided. Whilst it has been acknowledged that at the time of the planning application submission, the new local plan had limited weight due to its stage in the plan-making process; at the decision-making stage of the planning application, the local plan had full weight having been adopted in January 2020.
- 6.130 Whilst the Council's Environmental Health Officer suggested a pre-commencement condition for the submission of an air quality assessment, it must be highlighted that this had been suggested prior to the adoption of the new local plan. As referenced above, the planning policy requires the submission of an air quality assessment for major proposals in advance of approval.
- 6.131 In paragraph 4.36 of their Statement of Case, the appellant refers back to the Planning Statement regarding the justification and evidence regarding the air quality issue. Page 8 of the Planning Statement states that the site is not within, or in close proximity to an Air Quality Management Area.
- 6.132 The Council would like to use this opportunity to highlight once again that the whole of the borough falls within an Air Quality Management Area. In addition, the site is also situated within an area of substandard air quality. As such, it is not considered appropriate to condition the submission of an air quality assessment.

*Energy and Sustainability*

- 6.133 Policy D.ES7 of the Tower Hamlets Local Plan 2031 (2020) requires major residential and non-residential developments to submit an energy assessment.
- 6.134 The GLA encourage the use of updated (SAP 10) carbon emission factors to assess the expected carbon performance of a new development. Guidance from the GLA is for applicants to continue to use the current Building Regulations methodology for estimating energy performance against Part L 2013 requirements, but with the outputs manually converted for the SAP 10 emission factors. The GLA have

published a spreadsheet (version 1.1) to aid with the assessment of SAP 10 which should be submitted alongside an energy assessment.

6.135 The appellant's Energy and Sustainability Report fails to include the use of SAP 10 carbon factors. In addition, the appellant's proposal to use a CHP to supply the development is not suitable given the scale of the development and CO2 emissions, as well as air quality issues.

6.136 It is recommended the applicant should undertake a review of the energy proposals utilising the revised carbon factors of SAP10 to give a more accurate representation of the carbon emissions of the proposals. A CHP solution is not demonstrated to be appropriate for a development of this size and is not in accordance with policy in enabling the delivery of an area-wide network. Alternative low carbon heating methods (e.g. heat pumps) should be investigated and the current proposed strategy should be revised. Following this a revised carbon profile of the building can be used to calculate the residual emissions and an appropriate carbon offsetting contribution.

6.137 The role of CHP is strictly limited to low-emission CHP and only in instances where it can support the delivery of an area-wide heat network at large, strategic sites. Applicants proposing to use low-emission CHP have to provide sufficient information to justify its use, ensure that the carbon and air quality impact is minimised, for example, through the selection of a lower emission unit and use of abatement technology. It is not considered that the scheme can justify the use of CHP and London Plan SI3 part d identifies that Major Development Proposals could '*use low-emission combined heat and power (CHP) (only where there is a case for CHP to enable the delivery of an area-wide heat network, meet the development's electricity demand and provide demand response to the local electricity network)*' .

6.138 The energy strategy should be agreed prior to consent to ensure the optimum solution is delivered for the building, rather than an energy system being retrofitted to a fixed build design. Specific impacts and considerations would include plant location, impact on air, noise and visual appearance. The Council considers these elements cannot be considered through conditions.

#### *Summary*

6.139 The Council does not consider it is appropriate to secure the submission of an air quality assessment and an adequate energy and sustainability strategy through conditions given that mitigation measures should be incorporated into the design of

the scheme and as such, considered at the decision-making stage. The Council's reason for refusal stands.

**7<sup>th</sup> reason for refusal – absence of obligations**

6.140 The Council will seek to agree a draft legal agreement in advance of the hearing. The draft heads of terms are set out in Section 7 of this Statement.

**Planning balance and sustainable development**

6.141 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan for the area unless material considerations indicate otherwise.

6.142 Paragraph 11 of the National Planning Policy Framework (2019) states the following with respect to decision-taking:

*'c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

6.143 Section 2<sup>nd</sup> reason for refusal of this Statement of Case identifies harm caused to the St Anne's Church and the non-designated heritage asset Our Lady Immaculate Church and provides a balancing exercise which concludes that the harm cause to the heritage assets would not be outweighed by benefits arising from the proposal.

6.144 In addition to the harm caused to the heritage assets, as evidenced throughout this Statement of Case, the proposed development would also be in direct conflict with a number of development plan policies. This is summarised below:

- Due to the appeal proposal's failure to demonstrate how the proposed HMO accommodation contributes to the borough's housing need, as well as the lack of affordable housing contributions, the proposed development fails to

meet the requirements of Tower Hamlets Local Plan 2031 (2020) policies S.H1, D.H2 and D.H7;

- Considering the appeal proposal's failure to provide appropriate standard of HMO accommodation, the proposed development would be contrary to London Plan (2016) policy 3.5 and Tower Hamlets Local Plan 2031 (2020) policies D.H3, D.H7 and D.DH8;
- Due to the inadequate information on the proposed servicing and deliveries impact, inadequately designed wheelchair car parking space, failure to meet the minimum cycle and waste storage requirements, the proposal does not accord with London Plan (2016) policies 5.17, 6.3, 6.9, and 6.13, and Tower Hamlets Local Plan 2031 (2020) policies S.TR1, D.TR2, D.TR3, D.TR4 and D.MW3;
- The appeal proposal would result in adverse environmental impacts in terms of air quality and energy and sustainability which is contrary to London Plan (2016) policy 7.14, and Tower Hamlets Local Plan 2031 (2020) policies D.ES2 and D.ES7.
- The planning benefits of the scheme do not outweigh the overall conflict with the development plan.

6.145 The Council has acknowledged all of the public benefits presented by the appellant in paragraphs 4.40-4.46 of their Statement of Case. These are not considered to outweigh the harm to the heritage assets, nor would these benefits be able to outweigh the residual harm as evidenced by the Council and summarised above.

6.146 The Council considers that a refusal of the appeal proposal would be warranted on either of the grounds included in 1<sup>st</sup> and 2<sup>nd</sup> reasons for refusal.

6.147 Paragraph 38 of Appendix 5 Design Note of the appellant's Statement of Case states the following:

*'38. The council did not respond to the applicant's offer to improve the public realm around Our Lady Immaculate church as illustrated on page 11 of the Design Comments Response document.'*

6.148 The Council would like to highlight that the provision of public realm has been taken into consideration. However, given the use of the proposed public realm space for the purposes of servicing and delivering on site and the provision of wheelchair car parking space, this is considered to have a very low significance.

6.149 The Council considers that the proposed public benefits arising from the proposal would have a low significance given the proposed development's various failures with the development plan policies.

6.150 The Council, therefore, recommends the Inspector to dismiss this appeal.

## 8 Section 106 Obligations and Community Infrastructure Levy

7.1 If the Inspector is minded to allow this appeal, planning permission should not be granted unless there is an agreement in place under Section 106 of the Act to secure essential planning obligations. The planning obligations required to mitigate the impact of the development is set out below.

### 7.2 Financial Contributions

- (a) A contribution of **£19,600.00** towards employment, skills, training for the construction phase
- (b) A contribution of **£3,400.00** towards employment, skills, training for the end use phase
- (c) A contribution of **£222,015** towards carbon offsetting
- (d) A monitoring fee (**£500** per individual S.106 Heads of Terms)

7.3 In addition, the in kind obligations in order to further mitigate the impact of the development as detailed below.

### 7.4 Non-financial Contributions

- a) Affordable housing
- b) Access to employment
  - 20% Local Procurement
  - 20% Local Labour in Construction
  - 3 apprenticeships during the construction phase
- c) Car-permit free agreement
- d) S278 Agreement
- e) Travel Plan (for staff and residents)

### Community Infrastructure Levy

7.5 The Council has an adopted Community Infrastructure Levy (CIL) Charging Schedule, which is payable alongside the London Mayoral CIL. It should be noted that the CIL estimate is on the assumption of floorspace figures provided in the CIL form, existing building passing lawful use test and the use classes to be Sui Generis.

7.6 The proposed development would be at nil rate for the Tower Hamlets CIL whilst the London CIL liability would be £148,331.79.

## 8.0 Planning Conditions

- 8.1 In the event that the appeal were to be allowed, the Council would wish to attach the following conditions.

### **Condition 1 – Time limit**

The development shall begin no later than three years from the date of this decision.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

### **Condition 2 – Compliance with drawings**

The development shall be carried out in accordance with the approved drawings listed in the Schedule to this decision notice.

Reason: For the avoidance of doubt and in the interest of proper planning.

### **Condition 3 – Contamination presence**

If, during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination

shall be dealt with. Following completion of the measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: To make sure that contaminated land is properly treated and made safe before development, to protect public health and to meet the requirements of policies 5.21 and 5.22 of London Plan (2016) policy D.ES8 and Tower Hamlets Local Plan 2031 (2020).

### **Condition 4 – Construction restrictions**

Unless otherwise specified by a S61 Consent granted under the Control of Pollution Act 1974, demolition, building, engineering or other operations associated with the



construction of the development (including arrival, departure and loading and unloading of construction vehicles):

Shall be carried out in accordance with the Tower Hamlets Code of Construction Practice.

Shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays.

Any non-road mobile machinery (NRMM) used shall not exceed the emission standards set out in the Mayor of London's *'Control of Dust and Emissions During Construction and Demolition'* Supplementary Planning Guidance 2014 and be registered under the Greater London Authority NRMM scheme [www.nrmm.london](http://www.nrmm.london)

Ground-borne vibration shall not exceed 1.0mm/s Peak Particle Velocity (PPV) at residential and 3.0mm/s PPV at commercial properties neighbouring the site.

Noise levels measured 1 metre from the façade of any occupied building neighbouring the site shall not exceed 75dB(A) at residential and commercial properties, and 65dB(A) at schools and hospitals (LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).

Reason: To safeguard the amenity of local residents and the area generally in accordance with policies D.DH8 of the Tower Hamlets Local Plan 2031 (2020).

#### **Condition 5 – Archaeology**

No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- b) Where appropriate, details of a programme for delivering related positive public benefits.
- c) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: To investigate the archaeological value of the site in line with the National Planning Policy Framework, policy 7.8 of the London Plan (2016) and policy S.DH3 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 6 – Construction Environmental Management Plan & Logistics Plan**

No development shall take place, including any works of demolition, until a Construction Environmental Management & Logistics Plan have been submitted to and approved in writing by the Local Planning Authority.

The plans shall aim to minimise the amenity, environmental and road network impacts of the demolition and construction activities and include the details of:

- (a) Telephone, email and postal address of the site manager and details of complaints procedures for members of the public;
- (b) Dust Management Strategy to minimise the emission of dust and dirt during construction including but not restricted to spraying of materials with water, wheel washing facilities, street cleaning and monitoring of dust emissions;
- (c) Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of construction plant and materials;
- (d) Scheme for recycling/disposition of waste resulting from demolition and construction works;
- (e) Ingress and egress to and from the site for vehicles;
- (f) Proposed numbers and timing of vehicle movements through the day and the proposed access routes, delivery scheduling, use of holding areas, logistics and consolidation centres;
- (g) Parking of vehicles for site operatives and visitors;

- (h) Travel Plan for construction workers;
- (i) Location and size of site offices, welfare and toilet facilities;
- (j) Erection and maintenance of security hoardings including decorative displays and facilities for public viewing;
- (k) Measures to ensure that pedestrian access past the site is safe and not obstructed;
- (l) Measures to minimise risks to pedestrians and cyclists, including but not restricted to accreditation of the Fleet Operator Recognition Scheme (FORS) and use of banksmen for supervision of vehicular ingress and egress
- (m) Measures to support the basement including:
  - i. Value of the expected surcharge loading
  - ii. Details of the support 'props', (type, length, BS/EN ref. code)
  - iii. If the props are fixed to the existing masonry walls, details of the proposed fixing anchors are required
  - iv. Size of the existing loadbearing piers
  - v. Details on how the capping beam is to be constructed
  - vi. Drawings/sketches with dimensions
  - vii. The document mentions the current BRE guidelines; ideally, a copy of the relevant section should be included as an Appendix to the main document.
  - viii. Ideally copies of the trail hole information, (photo's/sketches), should also be included as an Appendix to the main document.

The development shall not be carried out other than in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of Tower Hamlets Local Plan 2031 (2020) policies D.DH8, D.TR2 and D.TR4.

**Condition 7 – Crossrail condition C1 for foundation design, noise, vibration and settlement**

No development shall take place, including any works of demolition, until detailed design and construction method statements for all of the ground floor structures, foundations and basements and for any other structures below ground level, including piling, any other temporary or permanent installations and for site investigations, have been submitted to and approved in writing by the Local Planning Authority (in consultation with Crossrail) which:

- (i) Accommodate the location and of the Crossrail structures including temporary works,
- (iii) Mitigate the effects on Crossrail, of ground movement arising from development

The development shall be carried out in all respects in accordance with the approved design and method statements. All structures and works comprised within the development hereby permitted which are required by paragraphs C1(i) and C1 (iii) of this condition shall be completed, in their entirety, before any part of the building[s] hereby permitted is/are occupied.

Reason: To accommodate and safeguard the infrastructure and mitigate effects on Crossrail.

**Condition 8 – Crossrail condition C2 – concurrent working**

No development shall take place, including any works of demolition, until a method statement has been submitted to, and approved in writing, by the Local Planning Authority (in consultation with Crossrail) to include arrangements to secure that, during any period when concurrent construction is taking place of both the permitted development and of the Crossrail structures and tunnels in or adjacent to the site of the approved development, the construction of the Crossrail structures and tunnels is not impeded.

Reason: To accommodate and safeguard the infrastructure and mitigate effects on Crossrail.

**Condition 9 – Disabled bay details**

Prior to the commencement of any superstructure works, full details of the wheelchair car parking space shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure the provision of adequate wheelchair accessible car parking space and to minimise the development's impacts on the safety and capacity of the

road network, in accordance with policies D.TR2 and D.TR3 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 10 – SUDS**

Prior to the commencement of any superstructure works, a surface water drainage Scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, for the site shall be submitted to and approved by the local Planning Authority. The scheme shall also include (but not limited to):

- The peak discharge rates and together with any associated control structures and their position;
- Safe management of critical storm water storage up to the 1:100 year event plus 40%; and
- Details of agreed adoption, monitoring and maintenance of the drainage and suds features.

The development shall be carried out strictly in accordance with details so approved.

Reason: To minimise the risk of flooding, to protect water quality and in the interest of sustainability accordance with policies 5.23 of the London Plan (2016) and policy D.ES5 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 11 – Cycle storage and access**

No superstructure works shall take place, until details of cycle storage facilities, including access details, have been submitted to and approved in writing by the Local Planning Authority.

No less than 86 long-stay and 4 short-stay cycle parking spaces shall be provided.

The cycle storage facilities shall be completed in accordance with the approved details prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development.

Reason: To ensure the provision of adequate cycle parking facilities in accordance with the requirements of policies 6.9 and 6.13 of the London Plan (2016), and policies S.TR1 and D.TR3 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 12 – Waste storage and access**

No superstructure works shall take place, until details of waste storage facilities, including waste capacity requirements and access details, have been submitted to and approved in writing by the Local Planning Authority.

The waste storage facilities shall be completed in accordance with the approved details prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development.

Reason: To ensure the provision of adequate cycle parking facilities in accordance with the requirements of policy 5.17 of the London Plan (2016) and policy D.MW3 of the Tower Hamlets Local Plan 2031 (2020).

### **Condition 13 – Landscaping**

No superstructure works shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of:

- a) hard landscaping including ground surfaces, kerbs and planter enclosures;
- b) soft landscaping including number, size, species and location of plants;
- c) on-going five year maintenance and watering provisions for soft landscaping;
- d) drain covers, manholes and covers for access to drainage and utilities;
- e) railings, walls and other means of enclosure;
- f) bollards, gates and other access control measures;
- g) CCTV and other security measures;
- h) external cycle parking stands;

The soft landscaping scheme shall be completed in accordance with the approved details no later than during the first planting season following practical completion of the development and retained for the lifetime of the development. All other works shall be completed prior to the occupation of the new development.

Any trees or shrubs which die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping works shall be replaced in the next planting season with the same species or an approved alternative as agreed in writing by the Local Planning Authority.

Reason: To ensure a high quality of the public realm and to ensure high quality child play space and play space for the future residents of the development in accordance with policies 7.3 and 7.5 of the London Plan (MALP 2016), and policies S.DH1, D.DH2 and D.ES3 of the Tower Hamlets Local Plan 2031 (2020).

### **Condition 14 – Biodiversity enhancements**

Prior to the commencement of above ground works, full details of biodiversity mitigation and enhancements shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall include but not be limited to the following:

- a) A biodiverse roof following the best practice guidance published by Buglife – details provided should include the location and total area of biodiverse roofs, substrate depth and type, planting including any vegetated mat or blanket (though sedum mats should be avoided if possible) and any additional habitats to be provided such as piles of stones or logs;
- b) Landscaping to include a good diversity of nectar-rich plants to provide food for bumblebees and other pollinators for as much of the year as possible – details should include species list and planting plans;
- c) Bat boxes and nest boxes for appropriate bird species including swift and house sparrow – details should include number, locations and type of boxes.

The agreed measures shall be implemented in full prior to the occupation of the development hereby approved.

Reason: To increase the biodiversity of the site and to comply with policies 7.19 of the London Plan (MALP 2016) and policies S.ES1 and D.ES3 of the Tower Hamlets Local Plan 2031 (2020).

### **Condition 15 – External materials**

No superstructure works shall take place until samples and full particulars of all external facing materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority.

Details submitted pursuant to this condition shall include but are not restricted to:

- a) Samples and details of external cladding;  
  
Details of external cladding, where relevant, shall include all types of brick or other cladding material to be used, details of bond, mortar and pointing for brick and details of joints, panel sizes and fixing method for other types of cladding.
- b) Samples and drawings of fenestration

Details of fenestration, where relevant, shall include reveals, sills and lintels. Drawings shall be at a scale of no less than 1:20.

c) Drawings and details of entrances

Details of entrances, where relevant, shall include doors, reveals, canopies, signage, entry control, post boxes, CCTV, lighting and soffit finishes. Drawings shall be at a scale of no less than 1:20.

d) Details of any balconies, terraces or winter gardens and associated balustrades, soffits and drainage.

e) Details of any external rainwater goods, flues, grilles, louvres and vents

The development shall not be carried out other than in accordance with the approved details.

Reason: To ensure a satisfactory external appearance of the development and that high quality materials and finishes are used, in accordance with policies 7.1 to 7.6 of the London Plan (2016), and policies S.DH1 and D.DH2 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 16 – Mechanical plant and equipment**

Prior to the occupation of the development hereby approved, details of mechanical plant and equipment, shall be submitted and approved in writing by the local planning authority.

Any mechanical plant and equipment within the lower ground floor level of the development shall be designed so as not to exceed a level of 10db below the lowest measured background noise level (LA90, 15 minutes) from the nearest affected room within the proposed development. The plant and equipment shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.

Reason: To ensure that the development does not result in noise disturbance to neighbouring residents in accordance with policies D.DH8 and D.ES9 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 17 – Wheelchair rooms**

Prior to the commencement of above ground works, the following details shall be submitted to and approved in writing by the local planning authority:



- i. Drawings and a schedule confirming the location of the wheelchair user rooms;
- ii. 1:50 detailed drawings of the wheelchair user rooms

Prior to occupation of the relevant rooms, these units shall be fully fitted out in accordance with the approved details, unless otherwise agreed with the local planning authority.

- a) Any lifts shown on the approved drawings shall be installed and in an operational condition prior to the first occupation of the development hereby approved. The lifts shall be retained and maintained in an operational condition for the lifetime of the development

Reason: To ensure adequate provision of accessible and adaptable dwellings & wheelchair accessible and wheelchair adaptable dwellings and that adequate step-free access is provided in accordance with policies 3.8 and 7.2 of the London Plan (2016) and D.H3 of the Tower Hamlets Local Plan 2031 (2020).

#### **Condition 18 – Secured by Design**

Prior to the occupation of the development hereby approved, details of security measures shall be submitted to and approved in writing by the Local Planning Authority.

The proposed development shall achieve a Certificate of Compliance in respect of the Secured by Design scheme, or alternatively achieve security standards (based on Secured by Design principles) to the satisfaction of the Metropolitan Police.

The security measures shall be implemented in accordance with the approved details, completed prior to the first occupation of the development and permanently retained for the lifetime of the development.

Reason: To ensure that Secured by Design principles are implemented into the development in accordance with policies 7.3 of the London Plan (2016) and policy D.DH2 of the Tower Hamlets Local Plan 2031 (2020).

#### **Condition 19 – Deliveries and Servicing Plan and Waste Management**

Prior to the occupation of the development hereby approved, a Delivery and Servicing Plan and a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Transport for London).

The relevant facilities and arrangements shall be provided prior to the first occupation of the development and be maintained in an operational condition and made available to the occupiers of the building for the lifetime of the development.

Reason: To ensure the provision of adequate delivery and servicing and waste management arrangements and to minimise the development's impacts on the safety and capacity of the road network, in accordance with policies D.TR2 and D.TR4 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 20 – Management Plan**

Prior to the occupation of the development hereby approved, a Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The plan should set out the detailed measures and principles for the operation of the proposed uses on the site.

The relevant arrangements shall be provided prior to the first occupation of the development and be maintained in an operational condition and made available to staff and occupiers of the building for the lifetime of the development.

Reason: To safeguard the amenity of the area in accordance with policy D.DH8 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 21 – Noise**

- a) All of the approved HMO accommodation shall be constructed to ensure that:
- i. the construction accords with BS8233 '*Sound Insulation and Noise Reduction for Buildings*';
  - ii. internal ambient noise levels do not exceed 35dB LAeq,16 hour, between hours 07:00 - 23:00 and within bedrooms do not exceed 30 dB LAeq, 8 hour between hours 23:00 - 07:00.
  - iii. structure-borne noise does not exceed LAmax 35 dB;
  - iv. exposure to vibration is no higher than of "low probability of adverse comment" in accordance with BS6472 '*Evaluation of Human Exposure to Vibration in Buildings*'; and
  - v. at any junction between residential and non-residential uses, the internal noise insulation level is no less than 55DnTw=Ctr.
- b) None of the residential units shall be occupied until a post completion verification report, including acoustic test results, has first been submitted to and approved

in writing by the Local Planning Authority confirming that the above minimum standards have been achieved.

Reason: To protect the amenity of the future occupiers from undue noise and vibration disturbance in accordance with the requirements of policy D.DH8 of the Tower Hamlets Local Plan 2031 (2020).

**Condition 22 – Air quality**

Prior to the commencement of the development hereby approved, an air quality assessment report, in accordance with current guidance, for the existing site and proposed development shall be submitted to and approved by the Local Planning Authority.

The development shall be at least “Air Quality Neutral” and an air quality neutral assessment for both building and transport shall be included in the report. The report shall include an assessment of construction dust impacts.

The assessment shall have regard to the most recent air quality predictions and monitoring results from the Authority’s Review and Assessment process, the London Air Quality Network and the London Atmospheric Emissions Inventory. The report shall include all calculations and baseline data and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

A scheme for air pollution mitigation measures based on the findings of the report shall be submitted to and approved by the Local Planning Authority prior to development. This shall include mitigation for when air quality neutral transport and building assessments do not meet the benchmarks.

The approved mitigation scheme shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied or the use commences and retained as such thereafter.

Should the results from the air quality neutral assessment conclude that the development is not air quality neutral, a marginal abatement cost of £29,000 per tonne of NO<sub>x</sub> over the established benchmark figure and a marginal abatement cost of £45,510 per tonne of PM over the established benchmark figure shall be paid to the Local Planning Authority. This payment shall be used for air quality improvement projects in the area.

Reason: To protect environmental health and local amenity. To comply with the London Plan and its Sustainable Design and Construction SPG.

Reason: To protect environment in accordance with London Plan (2016) policy 7.14 and Tower Hamlets Local Plan 2031 (2020) D.ES2 in relation to air quality neutrality.

**Condition 23 – Energy and sustainability**

(i) Prior to commencement on site the applicant shall submit a Zero Carbon Energy Strategy to the LPA for approval in writing. This Zero Carbon Energy strategy shall include, but is not limited to, the following:

(a) Policy Compliant Energy Strategy demonstrating the maximum on-site CO2 emission reductions;

(b) Assessment following latest local and regional energy assessment guidance;

(c) Assessment utilising latest considerations for low carbon technologies taking into account changes to Building Regulation Carbon Factors;

(d) Details of how the site has been future-proofed to achieve zero-carbon on-site emissions by 2050;

(e) Calculation of Carbon Offsetting Contribution using latest carbon price to offset all residual CO2 emissions.

(ii) Within 6 months of occupation the applicant shall submit the BREEAM Final Certificate to demonstrate an Excellent rating has been delivered for the development.

(iii) Prior to the occupation to the development the 'as built' energy calculations to be submitted and approved in writing by the Local Planning Authority to demonstrate delivery of a zero carbon development. A Carbon Offsetting Contribution will be applicable on the development should Zero Carbon not be delivered. The contribution would cover all residual emissions.

Reason: To contribute towards reducing carbon emissions as required by policy D.ES7.

## **9.0 Appendices**

- 10.1 Appendix 1 – BNP Paribas Report
- 10.2 Appendix 2 – Viability Summary Tables