

Bishopsgate Goodsyard

in the London Boroughs of Hackney and Tower Hamlets

planning application no. 2014/2425 & PA/14/02011
Listed building application no. 2014/2427 & PA/14/02096

Planning application

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 (“the Order”).

The proposal

An OUTLINE application for for the comprehensive mixed use redevelopment of the site comprising:

- Residential (C3) - up to 1,356 residential units
- Business use (B1)- up to 65,859 sq.m (GIA)
- Retail, financial and professional services, restaurants and cafes and hot food takeaway (A1, A2, A3 and A5) - up to 17,499 sq.m (GIA) of which only 2,184 sq.m can be A5.
- Non-residential institutions (D1)- up to 495 sq.m (GIA)
- Assembly and leisure (D2) - up to 661 sq.m (GIA)
- Public conveniences (sui generis) - up to 36 sq.m (GIA)
- Ancillary and plant space - up to 30,896 sq.m (GIA)
- Basement – up to 8,629 sq.m (GIA)
- Formation of a new pedestrian and vehicular access and means of access and circulation within the site
- Provision of 22,642 sq.m of new public open space and landscaping

The application proposes a total of 12 buildings that range in height from 177.6m AOD to 23.6 m AOD.

All matters reserved save for FULL DETAILS submitted for alterations to and partial removal of existing structures on the site and the erection of three buildings for residential (C3), namely plot C (ground level plus 26-30 storeys plus plant), plot F (ground level plus 46 storeys, plus plant), plot G (ground level plus 38 storeys plus plant) comprising a total of 940 residential units, retail/food/drink uses (A1, A2, A3, A4) and ground and basement level of the Braithwaite Viaduct for retail/food/drink/community uses (A1, A2, A3, A5, D1). Works to and use of the Oriel and adjoining structures for retail/food/drink uses (A1, A2, A3, A5).

Separate connected listed building consent applications have also been submitted and are also hereby determined. PA/14/02096: Restoration and repair of the Grade II listed Braithwaite Viaduct and adjoining structures for Class A1/A2/A3/A5/D1 uses at ground and basement levels. Structural interventions proposed to stabilise the London Road structure, removal of sections of London Road roof to create openings over proposed new public squares; formation of new shop

front openings, installation of new means of public access up to park level. Part removal of adjoining unlisted wall on Brick Lane to provide improved public realm and pedestrian access into the site.

2014/2427: Restoration and repair of existing Grade II listed forecourt wall, oriel and gates and adjoining historic structures to provide principal western pedestrian gateway into associated development (2014/2425) and to accommodate proposed Class a1/A2/A3/A5 retail use into a number of the existing arches at ground floor. Part removal of a section of adjoining unlisted structures proposed to provide public realm and pedestrian access into the site.

The applicant

The applicant is **DP9** on behalf of **Bishopsgate Goodsyrd Regeneration Limited**. The architects are **Farrells, PLP Architecture, FaulknerBrown Architects, Space Hub, Chris Dyson Architects**, and **Peter Connell Associates**.

Recommendation summary

The Mayor, acting as Local Planning Authority for the purpose of determining this application refuses planning permission in respect of applications 2014/2425 & PA/14/02011 and associated listed building consent applications 2014/2427 & PA/14/02096 for the reasons set out in the reasons for refusal section below.

Drawing numbers and documents

Site-wide and Plots A, B, D & E		
Existing plans		
PL(9)1000 PL(9)1003	PL(9)1001 PL(9)1002	
Parameter Plans		
PL(9)1004 PL(9)1005 PL(9)1006 PL(9)1007 PL(9)1008 PL(9)1009 PL(9)1010 PL(9)1011 PL(9)1012	PL(AB)100 PL(AB)50 PL(D)100 PL(D)110 PL(D)50 PL(E)100 PL(E)110 PL(E)50 PL(HIJ)100	PL(HIJ)110 PL(HIJ)50 PL(K)50 PL(K)100 PL(9)1033 PL(9)1034 PL(9)1035 PL(9)1036
Access Plans		
PL(9)1027 PL(9)1028	PL(9)1029 PL(9)1030	PL(9)1031 PL(9)1032
Masterplans		
PL(9)1100 PL(9)1101	PL(9)1102 PL(9)1103	
Listed building applications red line boundaries		

BGY11-PA-03-300	BGY11-PA-03-301	
Constraints drawings		
PL(9)1200 PL(9)1201	PL(9)1202 PL(9)1203	

Plot C, F & G		
PLP-1207-A-M-000 PLP-1207-A-M-010	PLP-1207-A-M-020 PLP-1207-A-M-021	PLP-1207-A-M-022
Plot C		
PLP-1207-A-C-100 PLP-1207-A-C-100-M PLP-1207-A-C-101 PLP-1207-A-C-102 PLP-1207-A-C-103 PLP-1207-A-C-104 PLP-1207-A-C-105 PLP-1207-A-C-105-M PLP-1207-A-C-106 PLP-1207-A-C-107 PLP-1207-A-C-108 PLP-1207-A-C-109 PLP-1207-A-C-123 PLP-1207-A-C-124 PLP-1207-A-C-125 PLP-1207-A-C-126 PLP-1207-A-C-127	PLP-1207-A-C-128 PLP-1207-A-C-129 PLP-1207-A-C-130 PLP-1207-A-C-131 PLP-1207-A-C-132 PLP-1207-A-C-189 PLP-1207-A-C-200 PLP-1207-A-C-201 PLP-1207-A-C-202 PLP-1207-A-C-203 PLP-1207-A-C-204 PLP-1207-A-C-251 PLP-1207-A-C-252 PLP-1207-A-C-253 PLP-1207-A-C-254 PLP-1207-A-C-255 PLP-1207-A-C-260	PLP-1207-A-C-261 PLP-1207-A-C-262 PLP-1207-A-C-263 PLP-1207-A-C-264 PLP-1207-A-C-265 PLP-1207-A-C-301 PLP-1207-A-C-302 PLP-1207-A-C-303 PLP-1207-A-C-304 PLP-1207-A-C-305 PLP-1207-A-C-340 PLP-1207-A-C-350 PLP-1207-A-C-360 PLP-1207-A-C-370 PLP-1207-A-C-390
Plot F & G		
PLP-1207-A-FG-PLN-999 PLP-1207-A-FG-PLN-1000 PLP-1207-A-FG-PLN-1001 PLP-1207-A-FG-PLN-1002 PLP-1207-A-F-103 PLP-1207-A-F-104 PLP-1207-A-F-105 PLP-1207-A-F-106 PLP-1207-A-F-107 PLP-1207-A-F-108 PLP-1207-A-F-109 PLP-1207-A-F-110 PLP-1207-A-F-111 PLP-1207-A-F-112 PLP-1207-A-F-113 PLP-1207-A-F-114 PLP-1207-A-F-115 PLP-1207-A-F-116 PLP-1207-A-F-117 PLP-1207-A-F-118 PLP-1207-A-F-119	PLP-1207-A-F-135 PLP-1207-A-F-136 PLP-1207-A-F-137 PLP-1207-A-F-138 PLP-1207-A-F-139 PLP-1207-A-F-140 PLP-1207-A-F-141 PLP-1207-A-F-142 PLP-1207-A-F-143 PLP-1207-A-F-144 PLP-1207-A-F-145 PLP-1207-A-F-146 PLP-1207-A-F-147 PLP-1207-A-F-148 PLP-1207-A-F-149 PLP-1207-A-G-103 PLP-1207-A-G-104 PLP-1207-A-G-105 PLP-1207-A-G-106 PLP-1207-A-G-107 PLP-1207-A-G-108	PLP-1207-A-G-124 PLP-1207-A-G-125 PLP-1207-A-G-126 PLP-1207-A-G-127 PLP-1207-A-G-128 PLP-1207-A-G-129 PLP-1207-A-G-130 PLP-1207-A-G-131 PLP-1207-A-G-132 PLP-1207-A-G-133 PLP-1207-A-G-134 PLP-1207-A-G-135 PLP-1207-A-G-136 PLP-1207-A-G-137 PLP-1207-A-G-138 PLP-1207-A-G-139 PLP-1207-A-G-140 PLP-1207-A-G-141 PLP-1207-A-FG-200 PLP-1207-A-FG-201 PLP-1207-A-FG-202

PLP-1207-A-F-120 PLP-1207-A-F-121 PLP-1207-A-F-122 PLP-1207-A-F-123 PLP-1207-A-F-124 PLP-1207-A-F-125 PLP-1207-A-F-126 PLP-1207-A-F-127 PLP-1207-A-F-128 PLP-1207-A-F-129 PLP-1207-A-F-130 PLP-1207-A-F-131 PLP-1207-A-F-132 PLP-1207-A-F-133 PLP-1207-A-F-134	PLP-1207-A-G-109 PLP-1207-A-G-110 PLP-1207-A-G-111 PLP-1207-A-G-112 PLP-1207-A-G-113 PLP-1207-A-G-114 PLP-1207-A-G-115 PLP-1207-A-G-116 PLP-1207-A-G-117 PLP-1207-A-G-118 PLP-1207-A-G-119 PLP-1207-A-G-120 PLP-1207-A-G-121 PLP-1207-A-G-122 PLP-1207-A-G-123	PLP-1207-A-FG-203 PLP-1207-A-FG-204 PLP-1207-A-FG-211 PLP-1207-A-FG-212 PLP-1207-A-FG-213 PLP-1207-A-FG-214 PLP-1207-A-FG-251 PLP-1207-A-FG-252 PLP-1207-A-FG-253 PLP-1207-A-FG-254 PLP-1207-A-FG-310 PLP-1207-A-FG-311 PLP-1207-A-FG-320 PLP-1207-A-FG-330
Plots H, I, J & L		
Existing drawings		
PL(E)500	PL(E)501	PL(E)502
Proposed drawings		
PL(9)500	PL(9)501	PL(9)502
Proposed shopfront and railside units drawings		
PC(31)1 PC(31)2 PC(31)3 PC(31)4	PC(31)5 PC(31)6 PC(31)7 PC(31)8	PC(31)9 PC(31)10 PC(31)50
Plot H		
Existing drawings		
PLH(E)000 PLH(E)100 PLH(E)200 PLH(E)10-11 PLH(E)12-13	PLH(E)14 PLH(E)15-16 PLH(E)50 PLH(E)51	PLH(E)52 PLH(E)53 PLH(E)54 PLH(E)55
Proposed drawings		
PLH(O)000 PLH(O)100 PLH(O)200 PLH(O)10-11	PLH(O)12-13 PLH(O)14 PLH(O)15-16 PLH(O)50	PLH(O)51 PLH(O)52 PLH(O)53 PLH(O)54 PLH(O)55
Plot I		
Existing drawings		
PLI(E)100 PLI(E)200 PLI(E)10-11	PLI(E)12-13 PLI(E)14-15 PLI(E)50	PLI(E)51 PLI(E)52 PLI(E)53

Proposed drawings		
PLI(O)100 PLI(O)200 PLI(O)10-11	PLI(O)12-13 PLI(O)14-15 PLI(O)50	PLI(O)51 PLI(O)52 PLI(O)53
Plot J		
Existing drawings		
PLJ(E)100 PLJ(E)200 PLJ(E)10-11	PLJ(E)12-13 PLJ(E)14-15 PLJ(E)50	PLJ(E)51 PLJ(E)52
Proposed drawings		
PLJ(O)100 PLJ(O)200 PLJ(O)10-11	PLJ(O)12-13 PLJ(O)14-15 PLJ(O)50	PLJ(O)51 PLJ(O)52
Plot L		
Existing drawings		
PLL(E)100-200 PLL(E)10-11 PLL(E)12-13	PLL(E)50 PLL(E)51 PLL(E)52	PLL(E)53 PLL(E)54 PLL(E)55
Proposed drawings		
PLL(O)100-200 PLL(O)10-11 PLL(O)12-13	PLL(O)50 PLL(O)51 PLL(O)52	PLL(O)53 PLL(O)54 PLL(O)55

Public realm & landscaping		
8182-201 8182-203 8182-204	8182-205 8182-206 8182-207	8182-208 8182-209
Demolition & intervention works		
DDN 118 Rev A		

Submitted documents
<p>Updated Environmental Statement, prepared by AECOM Infrastructure and Environment UK Ltd (AECOM), comprising:</p> <ul style="list-style-type: none"> • Written Statement (Volume I); • Townscape and Visual Impact Assessment (Volume II); • Technical Appendices (Volume III) • Non-Technical Summary <p>Environmental Statement Addendum, prepared by AECOM Infrastructure and Environment UK Ltd (AECOM), comprising:</p>

- Written statement (Volume I)
- Technical Appendices (Volume II)
- Revised Environmental Statement Non-Technical Summary
- Design Guidelines, prepared by FaulknerBrowns Architects;
- Development Specification prepared by DP9 Ltd;
- Design and Access Statement prepared by PLP Architecture, FaulknerBrowns Architects, SpaceHub, Chris Dyson Architects and Peter Connell Associates;
- Planning Statement (including Leasing Prognosis and Marketing Strategy and Retail Management Strategy) prepared by DP9 Ltd; Cushman and Wakefield and Shackleton;
- Transport Assessment prepared by WSP Parsons Brinkerhoff;
- Regeneration Statement prepared by AECOM;
- Masterplan Sustainability Statement prepared by Hoare Lea;
- Masterplan Energy Strategy prepared by Hoare Lea;
- Retail Assessment prepared by DP9 Ltd;
- Affordable Housing Statement prepared by DS2;
- Heritage Statement prepared by KM Heritage;
- Operational Waste Strategy prepared by AECOM;
- Statement of Community Involvement prepared by Soundings;
- Utilities and Services Statement prepared by Hoare Lea;
- Structural Engineering Condition Survey prepared by Alan Baxter Associates

Reasons for approval/ refusal

1 The Mayor, acting as the local planning authority, has considered the particular circumstance of this application against the development plan for this site which comprise the London Plan (2015, Consolidated with changes since 2011), Hackney Council Core Strategy (2010), Hackney Council Development Management Local Plan (2015), Tower Hamlets Core Strategy (2010), Tower Hamlets Managing Development Document (2013), national, regional and local planning policy, relevant supplementary planning guidance and any material planning considerations. He has also had regard to the Hackney Council Planning Sub Committee and Tower Hamlets Strategic Development Committee Reports and addendums of 10 December 2015 and the draft reasons for refusal that the Committee subsequently resolved to issue. The Mayor has also taken into account the environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in the consideration of this application. The reasons set out below are why this application is not acceptable in planning policy terms:

2 The Mayor supports the principle of redeveloping the Bishopsgate Goodsyrd site and recognises the potential benefits of a well – designed scheme which seeks to optimise densities in this Central London location. The proposals also offer significant potential public benefits. However, the proposed development and the potential public benefits are to be delivered in a way that would result in unacceptable and avoidable significant negative impacts. These are summarised in the following paragraphs.

3 The proposed development does not accord with the development plan in terms of neighbourhood amenity impacts, specifically daylight/ sunlight. This in itself is considered serious and furthermore indicates that the density, height, massing and layout of the scheme are not appropriate for this site as these factors result in the significant building mass along Sclater Street that drives the majority of the unacceptable impacts. The proposals are contrary to London Plan Policy 7.6 ‘Architecture’, Tower Hamlets Core Strategy Policy SP10 ‘Creating distinct and durable places’, Tower Hamlets MDD Policy DM25 ‘Amenity’, Hackney DMLP Policy DM2 and Design Principle BG14 of the Bishopsgate Goodsyrd Interim Planning Guidance. The

development is not, therefore, consistent with the development plan in daylight/ sunlight terms and the level of impact cannot be justified when considered within the planning balance.

4 There remains a design concern regarding the proposed Phoenix Street and the potential for the space to become a magnet for anti-social behaviour.

5 The negative heritage impacts can be summarised as follows. The development causes:

- Substantial harm to the Grade II Listed Oriel gateway (by demolition of the listed wall)
- Minor harm to the setting of the Tower of London
- Minor harm to the setting of Redchurch Street Conservation Area
- Minor harm to the setting of Brick Lane & Fornier Street Conservation Areas
- Minor harm to the setting of Elder Street Conservation Area
- Minor harm to the setting of the Grade I listed Geffrye Museum

6 The demolition of the wall to the south of the oriel and the substantial harm that would be caused by the demolition of the wall, has not been adequately justified and remains unacceptable. In addition, the demolition of a listed asset is not covered by the current listed building consent application. As such, the Mayor is recommended to refuse listed building consent for application 2014/2427.

7 The cumulative harm to heritage assets, the unacceptable daylight/ sunlight impact, density, height, massing and layout of the scheme are considered to significantly outweigh the potential public benefits of the scheme.

8 Furthermore the proposals seek to deliver the public benefit outlined in this report in a way that causes unacceptable and avoidable harm and it is not accepted that these impacts are an inevitable consequence of developing the site. By seeking to optimise, rather than maximise development, it is considered that a revised scheme could reduce the impacts to an acceptable level and still deliver significant public benefits. In order to address the daylight/ sunlight impacts identified in this report, such a scheme would have to have significantly less height and massing along the north-western edge of the site in particular. This, in turn, would be likely to have the additional benefit of lessening many of the heritage impacts identified.

Recommendation

9 That the Mayor, acting as Local Planning Authority, refuses planning permission in respect of applications 2014/2425 and PA/14/02011, and listed building consent applications 2014/2427 and PA/14/02096.

10 Should the Mayor be minded to approve the planning applications for planning and listed building consent then it is recommended that the following planning obligations and planning conditions be imposed:

Legal agreement

- On-site provision of 25% affordable housing by habitable room within Tower Hamlets (comprising 48 intermediate units and 93 social rented units) and a payment in lieu of on-site affordable housing of £21.825m (which equates to 15% affordable housing by dwelling). The s106 agreement will include details of affordable housing definitions, fit-out requirements, transfer/lease to a Registered Provider, the income thresholds for the

intermediate units and the retention of the affordable units at specified rent levels in perpetuity.

- Review mechanism which will seek to review periodically the viability of the development and consider whether additional affordable housing can be provided.
- 10% of the office floorspace comprised in the development shall be provided as affordable workspace at a 20% discount from open market rents. An affordable workspace strategy and framework affordable workspace lease must be submitted for approval.
- Provision of 150 apprenticeships during the construction phase of the development, to be paid the London Living Wage.
- Applicant to use reasonable endeavours to provide as many apprentices as reasonably practicable during the end-user phase of the development.
- Submission of an Employment and Skills Strategy
- Establishment of an Employment and Skills Steering Group.
- Payment of financial contributions (amount to be confirmed) towards employment, skills and training initiatives.
- Applicant to use reasonable endeavours to ensure 25% of labour employed in the construction and end-user phases of the development are local residents.
- Applicant to use reasonable endeavours to ensure that 20% of the value of contracts during the construction period go to local contractors and suppliers.
- Compliance with Code of Considerate Practice and registration with Considerate Constructors Scheme.
- Submission of a retail management strategy.
- No Class A4 uses to be permitted.
- No more than 30% of the proposed retail floorspace to be occupied by Class A3 and/or Class A5 uses.
- No more than 12.5% of the proposed retail floorspace to be occupied by Class A5 uses.
- Provision of an Idea Store or payment of a contribution towards off-site provision (at Tower Hamlets' election).
- Provision of a GP surgery at a discounted rent.
- Provision of public toilets.
- Provision of public squares and pedestrian routes - to be kept open 24/7 (except with the consent of the Councils).
- Submission of an estate management strategy.
- Provision of park above Braithwaite Viaduct – to be kept open from 7am to 7pm daily (except with the consent of the Councils).
- Provision of public art.
- Payment of carbon offset contributions.
- Applicant to ensure that each of the three energy centres is capable of connecting to a future district heating network.
- Applicant to carry out dynamic thermal modelling.
- Applicant to ensure there is a site-wide energy network.
- Submission of a Site Wide Energy Framework
- Passive provision of a second entrance to Shoreditch High Street Station.
- Provision of TfL Roundel at Shoreditch High Street Station.
- Crossrail Contribution calculated in accordance with Crossrail SPG.
- Payment of £5.9m towards Transport for London's Shoreditch Triangle Scheme.
- Payment of £250,000 to Tower Hamlets Council towards the improvement of pedestrian crossings on Bethnal Green Road.
- Highway reinstatement works.
- £600,000 towards Transport for London's Cycle Hire Docking Stations.
- Submission of a Car Park Management Plan.
- Provision of Electric Vehicle Charging Points.

- Submission of Travel Plans (and payment of £4,000 monitoring contribution to Hackney Council).
- Provision of Cycle Maintenance Facilities.
- Provision of up to 3,306 cycle parking spaces.
- Submission of Construction Logistics Plan.
- Submission of Delivery and Servicing Management Plan.
- Parking permit-free development.
- Commitment from the Applicant that all units below 50 sq.m. will be marketed as one person, rather than two person, studio units.
- Monitoring contributions.
- Establishment of Approval Panel by Tower Hamlets and Hackney Councils to deal with requests for approval of matters which affect parts of the development which fall in both Councils' administrative areas.
- That the Mayor agrees that the Assistant Director - Planning and the Director of Development, Enterprise and Environment, are delegated authority to negotiate, sign and execute the abovementioned legal agreement, the principles of which have been jointly agreed with the Applicant and the GLA [and Tower Hamlets Council and Hackney Council], and which include the heads of terms as detailed above. For the avoidance of doubt, in the event that Tower Hamlets Council and/or Hackney Council are unwilling to sign the legal agreement, the Assistant Director - Planning and the Director of Development, Enterprise and Environment, are delegated authority to negotiate, sign and execute the abovementioned legal agreement without the requirement for Tower Hamlets Council and/or Hackney Council (as applicable) to also sign and execute and the parties should seek to ensure that the legal agreement is completed by 2 May 2016.

Conditions

11 To be confirmed in addendum report.

Informatives

12 To be confirmed in addendum report.

13 That should the Mayor resolve to grant planning permission, the Mayor agrees that both the Assistant Director - Planning and the Director of Development, Enterprise and Environment be delegated the authority to issue the planning permission and agree, add, delete or vary, the final wording of the conditions and informatives as required.

14 That should the Mayor resolve to grant planning permission, the Mayor will consult the Secretary of State (SoS) for a decision as to whether to call in the application in for a public inquiry. This is a requirement of The Town and Country Planning (Consultation) (England) Direction 2009. And relates to development which would have an adverse impact on the outstanding universal value, integrity, authenticity and significance of a World Heritage Site or its setting, including any buffer zone or its equivalent, and being development to which English Heritage has objected, that objection not having been withdrawn.

15 That should the Mayor resolve to grant planning permission, it is noted that Hackney and Tower Hamlets Councils respectively will be responsible for the enforcement of the conditions attached to any respective permission.

Publication protocol

16 This report has been published seven days prior to the Representation Hearing, in accordance with the GLA procedure for Representation Hearings. Where necessary, an

addendum to this report will be published on the day of the Representation Hearing. This report, any addendum, and the Mayor of London's decision on this case will be made available on the GLA website www.london.gov.uk.

Site description

17 The site measures 4.4 hectares in area, straddles the boundary between the London boroughs of Hackney and Tower Hamlets and is surrounded by a range of neighbourhoods including Shoreditch, Brick Lane and Spitalfields. In strategic planning terms the site is within the City Fringe Opportunity Area and the Central Activities Zone, as identified by the London Plan.

18 The site was originally assembled in 1840 to be used as the London terminus of the Eastern Counties Railway Company for its Great Yarmouth/Norwich to London line. Owing to the need for a bigger passenger terminus on this line, the larger, Liverpool Street Station was commissioned and the terminus moved there in 1879. The passenger building on the site was demolished and additional land around the station was acquired and developed into a purpose built goods yard. By 1882 the goods yard was in full operation catering for 1,600 carts in and out of the station daily and was the focus for receiving imported food from continental Europe. The building occupied much of the large site with the main elevation facing Shoreditch High Street measuring 207 metres long and 21 metres wide, and the frontage along Commercial Street measured 122 metres divided into 13 bays. A large fire destroyed the majority of the site in 1964 after which most was vacated.

19 The site has remained predominantly vacant since this time but has recently been partly occupied by temporary uses including football pitches and the 'Box Park' pop up shopping mall. In December 2001 construction began on what was then known as the East London Line extension. The element relating to the Bishopsgate Goodsyards site was, however, held-up when campaigners launched legal action over concerns around the demolition of on-site heritage assets. English Heritage was asked to list the entire goods yard but decided only to list the oldest part of the site – the Braithwaite Viaduct of 1839-42, in 2002 (the forecourt wall and gates had been listed much earlier in 1975). The project eventually received clearance to continue at the Court of Appeal on 7 July 2003. The new line, now known as the London Overground, passes through the northern part of the site and became operational in May 2010.

20 In April 2010, Shoreditch High Street London Overground Station opened to the west of Wheler Street (now Braithwaite Street) providing orbital rail services between Dalston Junction (extended to Highbury and Islington in 2011), New Cross, Clapham Junction, Crystal Palace and West Croydon. The station entrance is on Braithwaite Street which extends north/south through the site. Other than that the site is currently impermeable. London Road, a covered route that runs east west through the viaducts between Brick Lane and Wheler Street is currently gated. The station and its eastern approach line were 'boxed' in to allow for future development (and this was funded by the developer).

21 The site is bounded by Shoreditch High Street and Commercial Street to the west and south west, which are busy main roads with shops and commercial uses. To the south of the site lie the national and suburban railway lines into Liverpool Street. Part of the application site now extends over the railway line. The site also includes a small triangle of land on the corner of Quaker Street and Wheler Street. The area along Norton Folgate and Bishopsgate further to the south is characterised by large scale office buildings. Planning permission has been granted for tall buildings at Principal Place on Norton Folgate, 'The Stage' on Curtain Road and 201-207 Shoreditch High Street. Together with the existing Broadgate Tower, these create a cluster of tall buildings along this route. Brick Lane, which bounds this area to the east of the site, contains a vibrant mix of small shops, market, popular bars and restaurants with some residential at upper levels.

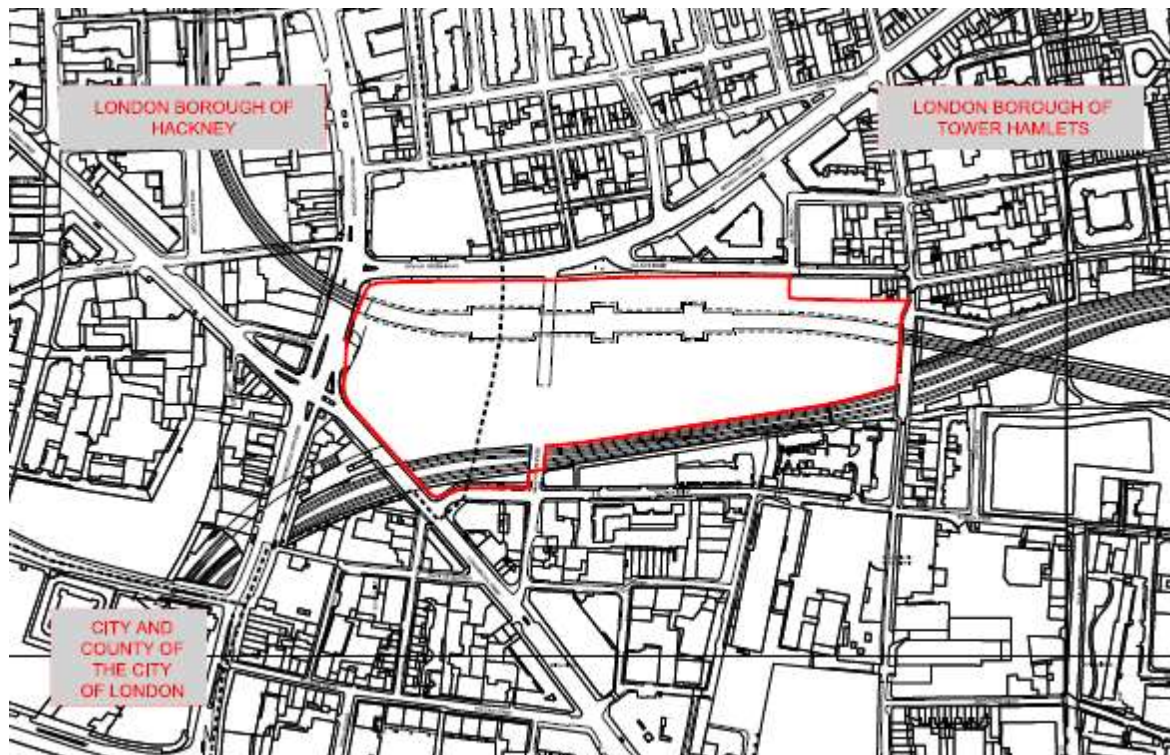


Figure 1: Site plan showing borough boundaries

22 Bethnal Green Road forms the northern boundary of the site and contains a mix of former warehouse buildings converted into new uses, the new 25 storey ‘Avant Garde’ residential building, small scale industrial estates and small retail units. Permission has recently been granted on appeal for a 14 storey building on the site of the Huntingdon Trading Estate, which forms the block between Chance Street and Ebor Street. Beyond this, to the north of Old Nichol Street is the Grade II listed Boundary Estate, which is a 1900s London County Council (LCC) residential development with streets that converge on the green space at Arnold Circus.

23 There are a number of infrastructure constraints that affect the site including the Central Line tunnels and a BT communications tunnel which sit 17 metres and 28 metres below ground respectively and extend across the site. As stated above, the London Overground line runs above ground through the site, which also houses Shoreditch High Street Overground station. To the south of the site is the six-track West Anglia mainline and suburban line and an additional area safeguarded for two future tracks, known as the ‘eight-track safeguarding’.

24 There are a number of historic structures within the site which include the Grade II listed Braithwaite Viaduct and the gates, walls and Oriel Gateway on the Shoreditch High Street frontage. These are currently on Historic England’s ‘Heritage at Risk Register’. Other original features of the Goods Yard also remain, including the red-brick boundary wall on Sclater Street, parts of original boundary walls to the south and east and viaduct structures to the south and west of Braithwaite Viaduct containing coal stores, the hydraulic accumulator, rails and a single turntable. There are a number of listed structures around the site. The north east corner of the site is within the Brick Lane and Fournier Street Conservation Area which wraps around the site to the south. To the south west of the site lies the Elder Street Conservation Area, to the north and west is the South Shoreditch Conservation Area and to the north is the Redchurch Conservation Area and the Boundary Estate Conservation Area beyond.

25 The site is also lies within the background of the protected visa of the designated panorama from Westminster to St Paul’s Cathedral (8A.1) and King Henry VIII’s Mound, Richmond to St Paul’s Cathedral (9A.1).

26 The A10, Shoreditch High Street to the west and the A1202, Commercial Street to the south and west are both part of the Transport for London Road Network (TLRN). Bethnal Green Road and Sclater Street to the north and the B134, Brick Lane to the east are part of the Tower Hamlets highway network. The borough boundary between Hackney and Tower Hamlets extends north-south through the site, to the west of Braithwaite Street, currently the only section of public highway within the site itself.

27 In addition to Shoreditch High Street station referred to above, the site is approximately 400 metres north of Liverpool Street station which is one of London’s main rail termini, providing access to national rail; intercity and suburban services as well as benefiting from Crossrail services from 2018. Liverpool Street station also provides access to underground services on the Metropolitan, Hammersmith & City, Circle and Central lines respectively.

28 Other stations that could be considered to be within reasonable walking distance include; Old Street (750 metres – Northern and First Capital Rail Services), Aldgate East and Whitechapel respectively (800 metres – District and Hammersmith & City lines as well as Overground service from Whitechapel).

29 Thirteen bus routes operate within reasonable walking distance of the site; 8, 26, 35, 42, 47, 48, 67, 78, 135, 149, 242, 344 and 388 with stops on Shoreditch High Street, Commercial Street and, Bethnal Green Road.

30 There are three cycle hire docking stations within a reasonable walking distance of the site; Commercial Street, Bethnal Green Road and Brick Lane.

31 As such, the site is well served by public transport and has a transport accessibility level (PTAL) of 5 to 6b across the site, on a scale of 1–6b where 6b is the highest.

Details of the proposal

32 The application has been submitted as a hybrid scheme. As such part of it has all matters reserved (the outline component) and part has no matters reserved (the detailed component). The proposals have been divided into 11 ‘plots’ within which all buildings would be developed over five phases. As described above, the site covers two Local Authority planning authority areas. Building plots C, D, E, H, I and J are wholly within Tower Hamlets, plots A, F and L are in Hackney and the borough boundary runs directly through plots B, G and K.

		LB Hackney		LB Tower Hamlets	
Land Use	Use Class	MAXIMUM (Detailed and outline)	MINIMUM (Detailed and outline)	MAXIMUM (Detailed and outline)	MINIMUM (Detailed and outline)
Residential	C3	69,077	69,077	96,851	93,968
Retail	A1/A2/A3/A5	7,416	2,780	13,521	11,633
Business	B1	61,000	67,466	20,127	14,811
Non-residential institutions	D1	0	0	553	0

Assembly & Leisure	D2	0	0	689	0
Sui Generis	-	0	0	37	0
Basement	-	3,763	3,763	5,280	4,214
Other		8,096	8,954	6,450	7,578
TOTAL		149,352	152,040	143,508	132,204

Table 1: Proposed land uses

33 The detailed component of the scheme covers plots C, F, G, L and the ground and basement levels of plots H, I, J. The remaining plots of A, B, D, E, the park level of H, I, J and K are submitted with all matters reserved. The outline submission seeks approval for the maximum and minimum amount of development in each development plot. While all matters are reserved for this element, an indication of the means of access, scale parameters, indicative layout and indicative landscaping have been provided. A site-wide design guidelines document is submitted for approval which includes additional detail on parameter plans, layout, appearance and landscaping. A site-wide design and access statement has also been submitted.

34 In addition, applications for Listed Building Consent have been submitted for the works to the relevant listed structures.

35 The total maximum floorspace proposed is 277,189 sq.m GEA (excluding the basement, which is 9,231 sq.m GEA in area). The aggregate total of the maximum floorspaces set out above exceeds 277,189 sq.m GEA, excluding the basement. The application seeks permission for up to the maximum in each land use category, within a mix that does not exceed the maximum parameter limit of 277,189 sq.m for all floorspaces. This is to allow for a degree of flexibility.

36 The proposal has the potential to provide 1,356 new homes and permission is sought for 51 car parking spaces associated with the residential units, as well as 3,306 cycle parking spaces, including:

- Residential cycle parking: 2,059 spaces
- Retail cycle parking: 69 spaces
- Business cycle parking: 901 spaces
- Visitor cycle parking: 277 spaces

37 The scheme includes 1.1 hectares of private residential and community amenity space, as well as 2.25 hectares of new public realm and landscaping, comprising:

- 1.28 hectares of ground level public realm
- 0.97 hectares of park level public realm, above the Braithwaite viaduct

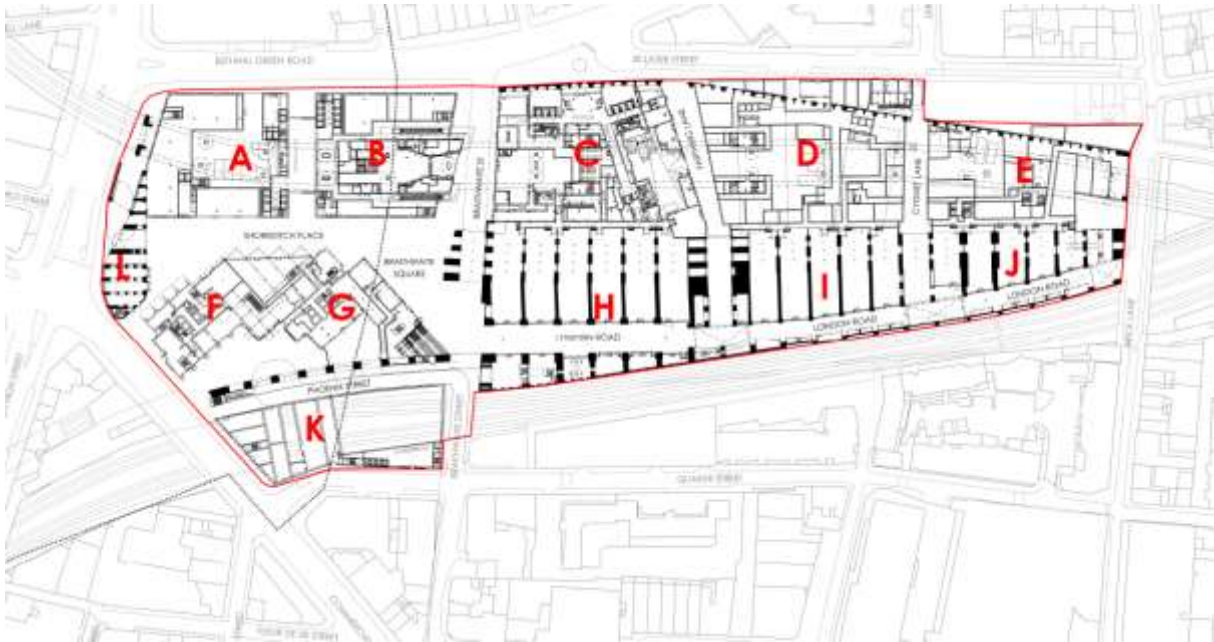


Figure 2: Site plan showing borough plots

38 Proposals for the individual plots are broken down as follows:

- **Plot A and B (Outline):** It is envisaged that these plots would comprise two office buildings that would be delivered together. Plot A is located within London Borough of Hackney and B straddles both Hackney and Tower Hamlets. The London Overground viaduct intersects the plots in the east/west direction. The Grade II listed gateway to the original station sits partially within plot A and the Shoreditch High Street London Overground station building box is located within plot B. Should a second entrance to the station be necessary in the future, the interface with plot B means that a location within this area would be required, hence TfL's request for safeguarding as detailed below. There is potential for office or retail uses at ground floor. The submitted design and access statement outlines an illustrative scheme for the plots which identifies 13 storeys plus ground floor in plot A (79.2 metres AOD) and 15 storeys plus ground floor for plot B (87.4 metres AOD). They reduce in height towards Shoreditch High Street and appear as two distinct buildings. This scheme presents a simplified architectural response working within the framework of a base, middle and top to the building.
- **Plot C (Detailed):** This plot covers an area of 0.6ha, it is located in Tower Hamlets. The London Overground viaduct passes east-west through the centre of the plot and the entrance to Shoreditch Station is on its boundary. It would comprise a six storey podium spanning the entire plot around the train tunnels with two residential towers of differing height rising above. The west tower would comprise 30 residential storeys plus ground floor (123.9 metres AOD) and the east at 26 storeys plus ground floor (111.4 metres AOD). The building would be faced in brick with articulated details of balconies, windows and lift shafts.
- The ground floor would comprise residential entrance lobby and retail fronting the roads (Braithwaite Street, Bethnal Green Road, Sclater Street and Farthing Lane) and ancillary uses such a plant, refuse store, and retail service yard in the centre of the block. Above the ground floor the buildings would provide 358 residential units.
- **Plot D and Plot E (outline):** These plots are treated together and are both located on the north east of the site, entirely within Tower Hamlets. The London Overground viaduct bisects both plots in the east/west direction.

- These buildings would be predominately residential with the ground floor used for a mix of retail, SME, residential entrances, Class D1 and D2 uses and services entrances provided on the Sclater Street frontage. It is envisaged that these plots would contain all of the social rented housing delivered on-site. The design and access statement outlines that the buildings on plot D can be positioned in such a way they can span the London Overground Line whilst providing a 18 metre gap between them to allow adequate daylight and sunlight to penetrate between the buildings. It is envisaged that Plot D could rise to 24 storeys plus ground floor (103.4 metres AOD) whereas Plot E, towards Brick Lane, would be up to 16 storeys plus ground floor (75 metres AOD).
- **Plot F and G (detailed):** Plot F covers a site area of 0.32ha and sits within Hackney and plot G has a site area of 0.39ha and straddles the boundary between Hackney and Tower Hamlets. Both plots have significant constraints at ground floor and below. Specifically the London Underground's Central Line and a BT communications tunnel sit below this part of the site restricting foundation depths, and the tunnel containing two sets of Network Rail suburban line tracks runs directly below the southern portion of the plots where no buildings can be located. The safeguarded space for two future additional sets of tracks also sit in this location, and if built over, would be contained in a structural box.
- The proposal for plots F and G are submitted in detail. A two storey podium block would cover the two plots which would have two residential towers rising above. Plot F tower would comprise 46 residential storeys plus ground (177.6m AOD) and 322 units and plot G would comprise 38 storeys plus ground (152.4m AOD) and 260 units. It should be noted that amendments made to the scheme in June 2015 reduced the proposed height of Plot F from 180.4 metres and Plot G from 167.6 metres. These remain the tallest proposed buildings on the site.
- The ground floor would be arranged with retail uses on the external perimeter of the block facing the proposed route described as Shoreditch Place. To the south of the ground floor would contain the residential lobby and library, with a vehicular entrance provided from Commercial Street. At the first floor, the retail space would continue along the northern edge with both internal and external shared amenity space. At this level, there is also a residential access to the highwalk which would lead directly to the new park.
- **Plot H, I and J (detailed at ground level, outline above):** These plots comprise the Grade II listed Braithwaite Viaduct which sits east-west on the site between Brick Lane and straddling Braithwaite Street. The plots are located within Tower Hamlets and are subject to a listed building application.
- The ground floor of these plots contains the majority of heritage assets on the site which the ground floor has been carefully designed around. The historic running London Road would be retained in its historic alignment with the listed and non-listed arches either side being used as commercial premises. This would be reinstated as a public route to run east-west through the site from Brick Lane to Shoreditch High Street, via Braithwaite Street. London Road would also connect northwards to Bethnal Green Road and Sclater Street via Braithwaite Street and the new Farthing Lane and Cygnet Lane routes.

- A 0.97ha new public park would be provided above the listed and non-listed arches of the Braithwaite Viaduct. This would be accessed from Commercial Street (via the highwalk above the newly formed Phoenix street), from the proposed Braithwaite Square, from Farthing Lane (off London Road) and from Brick Lane. It would contain a largely landscaped piece of open space with paths and seating throughout. A number of pavilions would be placed across the park providing for additional commercial (cafe/restaurant) space. Across the entire park, oculi funnels would project from the ground which would give light to the spaces underneath. A plinth is proposed at the end of the new Braithwaite Square that would provide space for a piece of art. On the other end, facing Brick Lane is the signal box which would be retained for a future use such as a classroom or cafe. The new residential units would also have direct access to this park level.
- **Plot K (outline):** This plots sits on a deck over the railway line in the south-west of the site and straddles the borough boundary. A 6 storey plus ground floor building (50.5 metres AOD) is envisaged with offices on the upper floors and predominantly office use on the ground floor frontages facing Quaker Street, Commercial Street and Phoenix Street, which would be created within the site.
- **Plot L (detailed):** This plot contains the Oriol Gateway, forecourt walls, gates and gateposts and is the subject of Listed Building Consent application. The proposal seeks to restore the Oriol Gateway and to open up the original arches to provide pedestrian permeability into the site.

39 The application indicates that the development would be constructed in five phases over 17 years. The composition of each phase and proposed timing of delivery is summarised as follows:

Phase: Block	Date	Duration	End
Phase 1: Block C Block E Block H	Jul-16 Apr-17	48	Jul-20 Jan-20
Phase 2: Block A Block B	Jul-20 Oct-20	36	Apr-23 Jul-23
Phase 3: Block F Block G Block L	Apr-22 Jul-21 Jul-21	42	Oct-24 Apr-24 Oct-22
Phase 4: Block I Block J Block D	Oct-24 Oct-24 Jul-26	63	Jul-26 Jul-26 Jan-30
Phase 5: Block K	Jan-30	30	Jul-32

Table 2: Proposed phasing

Connected applications for listed building consent:

40 [PA/14/02096](#): Restoration and repair of the Grade II listed Braithwaite Viaduct and adjoining structures for Class A1/A2/A3/A5/D1 uses at ground and basement levels. Structural interventions proposed to stabilise the London Road structure, removal of sections of London

Road roof to create openings over proposed new public squares; formation of new shop front openings, installation of new means of public access up to park level. Part removal of adjoining unlisted wall on Brick Lane to provide improved public realm and pedestrian access into the site.

41 2014/2427: Restoration and repair of existing Grade II listed forecourt wall, oriel and gates and adjoining historic structures to provide principal western pedestrian gateway into associated development (2014/2425) and to accommodate proposed Class a1/A2/A3/A5 retail use into a number of the existing arches at ground floor. Part removal of a section of adjoining unlisted structures proposed to provide public realm and pedestrian access into the site.

Relevant planning history

Previous applications for planning permission on the Bishopsgate Goodsyard site

42 The Bishopsgate Goodsyard site straddles the boundary between the London boroughs of Tower Hamlets and Hackney. The Mayor is dealing with the current planning application and therefore, as the determining authority, treating the site as a strategically coordinated whole as far as is reasonably practicable. This has resulted in individual schemes being the subject of two planning applications where the proposals straddle the borough boundary. It has also meant that there are two applications for listed building consent relating to the current planning application.

43 In 2011, a five-year limited period planning permission was granted by Hackney Council (reference 2011/0255) for the installation of 55 recycled shipping containers for retail (Class A1), restaurant & café (Class A3) and office (Class B1) use together with a further eight shipping containers for ancillary storage, refuse, recycling and cycle parking along with hard landscaping. In 2011 Tower Hamlets Council also granted planning permission (reference PA/11/01679) for the siting of six shipping containers for retail use (Class A1) in connection with this temporary retail development, which became known as the Shoreditch Box Park.

44 In 2011 Tower Hamlets Council granted a five-year limited period planning permission (reference PA/11/02341 & PA/11/02246) for the use of part of the site as a marketing suite and arts hub unit for use as public consultation/ exhibition purposes (Class D1) , car parking and an access ramp.

45 In 2012, Hackney Council granted temporary planning permission (reference 2012/2053) for the use of vacant land on the site as a football centre (Use Class D2) comprising 8 five-a-side and 2 seven-a-side floodlit all-weather football pitches and supporting ancillary facilities.

46 In 2015 a five-year limited period planning permission (Tower Hamlets Council reference PA/12/02014) was granted for use of vacant land for a football centre (Class D2) comprising eight 5-a-side and two 7-a-side floodlit all weather pitches and ancillary facilities.

47 On 4 December 2014, English Heritage, now Historic England (endorsed by the National Planning Casework Unit on behalf of the SoS) authorised both local planning authorities to determine the parallel applications for listed building consent (Tower Hamlets Council reference PA/14/2096, Hackney Council reference 2014/2427) for proposals affecting listed buildings and structures on the site as it sees fit. Historic England subsequently confirmed the authorisation dated 4 December 2014 remains valid.

48 A High Court judgement from 8 November 2002 is also relevant to the extent of the listing of the Oriel Gateway and the proposed works associated with that. The judgement concerned the adjacent London Underground proposals in 2002 (Hammerton v London Underground Limited Ref: CO/3697/02) and is discussed in further detail in the heritage section.

Relevant extant permissions nearby

49 In July 2011 Hackney Council granted planning permission (reference 2011/0698) for the construction of a 15 storey mixed-use building at 'Principal Place' on the north side of Worship Street, 100 metres to the south-west of Bishopsgate Goodsyards. This development is now in an advanced stage of implementation.

50 In July 2013 Hackney Council granted planning permission (reference 2012/3871) for the construction of a mixed-use development including a 40 storey tower at 'The Stage' on Curtain Road, off Great Eastern Street, 100 metres west of Bishopsgate Goodsyards.

51 In February 2016, Hackney Council resolved to grant planning permission (reference 2015/2403) for the construction of a part 7, part 10 and part 30 storey mixed-use building (plus 2 levels of basement) at 201-207 Shoreditch High Street. This is immediately west of Bishopsgate Goods Yard, approximately 30 metres across Shoreditch High street.

52 In January 2014 Tower Hamlets Council resolved to refuse planning permission (PA/13/01638) for a development of between two and fourteen storeys, consisting of 78 residential units with retail and leisure uses at ground floor at land known as the Huntingdon Industrial Estate. This site is directly to the north of the junction of Braithwaite Street and Bethnal Green Road. In November 2015 this decision was overruled by the Planning Inspectorate and planning permission granted.

Current application

53 A series of pre-planning application meetings have been held with the GLA at City Hall to discuss the proposals with the applicant and council planning officers from both local planning authorities. Separate pre-planning application discussions have also taken place between the councils and with TfL. There have also been several joint meetings with officers from the Councils and the GLA.

54 Stage I: On 18 October 2014 the Mayor of London received documents from Tower Hamlets Council and on 20 October 2014 the Mayor of London received documents from Hackney Council notifying him of a planning application of potential strategic importance, referred under Categories 1A, 1B and 1C of the Schedule to the Mayor of London Order 2008.

55 On 12 December 2014 the Mayor considered planning report reference D&P/1200b&c/01, and subsequently advised Hackney and Tower Hamlets Councils that while the application was generally acceptable in planning terms, further details were required on land use, housing and affordable housing, impact on world heritage site and heritage assets, urban design and tall buildings, inclusive design, sustainable development and transportation. These issues were summarised in paragraph 161 of planning report reference D&P/1200b&c/01.

56 Stage I update: On 9 July 2015 the Mayor received notification from Tower Hamlets and Hackney Councils that they had received amended plans for the planning application, summarised as follows:

- A change to the planning application site boundary to incorporate the open cut railway
- A change to parameter plans for plots A and B
- A reduction in height to the proposed building on plot F
- A reduction in height to the proposed building in plot G
- Alteration to the architectural expression and materiality to both proposed buildings in plots F and G
- A new building spanning the open cut railway in plot K

- A change to the overall mix of residential units across the site
- A change to the mix of uses across the site
- A change to the proposed phasing of the development

57 These amendments resulted in changes to the ranges of proposed floorspace considered in this report, as set out in the description of development section above.

58 On 9 September 2015 the Mayor considered the amended scheme in planning report reference D&P/1200b&c/03 and subsequently advised Hackney and Tower Hamlets Councils that while the application was generally acceptable in strategic planning terms regard should be had for the comments in paragraph 89 of report reference D&P/1200b&c/03 and the issues raised in the original stage 1 report.

59 Stage II: On 23 September 2015, following a request from the applicant that the Mayor recovers the planning application for his determination (received 15 September 2015), the Mayor considered planning report reference D&P/1200c&d/03. The report concluded that, having regard for the details of the application, the development is of a nature and scale that give rise to significant impact on the implementation of the London Plan particularly with regard to housing, affordable housing, employment, regeneration, opportunity areas and heritage. Furthermore the report concluded that there are sound reasons for the Mayor to intervene in this case and issue a direction under Article 7 of the 2008 Order that he would act as the Local Planning Authority for the purpose of determining the planning application and associated Listed Building Consent applications. The Mayor agreed with this recommendation.

60 Hackney and Tower Hamlets Councils wrote a joint letter to GLA officers in response to the applicant's request, setting out why the Mayor should not take over the planning application. The Councils did not dispute the strategic importance of the application but considered that the applicant's letter made a number of erroneous claims about the way in which the two Councils had handled the application and presented an over simplified summary of concerns, which are far more fundamental and wide ranging.

61 The Councils noted that there are a number of key outstanding issues that need to be resolved before a recommendation can be made and that there are a number of inadequacies with the environmental information submitted. The Councils highlighted that they were currently considering significant revisions to the original submission (effectively a replacement application), requiring re-consultation (to which they had received substantial levels of objections) and had shown considerable and appropriate flexibility in accepting this.

62 The Councils rejected the suggestion that they did not provide feedback on the application. The Councils also responded to the applicant's point regarding delays around the affordable housing negotiation, highlighting additional work that their consultant had to carry out and noting that given the significant change to the scheme it would be unrealistic to expect a re-assessment within two weeks.

63 The Councils consider the data on housing delivery to be misrepresented by the applicant and noted that there were still outstanding clarifications relating to the environmental statement and that in respect of Hackney's Design Review Panel, the applicant delayed the date and revised proposals had only recently been presented to both panels at the time the take-over request was submitted by the applicant to the Mayor.

64 The Councils highlighted the number of large complex schemes that both have dealt with and noted that they had been working together to co-ordinate the logistics of holding two extra committees in November. The Councils considered it unlikely that the GLA would be able to resolve the outstanding issues before November.

65 All these points were fully acknowledged and in most cases appreciated. However, the application remained undetermined and uncertainty of the Councils' position remained at that point. These comments were taken into consideration in the Mayor's decision to take-over the planning applications and associated applications for Listed Building consent.

66 As the applications were recovered at the request of the applicant, prior to determination by the two Councils, this removed their decision-making powers on the applications. In accordance with standard protocol on Planning Inspectorate call-in appeals, the Councils reported the applications to their respective committees post Mayoral call-in, to seek a steer on what decision the members would have made had they retained their powers and to guide officer negotiations in the lead up to the Mayor's representation hearing. These are detailed as follows:

Hackney Council (Post call-in)

67 Hackney Council considered the planning application at its committee meeting of 10 December 2015. It advised that Hackney Council objects to the proposed development and therefore recommends that the Mayor of London refuses planning permission for the following reasons:

- *Over-development. The Borough supports the principle of high density redevelopment of this key site in a strategic location. However, the proposals represent over-development as evidenced by the severity of the impacts that the proposals have upon townscape, local character and the amenity of nearby occupiers. Moreover the proposals do not provide public benefits commensurate with a development of this scale to outweigh the adverse impacts. The proposals are considered to be contrary to London Plan Policy 3.4 and more generally the development principles of the BGY IPG 2010.*
- *Employment. The Borough does not consider the proposals to represent an employment led development. The application fails to demonstrate that the maximum economically feasible amount of employment floorspace has been provided. Overall it is considered that the proposed development of this key site within the CAZ, City Fringe and PEA does not provide sufficient employment floorspace to meet demand and support their strategic business function. The residential led mix of uses is considered likely to undermine that business function and threaten the expansion of Tech City and continued business growth in the City Fringe. The proposals are considered to be contrary to London Plan Policies 2.10, 2.11, 4.2 and 4.3. The proposals are considered contrary to the draft City Fringe Opportunity Area Planning Framework 2014. The proposals are considered to be contrary to Policy DM17 of the Hackney Development Management Local Plan 2015.*
- *Affordable housing. The proposed offer of 10% affordable housing is extremely disappointing given the scale of the proposed development. In light of the independent review of the scheme viability it is considered that the proposed development could provide a substantially greater amount of affordable housing. Furthermore the proposed affordable housing offer has not been adequately developed to ensure a fair and reasonable split between the administrative areas of the two Boroughs. The proposals are considered to be contrary to London Plan Policy 3.12, Policy CS20 of the Hackney Core Strategy 2010 and BG21 of the BGY IPG 2010.*
- *Heritage impact, on-site assets. The development proposals as a whole are considered to be harmful to the setting of the listed Oriel Gate and Braithwaite Viaduct by virtue of the location, plot coverage, massing, height and design of the main buildings. The proposed development is considered contrary to Policy CS 25 of the Hackney Core Strategy 2010 and DM28 of the Hackney Development Management Local Plan 2015.*

- Heritage impact, wider area. The proposed development is not considered to be of excellent architectural design and the qualitative assessment of the effects of the development within the submitted TVIA is consequently flawed as it relies on the assumption that the views will be improved due to the quality of the proposed architecture. It is considered that the proposed development impacts negatively on a number of views of, within and across numerous nearby heritage assets where the development is obtrusively visible and is out of scale with local and historical norms characteristic of the heritage asset resulting in harm to the heritage asset. The proposed development is considered contrary to Policy CS 24 of the Hackney Core Strategy 2010. The proposed development is considered contrary to the development principles of the BGY IPG 2010, specifically BG10, BG11, BG13 and BG14.
- Heritage impact, Tower of London World Heritage Site. It is noted that proposed Building F would be visible between the corner turrets of the White Tower in submitted visualisations from the South Bastion of Tower Bridge. This effect on the view of the World Heritage Site is considered harmful to its setting and subject to conservation objection. The proposed development is considered to be contrary to Policy 7.10 of the London Plan.
- Design. The proposals for Plots F & G are not considered to represent exceptional, high quality tall buildings that respond to and reflect the significance of the site or the context of the area. The two tower approach on these plots, primarily because of the monolithic coalescence in many important local views, is considered to be flawed and cannot be overcome with architectural devices and visual distinctions between the two buildings. The proposed buildings appear monolithic and lack slender profiles and proportions, which in combination with the narrow 10 metre separation distance leads to the building's inelegant proportionality. The large podium structure on these plots is out of keeping with the character and grain of the area and detracts from the quality of the new public spaces. As a result these buildings have an adverse impact on a number of views and heritage assets within the site and the wider setting. The proposed development is therefore considered contrary to London Plan Policies 7.4, 7.6 and 7.7 and Policies CS 24 and CS 25 of the Hackney Core Strategy 2010.
- Scale, height and massing. The height combined with the footprint and massing of the proposed buildings on Plots A & B results in an overbearing scale that is alien with the local context. The buildings by virtue of their excessive scale and massing are considered harmful to the setting of the Grade II listed Oriel gateway on site and heritage assets within the wider setting. The buildings also impact upon the quality of the new public realm within the site. The proposed development is therefore considered contrary to London Plan Policies 7.4, 7.6 and 7.7 and Policies CS 24 and CS 25 of the Hackney Core Strategy 2010.
- Townscape. Plots C, D, E are located fully within the Tower Hamlets part of the site. Nevertheless, the proposed procession of towers over these plots has a cumulative impact on townscape from Hackney.
- Daylight/ sunlight. In terms of daylight and sunlight consideration has been given to the open nature of the site at present and the urban character of the location and therefore a pragmatic view has been taken about the impact on neighbouring properties, having regard to potential acceptable retained levels of light rather than focusing only on reductions from existing. Nevertheless the proposals are considered to have severe adverse impact on daylight to a large number of properties within the surrounding area and a number of locations have been identified where impacts and retained levels of light are not considered acceptable. The proposed development is considered contrary to Policy DM2 of the Hackney Development Management Local Plan 2015 and BG14 of the BGY IPG 2010.

- *Air quality.* The assessment against Air Quality Neutral requirements show that the development does not meet the required standard. On this basis the development is not considered acceptable as currently proposed. Overall the Air Quality Assessment sections included in the Environmental Statement (ES) have not shown that the development is acceptable in Air Quality terms. The proposals are considered contrary to Policy DM42 of the Hackney Development Management Local Plan 2010.
- *Listed Building Consent.* In relation to the application for Listed Building Consent reference 2014/2427, the Council advised that it considers that the detailed proposals for the listed Oriel Gate and associated structures result in direct and substantial harm to the designated heritage asset. It is considered that the development goals could be achieved without the harm caused. The proposal is considered contrary to Policy CS 25 of the Hackney Core Strategy 2010 and DM28 of the Hackney Development Management Local Plan 2015. The proposed development is considered contrary to BG9 of the BGY IPG 2010

Tower Hamlets Council (Post call-in)

68 Tower Hamlets Council considered the planning application at its committee meeting of 10 December 2015. It advised that were it empowered to determine the application for planning permission the Council would have refused planning permission for the following reasons:

- *Heritage and townscape.* Both the detailed and the outline elements of the proposals indicate a design proposing excessively tall buildings that would cause substantial and less than substantial harm to the surrounding context comprising significant and extensive designated heritage assets, particularly the setting of five surrounding conservation areas and many buildings included within the Statutory List of Buildings of Architectural or Historic Interest including the Tower of London World Heritage Site. As a result of these failings, the proposed development would not successfully integrate into the existing townscape. There would be a failure to create a human scale of development at street level with an oppressive form of development that would loom uncomfortably over the public realm. Whilst the development of this site has the potential to generate substantial public benefits, the constraints of developing Bishopsgate Goods Yard do not justify building towers to a height that would cause such harm to designated heritage assets and the public benefits of the development would not outweigh the harm. The proposed development would conflict with Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and be inconsistent with the NPPF, the Mayor's London Plan 2015 Policy 2.10 'Central Activities Zone Strategic Priorities,' Policy 3.4 – 'Optimising housing potential,' Policy 7.4 'Local Character,' Policy 7.6 'Architecture, Policy 7.7 'Location and Design of Tall Buildings,' Policy 7.8 'Heritage Design and Archaeology,' Policy 7.10 'World Heritage Sites,' Tower Hamlets Core Strategy 2010 Policy SP10 'Creating distinct and durable places' and Tower Hamlets Managing Development Document 2013 Policy DM24 'Placesensitive design,' Policy DM26 'Building Heights' and Policy DM27 'Heritage and the Historic Environment' together with Design Principles BG10, BG11 and BG14 of the Bishopsgate Goods Yard Interim Planning Guidance 2010.
- *Affordable housing.* Bishopsgate Goods Yard is a crucial element within Tower Hamlets supply of land for both market and affordable housing. The affordable housing offer within the proposed development would fail to meet the minimum requirement of the Tower Hamlets local plan, is also not financially justified and would fail to provide an adequate amount of affordable housing to meet targets. The development is consequently not consistent with the NPPF, the Mayor's London Plan Policy 3.8 'Housing choice,' Policy 3.11 'Affordable housing targets,' Policy 3.12 'Negotiating Affordable Housing on Individual Private Residential and Mixed Use Sites,' Tower Hamlets Core Strategy Policy SP02 'Urban living for everyone' or Design Principle BG21 in the Bishopsgate Goods Yard Interim Planning Guidance 2010.

- *Housing mix and choice. The proposed dwelling mix within both the market and affordable housing sectors would fail to provide a satisfactory range of housing choices in terms of the mix of housing sizes and types. There would be a failure to provide a mixed and balanced community, particularly insufficient affordable family housing, caused by an unacceptable overemphasis towards one bed 2-person units. The development consequently is inconsistent with the Mayor's London Plan Policy 3.8 'Housing Choice, Policy 3.9 'Mixed and balanced communities,' Tower Hamlets Core Strategy Policy SP02 'Urban living for everyone' and Managing Development Document Policy DM3 'Delivering Homes.'*
- *Residential amenity. The development would result in unacceptable impacts on the amount of daylight and sunlight that would be received by many surrounding properties, with a commensurate increased sense of enclosure, breaching guidance in the Building Research Establishment handbook 'Site Layout Planning for Daylight and Sunlight' 2011. The extent and severity of the impacts are such that the development would not be consistent with the Mayor's London Plan Policy 7.6 'Architecture', Tower Hamlets Core Strategy Policy SP10 'Creating Distinct and durable places' and the Managing Development Document Policy DM25 'Amenity'. There would also be conflict with Development Principle BG14 in the Bishopsgate Goods Yard Interim Planning Guidance 2010 that requires the location of tall buildings not to create unacceptable impacts on the amenity of existing and future residents in terms of access to daylight and sunlight.*
- *Site design principles. The development would not comply with Site Allocation 1 'Bishopsgate Goods Yard' and Policy DM23 'Streets and the public realm in the Tower Hamlets Managing Development Document; nor Development Principle BG3 in the Bishopsgate Goods Yard Interim Planning Guidance 2010 and the Strategic Design Principles of the Mayor's Draft City Fringe Opportunity Area Planning Framework. This is due to the failure to provide a secondary east-west pedestrian link north of the grade II listed Braithwaite Viaduct between Braithwaite Street and Brick Lane resulting in a missed opportunity to increase permeability and better reveal the designated heritage asset as advised by the NPPF paragraph 137 and required by Policy DM27 (2) 'Heritage and the historic environment' of the Managing Development Document. There would also be a failure to provide a north-south route between Plots A and B and no southern onward north-south connection from either Cygnet Street or Farthing Lane.*
- *Housing standards. Many proposed 2-person residential 'suites' within the detailed elements of the application would fail to meet the Mayor's minimum size standards set out at Table 3.3 of the Mayor's London Plan and 'Housing' Supplementary Planning Guidance 2012. This would conflict with London Plan 2015 Policy 3.5 'Quality and design of housing developments' and Tower Hamlets Managing Development Document Policy DM4 'Housing Standards and Amenity Space' that has adopted the Mayor's standards. There would also be a failure to meet the minimum standard set by the Government's 'Technical housing standards – nationally described space standard' March 2015.*

69 Listed Building Consent. In relation to the application for Listed Building Consent, the Council advised that it is satisfied for the Mayor to determine Listed Building Consent application Ref. PA/14/2096 as he sees fit subject to recommended conditions being applied to any consent.

Relevant legislation, policies and guidance

70 The Mayor must determine this application for planning permission in accordance with the requirement of s.70(2) of the Town and Country Planning act 1990 and s.38(6) of the Planning and Compulsory Purchase act 2004. In particular the Mayor is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. The development plan for this site comprise the London Plan (2015, Consolidated with changes since 2011), Hackney Council Core Strategy (2010), Hackney Council Development

Management Local Plan (2015), Tower Hamlets Core Strategy (2010), Tower Hamlets Managing Development Document (2013). The Mayor is also required to have regard to national planning policy in the form of the NPPF and the NPPG, as well as supplementary planning documents and, depending on their state of advancement, emerging elements of the development plan and other planning policies.

71 The relevant material planning considerations relate to: land use principle (mixed-use development, public realm, the relative levels of C Class and B Class floorspace); employment; housing and delivery of affordable housing (including tenure, mix, density and quality); design (including urban design, public realm, play space, views and heritage); Inclusive design; climate change and sustainable development; air quality; neighbourhood amenity; contaminated land; flood risk; biodiversity; transport; and, mitigating the impact of development through planning obligations. The relevant planning policies and guidance at the national, regional and local levels are as follows:

National planning policy and guidance

72 The National Planning Policy Framework (NPPF) provides the Government's overarching planning policy, key to which, is a presumption in favour of sustainable development. The NPPF defines three dimensions to sustainable development: an economic role contributing to building a strong, responsive and competitive economy; a social role supporting strong, vibrant and healthy communities; and, an environmental role contributing to protecting and enhancing our natural, built and historic environment. The relevant components of the NPPF are:

- Chapter 1. Building a strong, competitive economy;
- Chapter 4. Promoting sustainable transport;
- Chapter 6. Delivering a wide choice of high quality homes;
- Chapter 7. Requiring good design;
- Chapter 8. Promoting healthy communities;
- Chapter 10. Meeting the challenge of climate change;
- Chapter 11. Conserving and enhancing the natural environment; and,
- Chapter 12. Conserving and enhancing the historic environment.

73 The Government and the Planning Inspectorate have accepted the Mayor's view that the London Plan should be considered the London expression of the NPPF. This is reflected through consolidated changes that have been made to the London Plan since 2011.

74 On 6 March 2014 the Government published new Planning Practice Guidance as part of an internet-based national guidance resource. The Planning Practice Guidance has superseded and cancelled various circulars, good practice guides and Chief Planning Officer's letters, including the 2009 circular and guidance note on The Protection and Management of World Heritage Sites. For the avoidance of doubt, the new Planning Practice Guidance has been taken into account in the assessment of this application.

Regional planning policy and guidance

75 The London Plan is the Spatial Development Strategy for Greater London. The relevant policies within the London Plan are:

- 1.1 Delivering the strategic vision and objectives for London;
- 2.10 Central Activities Zone – strategic priorities;
- 2.11 Central Activities Zone – strategic functions;
- 2.12 Central Activities Zone – predominantly local activities;
- 2.13 Opportunity Areas and Intensification Areas;
- 3.3 Increasing housing supply;

- 3.4 Optimising housing potential;
- 3.5 Quality and design of housing developments;
- 3.6 Children and young people’s play and informal recreation facilities;
- 3.7 Large residential developments;
- 3.8 Housing choice;
- 3.9 Mixed and balanced communities;
- 3.10 Definition of affordable housing;
- 3.11 Affordable housing targets;
- 3.12 Negotiating affordable housing on individual private residential and mixed-use schemes;
- 3.13 Affordable housing thresholds;
- 3.17 Health and social care facilities
- 4.1 Developing London’s economy;
- 4.2 Offices;
- 4.3 Mixed use development and offices;
- 4.9 Small shops
- 4.10 New and emerging economic sectors
- 4.12 Improving opportunities for all;
- 5.1 Climate change mitigation;
- 5.2 Minimising carbon dioxide emissions;
- 5.3 Sustainable design and construction;
- 5.5 Decentralised energy networks;
- 5.6 Decentralised energy in development proposals;
- 5.7 Renewable energy;
- 5.9 Overheating and cooling;
- 5.10 Urban greening;
- 5.11 Green roofs and development site environs;
- 5.12 Flood risk management;
- 5.13 Sustainable drainage;
- 6.1 Strategic Approach;
- 6.2 Providing public transport capacity and safeguarding land for transport
- 6.3 Assessing effects of development on transport capacity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.9 Cycling;
- 6.10 Walking;
- 6.12 Road network capacity;
- 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;
- 7.7 Location and design of tall and large buildings;
- 7.8 Heritage assets and archaeology;
- 7.9 Heritage-led regeneration
- 7.10 World Heritage Sites
- 7.11 London View Management Framework
- 7.12 Implementing the London View Management Framework
- 7.14 Improving air quality;

- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate landscapes
- 7.18 Protecting open space and addressing deficiency
- 8.2 Planning obligations; and,
- 8.3 Community Infrastructure Levy.

Mayoral Community Infrastructure Levy and Crossrail SPG (2013)

76 The Mayor introduced a London-wide community infrastructure levy (CIL) to help implement the London Plan, particularly policies 6.5 and 8.3 on 1 April 2012. It is paid on commencement of applicable new development in Greater London granted planning permission on or after that date. The Mayor's CIL contributes towards the funding of Crossrail.

77 The Mayor has arranged boroughs into three charging bands. The rate for both Hackney and Tower Hamlets is £ 35 per sq.m. (based on gross internal area). The required CIL charge will be confirmed once the components of the development, or phase thereof, have themselves been finalised. Hence the need to ensure that any Crossrail SPG contribution, referred to below is specified in the section 106 agreement.

78 London borough councils are also able to introduce CIL charges which are payable in addition to the Mayor's CIL. The status of the respective Hackney and Tower Hamlets Council CILs is set out below.

79 The site is identified as within the Central London Charging area as set out in the London Plan SPG 'Use of Planning Obligations in the Funding of Crossrail and the Mayoral Community Infrastructure Levy'. This states that contributions should be sought in respect of hotel, office or retail developments which involve a net increase in floorspace of more than 500sqm (Gross Internal Area – GIA). For retail development in the Central London charging area, the charge is £140 per square metre for offices, £90 for retail and £61 for hotels.

Other Mayoral Supplementary Planning Guidance

80 The following published supplementary planning guidance (SPG) is also relevant:

- The City Fringe Opportunity Area Planning Framework (2015)
- Social Infrastructure (2015)
- Accessible London: Achieving an inclusive environment (2014)
- Housing SPG (2016);
- Shaping neighbourhoods: play and informal recreation (2012);
- Character and Context (2014)
- Planning for equality and diversity in London SPG (2007);
- Sustainable design and construction SPG (2014);
- London World Heritage Sites (2012)
- Control of Dust and Emissions during construction and demolition (2014);
- London View Management Framework (2012); and
- Land for Industry and Transport (2012).

81 The following draft SPGs are also relevant:

- Draft Interim Housing (2015)
- Draft Central Activities Zone (2015)

82 The Mayor has personally produced a '2020 Vision - The Greatest City on Earth; Ambitions for London', outlining his aspirations for London and its residents, in terms of economic prosperity and how the challenges of population growth and the need for significantly more housing will be tackled. His ambitions include: securing London as the best place to invest and do business on the planet, building on its financial prowess and investing in tech and med hubs – areas in which London can lead the world; delivering the biggest home-building drive for a generation providing homes that Londoners can afford; opening up Opportunity Areas for homes and jobs, creating new neighbourhoods and tackling social exclusion, and creating vibrant, safe, attractive, green town centres and streets bustling with life and business. Whilst not a statutory planning document, this document highlights the Mayor's priority for creating new jobs, homes, and neighbourhoods, which inevitably bring into focus Central London sites that are in opportunity or intensification areas.

City Fringe Opportunity Area Planning Framework

83 London Plan policy 2.13 identifies London's opportunity areas and sets out how development proposals should support the strategic policy directions set out in Annexe 1 and where relevant, in adopted opportunity area planning framework documents. Annexe 1 sets out the strategic policy direction for the City Fringe (also referred to as City Fringe/ Tech City), stating the Mayor's aspiration to nurture the employment, business and creative potential of the digital-creative sectors and ensure that suitable commercial floorspace, supporting uses and infrastructure is available to meet the needs of the growing cluster. Bishopsgate Goodsyards is identified as an accessible, central site with significant development capacity.

84 In 2015 the Mayor adopted the City Fringe Opportunity Area Planning Framework (OAPF). The document provides a strategic framework for development and sets out a strategic vision and objectives for the opportunity area (OA). The OAPF was produced by the GLA in cooperation with TfL, Hackney, Tower Hamlets and Islington Councils and provides strategic guidance on land use and design principles for the key sites.

85 The Bishopsgate Goodsyards site is identified as a key site within the inner core area and the largest brownfield site within the City Fringe, where demand for workspace is currently highest as the business clusters of the Central Activities Zone, particularly the 'Tech City' digital-creative cluster, continue to expand. As such, development is expected to include a significant commercial floorspace within a mix of other uses, including residential. The City Fringe OAPF takes account of the housing capacity estimates used in the Strategic Housing Land Availability Assessment (SHLAA) and therefore acknowledges the important role the site can play with regards to housing delivery, giving guidance on balancing this with delivery of commercial floorspace. The site is identified as being suitable for tall buildings.

Hackney Council planning policy

86 Hackney Council's adopted Core Strategy (2010) and Development Management Local Plan (2015), provide the local policy approach for the Borough. The relevant policies are:

Hackney Core Strategy (2010)

- CS2 Improved Rail Corridors
- CS3 City Fringe South Shoreditch
- CS6 Transport and Land Use
- CS7 Working with Infrastructure Partners
- CS8 Focussing Social Investment
- CS9 Investing in Education
- CS10 Lifelong Learning

- CS11 Health Investment and Infrastructure
- CS12 Health and Environment
- CS13 Town Centre
- CS15 Evening and Night-Time Economy
- CS16 Employment Opportunities
- CS17 Economic Development
- CS18 Promoting Employment Land
- CS19 Housing Growth
- CS20 Affordable Housing
- CS22 Housing Density
- CS24 Design
- CS25 Historic Environment
- CS26 Open Space Network
- CS27 Biodiversity
- CS29 Resource Efficiency and Reducing Carbon Dioxide Emissions
- CS30 Low Carbon Energy, Renewable Technologies and District Heating
- CS31 Flood risk
- CS32 Waste
- CS33 Promoting Sustainable Development

Development Management Local Plan (2015)

- DM1 High Quality Design
- DM2 Development and Amenity
- DM3 Promoting Health and Wellbeing
- DM4 Communities Infrastructure Levy and Planning Contributions
- DM5 Protection and Delivery of Social and Community Facilities and Places of Worship
- DM7 New Retail Development
- DM8 Small and Independent Shops
- DM11 Evening and Night-time Economy Uses
- DM15 New Business Floorspace
- DM16 Affordable workspace
- DM17 Development proposals in Priority Employment Areas
- DM18 Railway Arches
- DM19 General Approach to New Housing Development
- DM21 Affordable Housing
- DM22 Homes of Different Sizes
- DM28 Managing the Historic Environment
- DM31 Open Space and Living Roofs
- DM35 Landscaping and Tree Management
- DM37 Sustainability Standards for Residential Development
- DM38 Sustainability Standards for Non Residential Development
- DM39 Offsetting
- DM40 Heating and Cooling
- DM41 Contaminated Land
- DM42 Pollution and Water and Air Quality
- DM43 Flooding and Flood Risk
- DM44 Movement Hierarchy
- DM45 Development and Transport
- DM46 Walking and Cycling

- DM47 Parking, Car Free and Car Capped Development

87 Also relevant is the Bishopsgate Goodsyard Interim Planning Guidance referred to above, which was adopted by Hackney and Tower Hamlets Councils in 2010. The following borough supplementary planning documents are also relevant:

- Affordable Housing Supplementary Planning Document (2005)
- Planning Contributions Supplementary Planning Document (2015)
- South Shoreditch Supplementary Planning Document (2006)

Hackney Council Community Infrastructure Levy

88 London borough councils are able to introduce Community Infrastructure Levy (CIL) charges which are payable in addition to the Mayor's CIL. Hackney Council insert council name's draft CIL charging schedule examination hearing took place on 29 October 2014. The Inspector's report on Council's proposed charging was published on 24 December 2014, and was found to be sound. Hackney Council CIL came into effect on 1 April 2015. The Hackney CIL charging schedule identified the Bishopsgate Goodsyard site as being in the Zone A/ City Fringe charging zone and sets a rate of £190 per sq.m. for housing, £50 per sq.m. for offices and £65 sq.m. for retail.

Tower Hamlets Council planning policy

89 Tower Hamlets Council's adopted Core Strategy (2010) and Tower Hamlets Managing Development Document (2013), provide the local policy approach for the Borough. The relevant policies are:

Tower Hamlets Core Strategy (2010)

- CS2 Improved Rail Corridors
- SP01 Refocusing on our town centres
- SP02 Urban living for everyone
- SP03 Creating healthy and liveable neighbourhoods
- SP04 Creating a green and blue grid
- SP05 Dealing with waste
- SP06 Delivering successful employment hubs
- SP07 Improving education and skills
- SP08 Making connected places
- SP09 Creating attractive and safe streets and spaces
- SP10 Creating distinct and durable places
- SP11 Working towards a zero carbon borough
- SP12 Delivering placemaking
- SP13 Planning obligations

Managing Development Document (2013), including site allocations

- DM1 High Quality Design
- DM0 Delivering sustainable development
- DM1 Development within the town centre hierarchy
- DM2 Local shops
- DM3 Delivering homes
- DM4 Housing standards and amenity space
- DM8 Community infrastructure

- DM9 Improving air quality
- DM10 Delivering open space
- DM11 Living buildings and biodiversity
- DM13 Sustainable drainage
- DM14 Managing waste
- DM15 Local job creation and investment
- DM16 Office locations
- DM20 Supporting a sustainable transport network
- DM21 Sustainable transportation of freight
- DM22 Parking
- DM23 Streets and the public realm
- DM24 Place sensitive design
- DM25 Amenity
- DM26 Building heights
- DM27 Heritage and the historic environments
- DM28 World heritage sites
- DM29 Achieving a zero-carbon borough and addressing climate change
- DM30 Contaminated Land

90 Also relevant is the Tower Hamlets Council Revised Draft Planning Obligations SPD (2015)

Tower Hamlets Council Community Infrastructure Levy

91 Tower Hamlets Council's draft CIL charging schedule examination hearing took place on 28 May 2014. The Inspector's report on Council's proposed charging was published on 14 November 2014, and the inspector concluded that several modifications were needed in order to meet the statutory requirements. These modifications included setting a nil rate for all development in Tower Hamlets within certain large allocated sites including the Bishopsgate Goodsyrd site. Tower Hamlets Council subsequently made the required modifications to the CIL charging schedule and the CIL came into effect on 1 April 2015. Accordingly no CIL, is due for that part of the site in Tower Hamlets.

Bishopsgate Goodsyrd Interim Planning Guidance

92 In 2010 the Mayor, Hackney and Tower Hamlets Councils jointly adopted the Bishopsgate Goodsyrd Interim Planning Guidance (BGY IPG). The BGY IPG provides a framework for regeneration of the site and sets out the following key principles:

- Contribute to supporting London's financial and business services
- Strengthen the local economy in Shoreditch and Spitalfields
- Significantly contribute to local housing need
- Provide an exciting place to live, work or visit
- Be a place to be enjoyed by existing and new communities
- Make the best use of excellent public transport access

93 The IPG also sets out how development on the site should connect with the existing surrounding development, the importance of new open spaces, the requirement for sustainable transport and sustainable design, the re-use of historic structures and the need to strengthen local character. In relation to building heights, the IPG highlights that larger scale buildings should be focused around the station with medium scale buildings on the transition to Shoreditch High Street, and towards the centre of the site reducing to a 'street' scale to the

east. The document details design guidelines for the proposals and the importance of local and strategic views. It supports the creation of a park on the Braithwaite Viaduct and identifies that the sites development capacity is 1000-2000 new homes and 75,000 – 150,000 sq.m of non-residential floorspace. It indicated that the land use layout should provide for commercial to the west of the site within Hackney and residential space to the north of the site predominately in Tower Hamlets, with retail at ground floor around the site. It also indicated provision of a new public square, arranged diagonally across the west of the site from Bethnal Green Road to Commercial Street.

94 The IPG has subsequently been used to inform relevant policies and the Bishopsgate Goodsyrd site allocation in Tower Hamlets Council's Core strategy (2010) and Managing Development Document (2013), as well as strategic design principles in the City Fringe OAPF (2015).

95 Policy BG14 considers the implications of proposals involving large-scale buildings on the site and states that *"Tall buildings should be sited carefully to avoid heightened sense of enclosure and so as not to feel overbearing at ground level. The location of tall buildings must not create unacceptable impacts on the amenity of existing or future residents in terms of access to daylight and sunlight. This will be particularly important in terms of the residential character of the area to the north of the goods yard. Tall buildings should not create uncomfortable environmental conditions, for example high wind speeds or long periods of overshadowing for pedestrians at street level and in public open spaces, either adjacent to or within the development site."*

Environmental Impact Assessment

96 Environmental impact assessment (EIA) is a structured process for identifying the likely significant environmental effects of a development. The Town and Country Planning (Environmental Impact Assessment) (England) Regulations, 2011 (the EIA Regulations) set out the relevant procedures. The Development falls within the definition of an "urban development project" as specified in Schedule 2 of the Regulations, and the Site area exceeds the requisite 0.5 ha area threshold. In addition the height and quantum of the development as well as the sensitivity of the surrounding area have been taken into account in determining that an EIA should be carried out. As such an Environmental Statement (ES) has been submitted in support of the Development.

97 Tower Hamlets and Hackney Councils jointly commissioned Land Use Consultants (LUC) to assess the submitted ES in advance of carrying out the necessary public consultation exercise. Following their respective committee meetings in December 2015 the local authorities advised that there remained a number of deficiencies with the submitted ES and as such regulatory compliance was an outstanding issue.

98 This issue was raised with the applicant and GLA officers instructed LUC to liaise with the applicant and their representatives to ensure that all required information was provided. Additional material was subsequently submitted by the applicant in the form of an ES Addendum in January 2016. LUC have since confirmed that the ES Addendum of January 2016 is in compliance with the regulations.

Response to consultation

99 As part of the planning process Hackney Council and Tower Hamlets Council have carried out consultation in respect of this application. The application was publicised by sending notifications to 4,392 (489 Hackney, 3,903 Tower Hamlets) properties in the vicinity of the site, and issuing site and press notices. The consultation also included all relevant statutory bodies. Re-consultation was also undertaken following the receipt of formal amendments to the scheme in July 2015. All consultation responses received in response to Hackney and Tower Hamlets

Council's local consultation process, and any other representations received by Hackney Council and/or the Mayor of London in respect of this application at the time of writing this report, are summarised below. All representations have been made available to the Mayor of London in either electronic or hard copy. This includes responses to an Environmental Impact Assessment Regulation 22 consultation carried out by the Mayor in relation to additional information received subsequent to him recovering the application.

Statutory consultee's responses to Hackney and Tower Hamlets Councils

The Greater London Authority (including Transport for London).

100 The Mayor's consultation stage comments (GLA report references D&P1200cd/01 and D&P1200cd/02) and the Mayor's Stage II decision (GLA report reference D&P1200cd/03) are set out in those reports and summarised in the 'Relevant planning history' section above.

Transport for London

101 TfL commented as part of the stage 1 reporting mentioned above, as well as providing a separate detailed response to both boroughs, setting out issues in relation to car parking, access, trip generation, mode split, highways impact, walking and cycling, cycle hire, buses, London Underground, London Overground, travel planning, legible London signage, Crossrail, CIL and section 106 planning obligations. The detailed consideration of these points is set out in the Transport section, below.

Historic England (HE)

102 On 4 December 2014, English Heritage [EH]– re-structured in April 2015 to become Historic England [HE] (endorsed by the National Planning Casework Unit on behalf of the Secretary of State) authorised Tower Hamlets Council to determine Listed Building Consent application PA/14/2096 as it sees fit.

103 HE subsequently confirmed that the revised plans are broadly satisfactory, and the authorisation dated 4th December 2014 remains valid.

104 Commenting on the initial proposals within the application for planning permission, EH supported the principle of development and the integration of the listed and unlisted heritage assets into the scheme that could result in a wide range of public benefits. However, EH advised that the tall building elements would harm the settings of designated heritage assets in the local and wider area. EH were particularly concerned about the harmful impact on the setting of the Tower of London when viewed from Tower Bridge. EH was not convinced that the harm to the historic environment caused by the proposals has been clearly and convincingly justified as is required by the NPPF (paragraph 132), and also not convinced that all or the even the majority of the benefits can only be delivered through building to the proposed heights.

105 On 30 July 2015 HE commented on the revised proposals. HE welcomes the height reduction, however, believes that the revisions will reduce the degree of harm to the Tower of London but would not remove it.

106 HE advises that the harm caused to the surrounding conservation areas through the abrupt change of scale of the new proposals and the way they would visually dominate the smaller scale local street scene remains an issue. This is despite the reduction in height and changes to the elevations of the tallest elements. HE remains unconvinced that this harm is inevitable and clearly justified.

Historic England (Archeology)

107 The location is on the edge of the Roman and mediaeval city and significant remains from these periods and the early modern London can be expected where impacts from the later railway have been limited. The railway heritage of the site is also important as part of the first rail line into the City and elements of it survive below ground outside the footprint of the listed Braithwaite viaduct.

108 Impacts from a consented scheme would not allow scope for preservation in situ of important remains in the north of the site or south west, where the bulk of the proposed new build would stand. The Environmental Statement proposes that preservation by record is appropriate mitigation. This would result in the physical loss of buried remains connected with the original Shoreditch station as well as evidence of earlier activity.

109 HE remain unclear on how the submitted ES heritage chapters reflect their original scoping advice i.e. that consideration of other methods of mitigation and management be undertaken. However, based on the results of the previous targeted excavation at the site in connection with the Overground line, there is good evidence available to characterise the pre-modern archaeological significance of the site without a need for further investigation in advance of planning determination.

110 Should it be considered that the benefits of the proposals outweigh the harm to the heritage assets at the site, it is recommended that appropriate conditions are applied to secure archaeological evaluation and mitigation, for recording of the industrial structures pre-demolition and for on-site public heritage interpretation.

Historic Royal Palaces (HRP)

111 Commenting on the original proposals, HRP stated that its principal concern was the visual impact that the tall buildings proposed on Plots F and G would cause to the setting of the Tower of London World Heritage Site (WHS). The tops of the proposed towers would be visible above the parapet of the White Tower, between its corner turrets, in the view looking north from the south bastion of Tower Bridge. This view is not within the formal London View Management Framework (LVMF) View 25, but is a key vantage point from which many visitors view the Tower. At present, the silhouette of the White Tower, particularly the clear sky-space between the turrets, is largely unaffected by new buildings. The new towers would impinge on this silhouette and cause a degree of harm to the iconic view and in the opinion of HRP this would harm the setting of the WHS.

112 Commenting on the amended plans, HRP advise that Plot F would still appear above the crenelated parapet of the White Tower, between the two sets of corner turrets, although to a lesser extent than originally proposed. The top of the building on Plot G will be visible through the crenelated parapet to the right. The top of the tallest tower, on Plot C, will appear to the right of the White Tower, above the tree line, in what is currently open sky. The LVMF 2012 guidance for View 10.A1 (the North Bastion upstream) recognises that this is one of the locations where the detail and layers of history of the Tower of London can readily be understood. It states "This understanding and appreciation is enhanced by the free sky space around the White Tower. Where it has been compromised, its visual dominance has been devalued."

113 Tower Bridge is also identified in the Tower of London Local Setting Study 2010 as a key approach to the Tower. The open and impressive views of the Tower from this raised level enable a significant appreciation of the many aspects of the outstanding universal value (OUV) of the Tower and its landmark siting. The study states that any additional tall or bulky buildings around and in the backdrop to the White Tower could further diminish its perceived scale from this vantage point.

114 HRP recognises that the degree of visual harm to the setting of the WHS caused by the tall towers proposed particularly on Plots F and G has been reduced. But, because of the level of harm that remains, continues to object for the reasons set out above.

Thames Water

115 Thames Water provided the following advice:

- *Waste*: Advises that with the information provided they are unable to determine the waste water infrastructure needs of the development. A 'Grampian' condition is requested requiring the approval of a drainage strategy prior to development commencing.
- *Surface Water Drainage*: The developer should make proper provision for drainage to ground, water courses or a suitable sewer. Storm flows should be attenuated or regulated into the receiving public network through on or off site storage. Requests an informative advising that discharging groundwater into a public sewer will require a Groundwater Risk Management Permit from Thames Water.
- *Water supply*: The existing water supply infrastructure has insufficient capacity to meet the demands for the proposed development. Recommends a condition that development should not commence until impact studies of the existing water supply infrastructure have been submitted and approved in writing.
- Requested a condition that no impact piling shall take place until a piling method statement has been approved and an informative advising that there are large water mains adjacent to the proposed development.

Civil Aviation Authority (CAA)

116 The CAA outlined potential issues worthy of consideration including aerodromes, communication and navigations systems, aviation warning lights, crane operations, aviation notification and emergency services helicopter activity.

Natural England

117 No comments. The application does not pose any risk to the natural environment.

Individual objection letters

118 In October 2014 letters were sent by Hackney and Tower Hamlets Councils to 4,392 (489 Hackney, 3,903 Tower Hamlets) properties in the vicinity of the site. Press notices were published in Hackney Today and East End Life. Following amendments to the scheme, a further consultation was carried out in July 2015. At the time of reporting the applications to their respective committees, Hackney Council reported that it had received 516 responses (511 objecting and 5 in support) and Tower Hamlets Council 484. All responses were provided to the GLA subsequent to the Mayor's decision to recover the application and have been made available to the Mayor in advance of the hearing. The main concerns and issues raised in objection responses to the two councils are summarised as follows:

119 *Scale, height and massing*: The large majority of objectors object to the excessive scale, height and massing of the development. The height of the development is dramatically out of scale and with the surrounding area and does not reflect the character of the area. The proposals will harm the setting of the surrounding five conservation areas and their many listed buildings. The site should be used to mediate between the City and the lower buildings of the City Fringe to the north and east. The massing is overwhelming and has no relationship to the adjacent, mainly small, plot sizes and low buildings. The towers are totally out of proportion with the area

of Shoreditch and Bethnal Green. The height and massing should be significantly reduced and the buildings should integrate with existing heights and landmark buildings like the Tea building. The proposals will create a wall of development along the northern edge of the site and appear above and between buildings from street level, destroying the historic hierarchy of scale.

120 *Impact on daylight and sunlight:* As a result of scale, height and massing 43% of the existing surrounding buildings surveyed by the developer's consultants will suffer major loss of sunlight. Most of the residential area to the north, including the Boundary Estate, will be cast into shadow by the towers for many months. A number of objectors live in the effected buildings including Avant Garde tower, also known as the Telford Homes scheme. When added to the other towers consented in the area the cumulative impact is devastating. The proposed green space will be in shadow during the afternoon and evening throughout the summer, making it much less attractive than promised. It will overshadow the roof terrace and pool at Shoreditch House.

121 *Microclimate:* In addition to casting the surrounding area in shadow the development will increase wind. Tall buildings can divert and funnel airflow and increase ground wind-speeds, potentially creating a safety hazard due to the wind tunnel effect.

122 *Overlooking:* Residents of the Avant-Garde building could experience a breach of their human rights under Article 8 of the European Convention on Human Rights and the Human Rights Act 1998- right to privacy due to overlooking.

123 *Design:* The generic tower blocks will appear out of place and do not respond at all to the local character of the surrounding areas. The developers say it will be "a new place with its own distinct scale, identity and character" which is contrary to the adopted Interim Planning Guidance for the site. The Bishopsgate Goodsyards is the site of significant heritage assets and surrounded by conservation areas, yet the proposed design is better suited to Canary Wharf or Hong Kong than Shoreditch and Spitalfields. The quality of the architecture proposed is inferior, commercially driven and insensitive to the character of the general area in terms of overall design, detailing and choice of materials. The new buildings and the design of them are generic, modern, characterless and do not integrate with the surrounding area. Proposed architecture is dull, monolithic and stylistically 'anywhere town'.

124 *Historic Character:* There are seven 'Townscape Character Areas' [areas of distinct architectural identity] outlined by the applicant. The applicant's assessment of these areas sensitivity to change does not reflect their architectural and historic value. The proposals do not preserve or enhance the character and appearance of the adjacent Conservation Areas nor that of the many listed buildings in the surrounding area. The buildings will irreparably destroy the historical and very unique character of Spitalfields through their sheer scale. Spitalfields and the surrounding areas are not, as stated by the applicant, areas with 'moderate sensitivity to change'. They are culturally and historically rich parts of London that deserve to be preserved - and protected from developments of such massive scale. If built the development would transform the quality and character of several Conservation Areas - where the local authorities should ensure that new developments respect and enhance established character. This is particularly the case with the Elder Street Conservation Area where the pair of towers would terminate -in an almost pantomime manner - the prospect along one of London's finest and most atmospheric early 18th century streets.

125 *Demolition of historic structures:* The development would entail the destruction of historic architectural features, including the industrial archaeology of the goods yard. A large amount of 19th-century historic fabric that survives on the site will be demolished, including many of the brick arches and the notable Victorian wall that runs along Commercial Street. Vaults V1-V11 will be destroyed. Our historical buildings and structures must be preserved for posterity.

126 *Affordable Housing:* The level of affordable housing for local families, in boroughs with some of the highest levels of child poverty and deprivation in the country, are seriously deficient. With neighbourhood sales prices regularly at or above £1,000 per square foot, "affordable" housing at 80% of market rate is beyond the reach of virtually all but the luckiest. This project does little to nothing to solve the immediate housing needs of the surrounding area. The small amount of affordable housing - 10% suggested - is unacceptable and nowhere near the Council's requirements.

127 *Employment Space:* The development will not meet the need for affordable workspace and threatens to push out the small-scale independent businesses. There is a need for really affordable and flexible workspaces to support the start ups & local artists. The area needs affordable retail and office spaces for smaller businesses to ensure Shoreditch and Spitalfields remain vibrant and unique. The development will change the business character of the area, which is vitally important for the growth of Tech City and continued regeneration of the area.

128 *Creative Character:* The proposals will seriously damage the character and reputation of the area as a place for the creative, media and tech industries who are drawn to Shoreditch by its unique and intimate character. There is a direct link between the atmosphere of this part of London (which depends on an ensemble of remnants of the past in its built environment) and its value for the economy. Developments such as the one proposed for Bishopsgate Goodyard contribute to the erosion and eventual destruction of this value. This area has also become celebrated for its small scale, vibrant, creative and innovative character which has, in part grown as a result of the unique attraction and character of the neighbourhood with its small scale varied buildings and characterful layout of streets.

129 *Density and Infrastructure:* The number of new residents and commuters that this would bring to the area would obviously change its character. At present there is over demand for GPs, schools and children's services in the area, some of which are even facing closure. There are no plans for additional infrastructure to support this development and respondents are deeply concerned about the impact it will have on long-standing residents.

130 *Public Consultation:* At every meeting attended the concerns brought up by the local community again and again and again were the fears about height, overshadowing and loss of sunlight / daylight. Yet at every summary meeting these concerns were either ignored or shuffled to the bottom of the pack by Soundings and the Joint Venture. It soon became obvious this consultation was a charade that existed purely to tick the right boxes in the planning process and make the false claim that the local community had been listened to. The applications comprises over 600 files. Three weeks is insufficient time to comment.

131 *Community provision:* The application fails to demonstrate any real commensurate commitment to local training and employment opportunities, nor the community facilities required to address the critical social challenges the area faces.

132 *Missed Opportunity:* The site offers developers a unique opportunity to build on an historic site which is the centre of a rejuvenated, vibrant social, residential and commercial hub.

Other borough consultee responses, including residents groups

The Society for the Protection of Ancient Buildings (SPAB)

133 With regards to the consultation process, SPAB consider that that more could have been done (by the applicant) to provide a more manageable series of summary documents and to present the information in a way that a broad range of people (and especially those who are not building professionals) might understand.

134 SPAB advise that they are pleased that the listed buildings on the site are retained and reused along with a number of valuable non-designated heritage assets. Serious concerns remain, however, that a number of tall buildings would be out of scale with the surrounding area and SPAB are worried that these towers will drastically harm the setting of the surrounding five conservation areas, listed buildings and non-designated heritage assets within them. The towers will overwhelm the modestly scaled and finely grained pattern of Commercial Road, Great Eastern Street and Elder Street. The brash unmannerly scale and massing of the towers will overshadow and blight a large number of the neighbouring streets with major impact on important local views and vistas. The proposals will result in substantial harm to the setting of the heritage assets in the immediate vicinity and cause substantial, lasting and irreversible damage to the character and significance of the surrounding conservation areas.

135 Whilst it is accepted that there is a need to allow areas on the fringes of the city to continue to develop for economic and social reasons, any regeneration proposals must respect the existing character of their area rather than arrogantly seeking to impose an entirely new identity upon them, as seems to be the intention according to the Design and Access Statement.

136 In conclusion, SPAB object to this application on the grounds that the proposals will result in substantial harm to the setting of the heritage assets in the immediate vicinity and will also cause substantial, lasting and irreversible damage to the character and significance of the surrounding conservation areas.

The Victorian Society (VS)

137 Detailed criticism was made of the original proposals, with VS strongly objecting on the grounds of substantial harm to the setting of a large number of designated heritage assets, including listed buildings and conservation areas. Views from a number of conservation areas will have the intrusion of very tall buildings, casting shadows utterly changing the context of important areas like the Boundary Estate and Shoreditch and dominate the modestly scaled historic urban landscape. The scale of the development relates to the character of the City, not Shoreditch and Spitalfields. Gross overdevelopment with the design of the tall buildings not of a quality commensurate with the great prominence they would have on the skyline of large parts of London, and failing to adequately respond to the surrounding context.

138 The Society considers the revisions minimal and reiterates previous comments. The Society believes that reduction in height of some of the residential towers is token and has not rendered them appropriate for such a sensitive setting. The Society also believes that the enlargement of the proposals by the addition of a new six storey office block (Plot K) will be of further detriment to the setting of two conservation areas.

Sport England

139 The site currently accommodates a number of temporary 5-a-side football pitches but does not form part of, or constitute, a playing field as defined The Town and Country Planning (Development Management Procedure) Order 2010.

140 Sport England remain unclear as to whether the scheme includes the provision of any onsite formal sports facilities made necessary by the development. Draft s106 Heads of Terms in the submitted Planning Statement set out the levels of financial contributions to local infrastructure and community facilities but sporting provision is not expressly stipulated. NPPF paragraph 204 expects the development to contribute towards the provision of sports facilities (including playing field and pitches) made necessary by the new development. The development will generate a population of 2,515 people. Sport England's Sports Facilities Calculator generates a financial contribution of £1.4 m. Sport England is keen to establish if any s106 monies will be ring-fenced for the provision of formal sports facilities.

London City Airport

141 No safeguarding objection. Should during construction, cranes or scaffolding be required taller than the development, their use must be subject to separate consultation.

East End Preservation Society (EEPS)

142 EEPS wish to register their strong objection to the proposals on the following grounds:

- *Difficulty in assessing applications:* The large volume and structure of the information provided makes it difficult to process and provide meaningful feedback within the time allowed by the consultation period.
- *Heritage impact:* The proposals include demolition of historic structures and new buildings that are of a height, massing and design that is out of scale and do not take into account the character and history of the surrounding area. The new development would cause substantial harm to the following designated heritage assets: the listed entrance and forecourt walls of the Goods Yard; the setting of the Grade II-listed Braithwaite viaduct; the setting of the five surrounding conservation areas (the Brick Lane and Fournier Street Conservation Area, South Shoreditch Conservation Area; Boundary Estate Conservation Area; Redchurch Street Conservation Area and the Elder Street Conservation Area) and the 82 listed buildings that surround the site. Substantial harm will also be caused to some of the undesignated heritage assets on the site.
- *Affordable housing:* The proposals fail to deliver affordable housing on the site. Hackney and Tower Hamlets are two of the London's most densely populated boroughs with combined housing waiting lists of over 40,000 people. Remarkably, the applicant gives no commitment to affordable housing within this scheme (instead stating 10% affordable housing as an aim). This is in conflict with local planning policy and has already been criticised by the Mayor of London in his Stage I assessment.
- *Height and massing:* EEPS accept that the site was identified as a potential location for tall buildings in the Mayor's draft City Fringe Opportunity Area Planning Framework and that the Interim Planning Guidance (Hackney and Tower Hamlet's Councils, 2010) stipulated that the western extremity of the site should be the location for tall buildings. However, a tall building is generally defined as one that is significantly taller than its surroundings. This area is characterised by buildings which are generally no more than 6 storeys but with some warehouses and commercial structures which rise to 8. The proposed towers on site range from 15 to 46 storeys making them grossly out of scale with their immediate surroundings and representing an incursion of the City of London's commercial district into this vulnerable and fragile 'fringe' area.
- *Daylight/ sunlight:* The proposed development would overshadow the surrounding areas and local buildings will have major reductions of sunlight.
- *Character:* The design of the buildings covered by applications for detailed consent fail to relate in any way to the character of the surrounding area. The applicant even states that: 'It will be a new place with its own distinct scale, identity and character; it will not attempt to become a seamless part of the existing neighbourhood.' [Design and Access Statement, Volume 1]

143 In conclusion, the Goods Yard should be seen as an opportunity to reunite the surrounding areas with an exemplary development that is sensitive and contextual; worthy of the area that surrounds it. What is proposed will effectively undermine the fabric of this characterful and creative area and blight the surrounding conservation areas. The popularity and interest of Spitalfields and Shoreditch which is now so commercially attractive to property developers

depends upon the flexible historic fabric and intimate urban spaces that lend themselves to reinvention – something the IPG attempts to capture. The subtle approach needed is totally absent in this vast, intrusive and alien development.

JAGO action group

144 JAGO aims to promote the interest of local residents and workers, and encompasses Old Nichol Street (south side), Shoreditch High Street (east side), Swanfield Street (west side), Brick Lane and Sclater Street (north side). JAGO object to the scheme on the following grounds:

- *Height and massing:* The height and bulk of the buildings proposed on Bethnal Green Road will cause significant harm to the Redchurch Street Conservation Area and the setting of the grade II listed building on the corner of Bethnal Green Road and Club Row, the former Knave of Clubs Pub.
- *Affordable housing:* The applicants propose a level of only 10% affordable housing for local families, in boroughs with some of the highest levels of child poverty and deprivation in the country. The development at Principal Place is being marketed overseas with one bedroom apartments starting from £778,000. This is not housing for Londoners.
- *Heritage impact:* The Goodsyard is a site of significant heritage assets and is surrounded by conservation areas. The proposed design of the buildings, particularly those along Bethnal Green Road, is completely antithetical to the character of the Redchurch Street Conservation Area in particular and Shoreditch in general and would be more appropriate in Canary Wharf.
- *Daylight/ sunlight:* The height and massing of the proposed building need to be significantly reduced so as not to cast the area to the north into darkness. We understand that residents to the north of the site are set to lose up to 46% of their current sunlight, and this level of loss totally unacceptable to our membership.
- *Employment:* The culture of the area is strongly linked to its economy, and this is what has made it become so attractive to visitors and workers alike. Shoreditch is of international renown now, and the continuation of its economy and culture are vital. The current proposals for workspace do not meet the needs for existing businesses and are more aimed at the corporate sector, which will fundamentally change the economy and culture of the area to something more akin to Canary Wharf of the City.

London and Middlesex Archaeology Society Historic Buildings & Conservation Committee (LAMAS)

145 LAMAS Initially considered the following should be resolved before the development can be properly considered and the lack of such information makes the proposals objectionable:

- *Height and massing:* A clear statement of Tall Buildings Policy is required to justify the proposed buildings in terms of the overall grouping of high buildings in and to the north of the City; and the impact on designated and non-designated assets on and around the site. There should be a firm commitment to a Masterplan and any positive enhancements that may flow from that. The current Outline Applications do not guarantee such commitment. There should also be a statement in relation to existing Conservation Areas preventing further high building proposals thus avoiding the “creep” giving some definition to the nebulous concept of an eastern fringe area.

146 LAMAS subsequently advise that the amendments do not affect their comments given in relation to the original proposals, and their objections remain.

Open Shoreditch (OS)

147 Open Shoreditch object on the following grounds:

- *Employment*: It is considered that the current applications lack sufficient affordable and flexible workspaces for technology businesses and start-ups. The redevelopment should provide affordable retail and office spaces for smaller businesses with small and more flexible floorplates. The large floorplates currently proposed will only serve the interests of high street multiples or large corporations. The applications also fail to demonstrate any real commitment to local training and employment.
- *Affordable housing*: The applicant proposes a level of only 10% affordable housing for local families, in boroughs with some of the highest levels of child poverty and deprivation in the country. The tower blocks on the south west corner of the site will no doubt sell for prices well beyond the reach of almost all residents of the Boroughs.
- *Height/ massing/ Heritage impact*: The Goods Yard is a site of significant heritage assets and surrounded by conservation areas, yet the proposed design is better suited to Canary Wharf than Shoreditch and Spitalfields. The applications require a significant rethink and dramatic improvements in the quality and diversity of the proposed architecture, which is currently dull, monolithic and stylistically bereft of any acknowledgment of the local context and identity of the area.
- *Daylight/ Sunlight*: The height and massing need to be significantly reduced so as not to blight adjacent streets and homes in shadow and darkness. The building envelope should integrate better with context and existing heights of current landmark buildings such as the Tea Building. The major community benefit, the park, will be cast in shadow by the proposed developments.
- *Layout*: A second east -west pedestrian link from Braithwaite Street to Brick Lane was specified in the IPG for the site but not delivered by the current scheme. This is desirable so as to create a mix of large and small retail spaces, facilitate pedestrian movement around the site and open the historic Braithwaite arches to the public and realise their maximum potential.

148 OS support the principle of development and regeneration and continue to believe that high density development of the Goodsyard is both necessary and desirable but this does not warrant the height and massing for which the applicants argue. The proposals represent the worst type of exploitative development, shaped by short-term economics and lacking a long-term vision for Shoreditch and Spitalfields. The Goodsyard is too precious a regeneration opportunity to be wasted in this way.

SAVE Britain's Heritage (SBH)

149 SBH strongly object to the submitted proposals for the redevelopment of Bishopsgate Goodsyard on the following grounds:

- *Impact on heritage assets*: The proposals will cause substantial harm to the surrounding heritage assets, including the Grade II listed structures in the development site, the many listed buildings in the surrounding streets and areas, and the five surrounding conservation areas (South Shoreditch, Redchurch, Boundary Estate, Brick Lane and Fournier Street and Elder Street).
- *Height, scale and design*: The height of the proposed buildings, which include 48, 46, 34 and 30-storey towers, is dramatically out scale with the surrounding areas. The

Shoreditch/Spitalfields areas are predominantly low rise in scale, and the proposed buildings would set an extremely negative precedent for high rise buildings. The design of the proposed buildings does not reflect the character of the surrounding areas, and would create an unhappy contrast between the existing buildings and those proposed. This would be to the detriment of the conservation areas.

- *Skyline*: The proposals will have dramatic consequences for the London skyline, and the impact of the towers will be felt across east London, and by no means be isolated to the immediate locality. This is a major concern and needs to be given full and serious consideration.

150 SBH therefore request that the application is refused planning permission. Should it be approved SBH would urge the Secretary of State to call in the applications for public inquiry, in order that these concerns, shared by many parties, can be fully aired in an open forum.

The Spitalfields Society

151 The Society raised objections to the initial scheme on grounds of failure to preserve or enhance the character and appearance of the adjacent Conservation Areas, the setting of listed buildings, character of the area, overshadowing, increased sense of enclosure, loss of natural light, height, massing, loss of historic fabric, disregard for retained historic fabric, damage to present business uses, insufficient employment space, wrong sort of housing with 10% affordable housing drastically below the 50% required, wrong sort of retail accommodation, architectural style, details and materials, inadequate vehicular access and road connections.

152 Following consideration of the July 2015 amendments to the proposals, the Society confirms the following objections:

- *Height and Overshadowing*: The lowering of the residential towers has largely been achieved by lowering the floor to ceiling heights in the flats. This has little beneficial effect on the loss of light and dramatic overshadowing of the Redchurch Street Conservation Area and the Boundary Estate caused by the towers along Bethnal Green Road.
- *Poor quality accommodation*: The reduction in floor to ceiling heights is at the expense quality of accommodation. The towers should be reduced in height by a dramatic reduction in the number of storeys.
- *Overshadowing of the proposed park*: Reiterates objection.
- *Lack of affordable housing*: The amendments have reduced both the amount of housing and the amount of affordable housing. It is beyond comprehension and unreasonable that the redevelopment of land in the ownership of a publically funded institution should fail to provide at least the level of affordable housing required by the local authority.
- *Poor connectivity*: For two years the developer's claim that it is not viable to build over the railway to improve the connectivity with the City has been shown false with a proposal to do exactly that, except that the space is entirely filled with a new office block that blocks any attempt to enhance connectivity to the south.
- *Additional site and building proposal*: Objects to Plot K being added to the application. It should be the subject of a separate planning application following proper consultation that recognises its different circumstances outside the main Goods Yard.
- *Wrong sort of office space*: Objection maintained. The office space has been increased by about 13,000 sq.m. Despite the developers claim to be designing to suit SME's, the floor

plates are designed to be assembled to suit corporate users that would destroy the character and reputation of the area.

- *Massive overdevelopment*: Objection maintained. The net result of the amendments is that the floor area of the development has actually been increased.
- *Lack of public access*: The applicant makes much about the proposed public open space on top of the Braithwaite arches in return for granting approval for the wall of towers along the Bethnal Green Road. The space already exists in public ownership but access has been denied by the owner who has neglected the upkeep of this space and the listed arches below.

153 The Society considers this the most poorly conceived and damaging development it has ever reviewed. Amendments have not resolved earlier objections. The scheme promises to undermine many aspects of the area, historic, social, cultural and commercial that local residents, the working community and the many visitors love and value. A vital part of the East End is being stolen by a brutal scheme, to provide luxury flats for investors that will lie vacant forever, casting a dead shadow over once vibrant Shoreditch.

154 The site, understood to be owned by a publically funded body, should contribute to solving the area's housing shortage and provide significant public, social and cultural facilities, or at least a school. The developer likens the scheme to the Barbican but it lacks a theatre, library, concert hall, school, architecture, defensible space, and sense of a place that might generate a community. The site should be the subject of a properly consulted masterplan by the two authorities working in partnership.

Friends of Arnold Circus (FAC)

155 FAC welcomes regeneration of a plot that has stood stagnant and unloved for too long but considers it paramount that development takes account of the wider area and the implications for loved local assets such as Arnold Circus and communities such as the Boundary Estate. Their main concerns are:

- *Height and massing/ character/ heritage impact*: The height of the development could fundamentally change the character of the local area, paying little regard for its historic and architectural significance not least the Boundary Estate and Arnold Circus bandstand.
- *Daylight/ sunlight*: Arnold Circus is surrounded by the low-rise Boundary Estate and enjoys a largely uninterrupted skyline and significant natural light. The Goods Yard development to the south threatens to cast it in perpetual shadow and be hugely negative for the historic bandstand and the communities that use it daily.
- *Affordable housing*: The provision of 10% affordable housing in "landmark" development pays little heed to and risks ignoring the acute social housing shortage in the area.

Other organisations that did not respond to the consultation

156 Hackney and Tower Hamlets Councils also formally consulted UNESCO, Metropolitan Police Crime Prevention Officer, Tower Hill improvement trust, BBC- Reception advice, Ancient Monuments Society, Tower Hamlets Primary Care Trust, Georgian Group, Environment Agency, 20th Century Society, National Grid and EDF Energy Networks Limited. However, to date comments on the application from these parties have not been received.

Representations made to the Mayor of London

157 Re-consultation exercise: The Mayor took over the planning applications in September 2015. Since that time, as set out in paragraph 98, a re-consultation exercise took place in January 2016 in relation to the Environmental Statement Addendum that was submitted in January 2016. Letters sent to all those consulted by the Councils when the applications were first submitted, in addition to all those who had responded to the planning applications thus far. This consultation was undertaken by the Councils on behalf of the Mayor. A press notice was posted in both Hackney Today and East End News, and site notices erected. Notices and links to the new information were also placed on the GLA, Hackney Council and Tower Hamlets websites.

158 Responses The Mayor and/or GLA officers have received 645 emails or letters as a result of the consultation exercise. 572 of these were from objectors and 73 from supporters. The majority of the objections reiterate concerns raised with the Councils at the initial consultation stage, as detailed above in relation to: Overdevelopment/ scheme too dense; Insufficient community/ social infrastructure provision; Height, scale and massing out of context with the area; Poor quality architecture; Demolition of historic fabric/ impact on listed buildings/ conservation areas/ other heritage assets; Impact on the character of the area; Overlooking; Skyline impact and the lack of consideration of the cumulative impact alongside nearby consents; Sense of enclosure; Overshadowing; Daylight/ Sunlight; Microclimate impact/ wind tunnelling; Employment, insufficient/ wrong sort of office space for Tech City; Wrong sort of retail provision; Damage to existing businesses; Transport concerns, safeguarding of future infrastructure and traffic impact; Poor quality accommodation; Lack of affordable housing; Viability concerns; Poor connectivity. These responses have been made available to the Mayor for viewing.

159 Other issues: In relation to the ES Addendum submitted in January, concerns have been raised about the fact that the assessment, particularly in relation to daylight/ sunlight impacts, has not accounted for recently approved, but not yet implemented developments. Respondents consider this an important omission and request that all relevant impact assessment exercises be carried out again and the ES updated and consulted upon accordingly before the application is determined.

160 Concerns have been raised about the applicant's consultation process, which informed the application proposals. Respondents contend that this was flawed and consider the submitted Statement of Community Involvement to be disingenuous and misrepresentative of the process.

161 Several objections raise concerns about the Mayor taking over the applications, and that they should have been left with the Councils to determine. This is not considered to be material at this stage. Others raise concerns about the potential for Network Rail to sell the site with a price that would allow for higher levels of affordable housing. Other than in the context of affordable housing viability, which is addressed below, the issue of Network Rail's approach to site price is also not considered material.

162 Other correspondence: In addition, the Mayor has received approximately 10 emails or letters since September 2014, which include reiteration of objections to the scheme, and requesting that he reconsider his decision to take over the applications.

163 Rushanara Ali, MP for Bethnal Green and Bow: The local MP has written to the Mayor occasions expressing concerns that she shares with local residents about the application. In particular, concerns have been raised about the Mayor's decision to take over the planning applications, and that this should have been left with the Councils. In relation to this point support is expressed for local MPs, Mayors and Councillors who oppose the development.

164 The letter also refers to: The height of the development being out of scale with the surrounding area; Harm to the settings of adjacent conservation areas and listed buildings;

Demolition of historic fabric including the brick wall that runs along Commercial Street; The serious lack of affordable housing.

165 Jennette Arnold OBE, London Assembly Member for Hackney, Islington and Waltham Forest: The assembly member writes to express disappointment at the decision to take over the determination of the planning application and urges that the Mayor respect the will of the local councils and to refuse planning permission. It is contended that the arguments brought forward by the developer in order to support their call in request were not substantiated by the evidence provided, in particular in relation to the submitted Environmental Statement.

166 The opportunity for regeneration, the historical value and suitability for high-density development are acknowledged, however, it is felt that the applicant's proposals do not represent the best approach to developing the site. The shockingly low level of affordable housing provision offered by the proposal highlights its failure to represent good development.

167 Specifically issues are raised in relation to affordable housing, lack of transparency within the viability assessment, the land use mix and level of employment space, quality of the architecture (particularly in the tallest elements), height, scale and impact on local character.

168 Councillor John Pierce and Councillor Abdul Mukit MBE, Tower Hamlets Council Councillors for Weavers Ward: The local councillors have written to the Mayor to express their support for the Tower Hamlets Council resolution to refuse planning permission (should the Council have remained the determining authority) and object to the proposals on the grounds of impact on heritage and townscape; affordable housing; housing mix and choice; residential amenity and site design principles.

169 Councillor Patrick Streeter, City Corporation Councillor for Bishopsgate Ward: The local councillor has written to the Mayor to express his objection to the proposals on the grounds of design and impact on heritage assets and the historic environment.

170 The Spitalfields Trust: The trust reiterate their objection to the development on the grounds of height and massing being out of scale with the local area; Demolition of historic fabric including railway arches and the perimeter wall; Impact on townscape, neighbouring conservation areas and listed buildings; Overshadowing; Poor quality design and architecture;

171 More Light More Power: The More Light More Power Campaign Group is a coalition representing The Spitalfields Society, The Hackney Society; Shoreditch Community Association; Open Shoreditch; East Shoreditch Neighbourhood Planning Forum; JAGO Action Group; Friends of Arnold Circus, The Jesus Hospital Estate Residents Association and the East End Trades Guild. More Light More Power (MLMP) have commissioned an independent review of the proposal's daylight/ sunlight impact and submitted this to GLA officers. This is referred to in the Neighbourhood Amenity section of this report. MLMP have also written to reiterate their objections to the proposals and raise issue with the applicant's Statement of Community Involvement and the consultation process it describes.

172 These responses have been made available to the Mayor for viewing.

Petitions

173 An online petition with 10,798 names was submitted by the More Light More Power campaign group, via Change.Org, on 16 February 2016. The petition recognises the Bishopsgate Goodyard as one of London's most unique and challenging development sites, and supports development, but only if it actually enhances the physical and social environment. The signatories therefore object to the proposals and call for the Mayor to refuse the scheme on the grounds that they do not address the fundamental faults of the scheme including:

- Inappropriately tall buildings of up to 46 storeys that will block the sun from hundreds of homes in a wide area to the north.
- failure to address a critical need for affordable housing for rent, or employment and training opportunities for local people
- Inadequate proposals for ensuring workspace is affordable for local small businesses and start-ups
- failure to provide proper community benefits
- lack of respect of the many heritage assets of the site as well as the existing culture and community of the Shoreditch, Spitalfields and Brick Lane areas
- The dull, corporate, high-rise architecture that disastrously conflicts with and clearly harms the adjacent low-rise Conservation Areas.
- The updated proposals (following submission of the amended scheme in June 2015) are a bitter disappointment and considered a token gesture towards addressing community concerns.

174 A petition with the names of the owners of 136 local businesses was submitted by the East End Trades Guild on 24 February 2016. The petitions signatories contend that the current proposals would do irreversible damage to one of London's most distinctive neighbourhoods by:

- Providing tall buildings in a bland international style on a scale that would overwhelm the character of the area
- Providing accommodation for major office occupiers and chain retailing
- Not providing sufficient affordable workspace for tech and creative sectors to flourish and innovate.
- Providing predominantly luxury apartments, with only a small percentage of affordable housing

175 A petition with 49 signatures was submitted by the Hackney Citizens group on 26 February 2016. The petitions signatories request that the proposals deliver 50% genuinely affordable housing and living wage employment for local people.

176 The petitions have been provided to GLA officers and made available to the Mayor in advance of the hearing.

Meetings with objectors

177 On 12 February 2016 GLA officers met with representatives of More Light More Power. The meeting lasted two hours and the discussion allowed GLA officers to better understand objections.

178 On 26 February 2016 GLA officers met with representatives of Hackney Citizens. The group explained that they were keen to see redevelopment of the site, but that this needed to address local issues. Their two main areas of concern are affordable housing and employment. The meeting lasted an hour and the discussion allowed GLA officers to better understand their objections.

Letters of support

179 As mentioned above, the Mayor has received 73 letters and emails of support for the application. Material grounds of support may be summarised as follows:

- The scheme is consistent with the area's regeneration and improvement.
- The scheme offers new community facilities and social infrastructure
- The mix of land uses is appropriate and positive for the area
- The proposals would bring job opportunities and training for local people through the apprenticeships
- The provision of the park, new routes and new squares is welcome
- The development would bring new investment to the area
- The proposals offer new workspace that is vital for local SMEs and the development of Tech City
- The local economy and existing businesses would benefit from the additional residents and workers the scheme would bring
- The design and architecture is considered to be good
- The proposals provide new housing and some affordable housing
- The proposals would restore heritage assets and enable the public to access the site
- The scheme provides cycling facilities and other sustainable transport benefits
- The applicant's public consultation process was good
- The height and massing strategy has responded well to long distance views of St. Paul's Cathedral

Borough communications

180 To be confirmed in addendum report.

Representations summary

181 All of the representations received in respect of this application have been made available to the Mayor in printed form however, in the interests of conciseness, and for the ease of reference, the issues raised have been summarised in this report as detailed above.

182 The issues raised by the consultation responses, and the various other representations received, are addressed within the material planning considerations section of this report, and, where appropriate, through the proposed planning conditions, planning obligations and/or informatives outlined in the recommendation section of this report.

Material planning considerations

183 Having regard to the facts of the case; relevant planning policy at the national, regional and local levels; and, the consultation responses and representations received, the principal planning issues raised by the application that the Mayor must consider are:

- Land use principle ;
- Employment;
- Other non-residential uses
- Housing (including affordable housing, residential standards and density);
- Public open space;
- Design (including urban design and the historic environment);
- Inclusive design;
- Strategic views;
- Heritage;

- Climate Change and sustainability;
- Air quality;
- Neighbourhood amenity (including daylight and sunlight, overshadowing, visual amenity, privacy/overlooking; noise; and, wind);
- Environmental issues (including contaminated land, flood risk, biodiversity and microclimate);
- Transport;
- Other issues arising from neighbourhood consultation; and,
- Mitigating the impact of development through planning obligations.

184 These issues are considered within the sections which follow.

Land use principle

Regional policy

185 The size and location of the Goodsyard site means that it is of strategic importance to London. As such it is expected to deliver significant development and play an important role in the ongoing regeneration of this part of inner east London. London Plan Policy 2.13 ‘Opportunity Areas’ (OAs) states that development proposals within the OAs should:

- Support the strategic policy directions for OAs;
- Seek to optimise residential and non-residential densities and where appropriate contain a mix of uses;
- Contribute towards meeting (or where appropriate, exceeding) the minimum guidelines for housing and/or employment capacity; and
- Support wider regeneration (including in particular improvements to environmental quality) and integrate development proposals to the surrounding areas.

186 Bishopsgate Good Yard is located within the ‘City Fringe Opportunity Area’ (OA) identified at Map 2.4 page 79 of the London Plan. The City Fringe Opportunity Area Planning Framework (OAPF) was adopted in 2015 and identified the Opportunity Area as having capacity for 53,000 new jobs and 15,000 new homes.

187 London Plan Policy 3.7 ‘Large residential developments’ encourages schemes of over 500 units and associated complementary non-residential uses in areas of high public transport accessibility such as Shoreditch.

188 The western end of the site is located within a Priority Employment Area, as designated by Hackney Council’s DMLP proposals map, and is within the area covered by the South Shoreditch Supplementary Planning Document (SSSPD). The site is also identified as Site Allocation 108 in the Hackney Site Allocation Local Plan document, where it is identified as a major development opportunity capable of delivering employment-led (on that part within Hackney) mixed-use development with supporting uses including residential, retail and public open space.

189 Tower Hamlet’s Core Strategy Programme of Delivery identifies Bishopsgate Goods Yard as a comprehensive regeneration area subject to the BGY IPG. The IPG envisages the regeneration of the Goods Yard could deliver:

- 350,000 sq. m. of total development;

- Up to 2,000 homes including affordable housing;
- Approximately 75,000 – 150,000 sq. m. of non-residential floor space;
- Approximately 1.8 hectares of publicly accessible open space.

190 Tower Hamlets MDD provides Site Allocations. The Bishopsgate Goods Yard site is Site Allocation 1, identified for a comprehensive mixed-use development to provide a strategic housing development, a local park, an Idea Store, commercial floor space and other compatible uses.

191 Using the maximum parameters for the outline elements within Plots D and E, and the detailed proposals for Plots C, F and G, the residential component across the site would comprise 165,928 sq. m. and provide up to 1,356 residential units. This is welcomed in principle and considered consistent with the development plan and the BGY IPG.

192 The application also proposes up to 124,075 sq. m. of non-residential, employment generating, land uses. This includes up to 81,127 sq. m. of B1 business space on Plots A, B and K and up to 20,937 sq. m. of retail, financial and professional services, restaurants and cafes and hot food takeaways (Use Classes A1, A2, A3 and A5) spread throughout the development except for Plot I at park level.

193 The majority of the retail floor space would be located within LBTH (up to 13,521 sq. m. GEA), with a smaller proportion within LBH (up to 7,416 sq. m GEA). The site abuts the Brick Lane District Centre and the retail floor space is intended to create a retail hub at ground level within London Road along the Braithwaite Viaduct and the open spaces leading from Brick Lane to create active frontages.

194 Shoreditch has an identified deficiency of public open space, green space and play space. Overall, the scheme would provide 22,642 sq. m. (2.26 ha) of landscaped public open space. This is greater than that required by the IPG and would comprise:

- 9,767 sq. m. (0.97 ha) raised public park which would sit on the Braithwaite Viaduct above the existing brick railway arches.
- 12,875 sq. m. (1.28 ha) landscaped ground floor public realm.

195 The scheme also proposes a maximum of 553 sq. m. (GEA) Class D1 use (Non-residential institution) which would be provided either in Plot H, Plot D or Plot E to provide a community centre and / or a GP surgery. A maximum of 689 sq. m. (GEA) of Class D2 (Assembly and Leisure) is proposed within Plots D or E within LBTH. The proposals also include the provision of public conveniences within Plots D or E. The total floor space proposed is 286,420 sq. m. GEA across both boroughs and is broadly considered consistent with the BGY IPG guidance. Overall, the proposed land uses are broadly compliant with the development plan, the City Fringe OAPF and the BGY IPG. The balance of the land-use mix is, however, of paramount importance in this key part of London. This is given further consideration below.

Employment use

National policy

196 The NPPF states that the government is committed to building a strong, competitive economy and provides that significant weight should be placed on the need to support economic growth through the planning system. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

Regional and local policy

197 The London Plan contains various policies (in particular 2.10, 2.11, 4.2 and 4.3) which aim to sustain and develop London's business function and ensure sufficient capacity to meet business needs. The application site is within the Central Activities Zone (CAZ). The CAZ is London's globally iconic core and one of the world's most attractive and competitive business locations. London Plan Policy 2.10 seeks to sustain and support the function of the CAZ as a strategically important and globally orientated business location. The CAZ SPG was published in March 2016 and provides guidance on the implementation of the relevant London Plan policies.

198 London Plan Policy 4.1 'Developing London's Economy' promotes the availability of sufficient and suitable workspaces for larger employers and small and medium sized enterprises. Policy 4.2 'Offices' supports the management and mixed use development of office provision. Policy 4.3 'Mixed use development and offices' requires the development of office provision not to be strategically constrained with provision made for a range of occupiers and to include a mix of uses including housing.

199 The site is also located within the City Fringe Opportunity Area, as identified in London Plan Policy 2.13. London Plan Table A1.1 states that the City Fringe Opportunity Area provides particular scope to become a business hub of major international significance and should nurture the employment, business and creative potential of the digital-creative sectors while ensuring supporting the provision of suitable levels of commercial floor space, supporting uses and related infrastructure to meet the needs of this growing cluster.

200 The City Fringe Opportunity Area Planning Framework (OAPF) was adopted in 2015 and identified the Opportunity Area as having capacity for 53,000 new jobs and 15,000 new homes. The Bishopsgate Goodsyards site is a key strategic site within the City Fringe. The City Fringe OAPF identifies the site as being within the 'inner core growth area' of the City Fringe. The inner core is where demand for employment floorspace is currently highest and this is expected to continue. As such this is where proposals for employment floorspace will be encouraged and supported.

201 Shoreditch and the surrounding area are home to a growing number of the digital-creative businesses that inspired the Government's 'Tech City' initiative. In planning terms Tech City is the area identified as the inner core growth area in the City Fringe OAPF and this area was granted exemption from the Government's office to residential change of use permitted development right in 2013 in recognition of its nationally significant economic importance.

202 The part of the site within Hackney is within a Preferred Employment Area (PEA), as designated in the Hackney Local Plan. The approach of the City Fringe OAPF broadly reflects Hackney planning policies related to the PEA. DMLP Policy DM17 states that B1, B2 and B8 uses are appropriate uses within PEAs.

203 Tower Hamlets Core Strategy Policy SP06 'Delivering successful employment hubs' supports the delivery of a range and mix of employment uses throughout the borough. In particular there is an emphasis on promoting and encouraging the delivery of flexible work spaces in town centres. MDD Policy DM1 reiterates that approach. MDD Policy DM15 states that new development of employment floorspace will need to provide a range of flexible units to meet the needs of SMEs.

Hackney Council comments

204 Hackney Council have expressed the view that other uses such as retail and residential uses are considered acceptable in that part of the site designated as PEA provided that they are part of an employment led mix, where the majority of floorspace is in commercial use. However, if the balance of residential or retail floorspace, or even C1 and D1 uses, exceeds the amount of

employment floorspace (generally B class floorspace) then Hackney Council consider that the PEAs may be undermined.

205 As originally submitted the scheme proposed a maximum of 55,200 sqm (GEA) and minimum of 41,156 sqm (GEA) of B1 Class floorspace. In an attempt to address Hackney's concerns about employment floorspace provision the amended scheme proposes an increase in B1 floorspace to a maximum of 81,127 sqm (GEA) and minimum of 58,714 sqm (GEA). This increase is principally accounted for by the addition of the building on Plot K.

206 Within the Hackney part of the site (and therefore the PEA) the amended proposals would provide a maximum total floorspace of 149,352 sqm (GEA) and a minimum of 128,477 sqm (GEA). In either scenario the amount of residential floorspace would remain constant at 69,077 (GEA) sqm.

207 The total floorspace within the PEA includes 3,763 sqm (GEA) of basement floorspace in the min and max scenarios which includes an energy centre, other plant, residential cycle storage and basement to buildings A & B. It is considered that this space can broadly be split between residential and employment space. The total floorspace also includes 8,096 sqm (GEA) of other floorspace which is described as including service corridors, loading bays and plant space (excludes basement). Hackney Council assess that as it is unclear where this space is located and what use it relates to, this space can also be split between the residential and employment space.

208 The total floorspace within the PEA includes a maximum of 7,416 sqm (GEA) and a minimum of 2,780 sqm (GEA) A Class floorspace. The submitted outline drawings indicate that the ground floors of Buildings A, B & K would be flexible business and/or retail (Classes B1/A1-A3), although the Development Specification does not refer to this flexible use allocation. Nevertheless, the tables within the Development Specification indicate that the minimum retail scenario would only arise if Buildings A, B and K were in entirely B Class use.

209 The maximum amount of B1 floorspace would be 61,000 sqm (GEA), and the minimum would be 43,903 sqm (GEA). In the maximum scenario, having regard to basement and other floorspace as outlined above, employment floorspace would be equivalent to 44.8% of the total floorspace. In the minimum scenario, having regard to basement and other floorspace as outlined above, employment floorspace would be equivalent to 38.8% of total floorspace. In both the maximum and minimum scenarios Hackney Council consider that the proposed development within the PEA does not represent an employment-led development.

210 A viability assessment has been submitted in support of the application to justify the level of affordable housing proposed. In December Hackney Council reported that the submitted viability assessment was not considered to be a robust assessment of the scheme viability. Moreover the viability assessment does not assess the impact that a higher proportion of commercial floorspace would have on overall scheme viability. As such it was considered that the application does not demonstrate that the proposed development provides the maximum economically viable amount of employment floorspace in line with DMLP Policy DM14.

211 The proposed employment floorspace is provided within the outline components and it appears that the maximum amount would only be provided if buildings A, B and K are built to the maximum height and envelope within the submitted Parameter Plans and Design Guidelines. Hackney expressed concerns related to the height and massing of buildings A & B, and therefore anticipated that building out to the maximum amount of employment floorspace would exacerbate the impact of these buildings.

212 The maximum amount of employment floorspace would also only be provided if buildings A, B and K were entirely in B Class use. Hackney Council considered this scenario

unlikely as some ground floor retail is desirable to provide an active frontage to the street and public realm.

213 The construction of building K represents a significant technical challenge as it spans the open railway cutting. Hackney Council reported that originally the applicant had cited these technical challenges as reasons for not spanning the open cutting as set out in the BGY IPG. The proposed phasing plan places Plot K at the end of the programme behind higher value residential components. Hackney are therefore concerned that Plot K might not be delivered and as a result the amount of employment floorspace would be significantly reduced.

214 In summary Hackney considered that the proposed development could not be considered to be employment led and that the application has failed to demonstrate that the maximum economically feasible amount of employment floorspace would be provided. It was also considered likely that amount of employment floorspace provided by the development would be at the lower end of the minimum and maximum range. Overall it was considered that the proposed development did not provide sufficient employment floorspace to meet demand and support the areas strategic business function. The residential led mix of uses was considered likely to undermine that business function and threaten the expansion of Tech City and continued business growth in the City Fringe. GLA officer views are provided below.

Tower Hamlets Council comments

215 Whilst advising that the principle of employment use in this location is policy compliant and consistent with the BGY IPG, Tower Hamlets consider that the proposed B1 floor space does not fully accord with MDD Policy DM15 (3) in that it does not specify the number of flexible units or amount of employment floor space that will be designed to meet the needs of SMEs.

216 The applicant has stated that, in the first instance the proposed marketing strategy is to secure a pre-let of approximately 14,000 sq. m. which is required to fund the scheme. Once this has been achieved and it is clear what space remains, a leasing strategy for the remaining floors can be established. Whilst the need for viability is recognised, Tower Hamlets are concerned that there is an absence of detail on how and specifically where units meeting the SME requirements of Policy DM15 (3) will be provided. Equally, whilst it is appreciated that elements of the application are in outline, parameter guidance on SME provision, differentiated from overall B1 provision, has not been provided.

217 Tower Hamlets Council consider that the proposal complies with the first part of BGY IPG (BG18) which states that the western end of the site would be the most appropriate part of the site for larger scale office buildings. However, the second part stipulates that flexible accommodation of a size suitable for small to medium businesses should be promoted across the site it is felt that this has not been adequately demonstrated.

Analysis

218 GLA officers have taken a 'whole site' approach to the assessment of this application, as it would seem irrational to consider the merits of that portion on the Hackney side in isolation from that on the Tower Hamlets side. In that context and having regard to the City Fringe OAPF and the BGY IPG the development as a whole is expected to deliver a significant quantum of employment floorspace as well as other public benefits, principally new housing (including affordable housing), public open space, retail floorspace and heritage improvements whilst dealing with significant site constraints.

219 The overall public benefits package has now been thoroughly tested for viability (see affordable housing section of this report) and it has been confirmed by Gerard Eve that the current offer, equating to 15.8% affordable housing by unit, does represent the maximum

reasonable amount of affordable housing within a land-use mix which broadly represents that required within the BGY IPG.

220 The applicant states that the current proposals will generate around 494 net construction jobs and could support around 6,000 jobs once the development is fully operational. This represents a significant potential boost to the local and regional economy and the addition of Plot K has been a welcome response to Hackney's concerns over the level of employment floorspace. The development also proposes plots A and B as purely employment use within the PEA, albeit with potential for retail uses at ground floor which are in any case accepted as being beneficial in place making terms.

221 The two towers of Plots F and G sit within the background assessment area of an LVMF viewing corridor and have been designed to be slim, with relatively small floorplates beyond the podium level. Such floorplates lend themselves to residential, rather than employment uses and in the conversion of any space within these buildings would likely necessitate larger floorplates (and therefore a bulkier massing) or an extended podium. Seen within this context, and given the concerns already expressed in regard to the visual and amenity impacts of Plots K, A and B (considered elsewhere in this report) it is considered that the current proposals represent an amount of employment floorspace that could not be increased without producing other undesirable impacts or reducing the ability of the scheme to provide significant public benefits.

222 The City Fringe OAPF is broadly aligned with Hackney Policy with regards to this site. The City Fringe OAPF aims to achieve employment-led schemes in such areas which result in an overall increase in employment floorspace compared to the existing level, through more intensive redevelopment. Furthermore the City Fringe OAPF states that within PEAs, development proposals which result in a net loss of employment floorspace will be refused.

223 The proposed development is not strictly employment-led, although overall the balance of employment and residential uses on the site is considered reasonable and acceptable in the whole-site context, as outlined above. Considering the PEA alone, however, it can also be said that the development proposals result in no loss of employment floorspace and a huge increase in employment floorspace compared to the existing level (the site having been vacant for over 50 years, with nobody employed on-site aside from in temporary uses. As such the proposals are considered consistent with City Fringe OAPF and the development plan.

224 With regards to the provision of affordable workspace across the site, and in keeping with the GLAs 'whole-site' approach the applicant has agreed to the application of Hackney Council's DMLP Policy DM16 'affordable workspace' across the whole scheme. This means that 10% of the scheme's office floorspace will be made available at a 20% discount from the local market rate. The details of this are still to be agreed, however, the principle has been accepted by the applicant. The draft s106 agreement includes provision that the applicant shall submit a draft Affordable Workspace strategy as well as a Framework Affordable Workspace Lease for approval prior to commencement of any plot that contains office floorspace. These documents will contain the full details of how the affordable workspace component will work and both local authorities will be part of the approval panel. The draft agreement also provides that, once approved, the applicant will implement and comply at all times with the approved details.

225 GLA officers are seeking to secure appropriate contributions and measures to support and/or provide the training and skills needs of local residents to access the job opportunities during both construction and within the employment sectors created by the final development including the provision of apprenticeships. Provided that these contributions can be secured the proposals are considered compliant with development plan employment policy.

Other non-residential uses

226 An expanded business cluster should not come at the expense of what makes it attractive to business in the first place. The vibrant, exciting mix of uses is a key element of this and offer a firm foundation for the future trajectory of the City Fringe. The City Fringe OAPF provides that development proposals should support the provision of high density, mixed-use schemes and seek to provide a well-balanced mix of retail, cultural and leisure uses to support development.

227 Tower Hamlets Core Strategy 2010 Strategic Objective SO4 'Town Centres' is to achieve a hierarchy of interconnected, vibrant and inclusive town centres that are mixed use hubs for retail, commercial, leisure, civic and residential. Core Strategy Policy SP01 'Refocusing on our town centres' identifies the First Tier of the town centre hierarchy as the CAZ where London Plan policy is to be applied. Core Strategy Policy SP06 'Delivering successful employment hubs' supports the provision of a range and mix of employment uses within the borough. In particular, there is an emphasis on retaining, promoting and encouraging flexible working spaces in town centres. MDD 2013 Policy DM1 'Development within the town centre hierarchy' reiterates this approach. Policy DM2 'Local shops' supports development of local shops outside of town centres where:

- There is demonstrable local need that cannot be met within an existing town centre;
- They are of an appropriate scale to their locality;
- They do not affect amenity or detract from the character of the area;
- They do not form part of, or encourage, a concentration of uses that would undermine nearby town centres.

228 The majority of the retail floor space would be located within the Tower Hamlets part of the site. The site abuts the Brick Lane District Centre and the retail floor space is intended to create a retail hub at ground level within London Road and the open spaces leading from Brick Lane to create active frontages. The refurbishment of listed Braithwaite arches for a mix of retail uses activating London Road, the elevated park, employment uses surrounding Shoreditch High Street station, retail activating the streets and public realm all show consideration of the BGY IPG and Tower Hamlets MDD Policy DM24 'Place sensitive design.'

229 The smaller level of retail floorspace on the Hackney part of the site is at the ground floor of Plots A, B and K, as well as Plots F and G. As discussed above, this is acceptable and considered beneficial in place making terms and will not give rise to any significant impacts on the nearby Brick Lane town centre.

230 To support the vitality of town centres, Tower Hamlets MDD Policy DM1 directs restaurants, public houses and hot food takeaways to the CAZ but provides policies to prevent overconcentration. Class A3, A4 or A5 uses should not exceed 25% of the total number of A Class units, the total percentage of A5 uses should not exceed 5% of the total number of units and there should be at least two non- A3, A4 and A5 units between every A3, A4 and A5 unit. Tower Hamlets Council recommended that an appropriate Head of Terms agreement be used to implement this policy.

231 The draft s106 agreement includes provision that the applicant submit a retail management strategy for approval. Given that most of the the retail floorspace provided within the scheme is located below the Braithwaite Viaduct, many of the specific units are more or less fixed by the constraints of the existing structure. This restricts the applicant's ability to respond to the rigidly prescribed percentages set out in Tower Hamlets MDD Policy DM1. In order to work within the constraints of the scheme and provide sufficient active uses to ensure an overlooked and safe pedestrian environment (particularly after normal A1 retail closing hours) yet still comply as close as possibly to Policy DM1 the draft s106 agreement allows a slight variation from the percentages set out in Policy DM1. The Retail Management Strategy will therefore:

- not permit any unit of Retail Floorspace to be Occupied for a use falling within Class A4 of the Use Classes Order;
- not permit any more than 30 per cent of the Retail Floorspace to be Occupied for the purposes of a use falling with Class A3 and/or Class A5 of the Use Classes Order; and
- not permit any more than 12.5 per cent of the Retail Floorspace to be Occupied for the purposes of a use falling within Class A5 of the Use Classes Order.

232 The BGY IPG also sets out the requirement for social infrastructure to support the scheme, including an Ideas Store and a GPs Surgery. The applicant has provided a commitment to deliver both of these elements and the draft s106 agreement currently secures a GP Surgery to be constructed prior to occupation of any dwelling in Phase 4 of the scheme. The applicant has also committed to providing an Ideas Store within Plot H, or a contribution to enable the provision of one elsewhere should it not be possible for Tower Hamlets Council to use the unit being offered. This is still the subject of negotiations between Tower Hamlets Council and the applicant.

Summary

233 On balance, and subject to satisfactory arrangements within a legal agreement to secure an Idea Store and a GP surgery and to control the proportion and distribution of A3-A5 uses, the scheme is consistent with the City Fringe OAPF, the BGY IPG and the development plan. The principle of development for the proposed land-uses and overall balance of these is therefore accepted.

Housing

234 The NPPF, London Plan, the local plans and various national, regional and local guidance all deal with the various issues related to housing in new development proposals. This section breaks this down, looks at each issue and assesses how the scheme addresses the relevant policies in relation to housing supply, density, affordable housing, viability, tenure split and unit size mix.

Housing supply

235 London Plan Policy 3.3 sets out the need to provide more homes and provide a real choice for Londoners in ways that meet their needs, and at a price they can afford. Part B of the policy states that the Mayor will seek to ensure that housing need identified in paragraphs 3.16a and 3.16b of the London Plan is met, particularly through provision consistent with an annual average of 42,000 net additional homes across London.

236 London Plan Table 3.1 sets a target for Tower Hamlets Council to deliver a minimum of 3,931 new residential units a year until 2025, and for Hackney council to deliver 1,599 during the same period. The City Fringe OAPF identifies the potential for 15,000 new homes to be delivered throughout the OA over the next 10 years.

237 Tower Hamlets MDD Site Allocation suggests that the site has capacity for up to 2,000 homes. The Hackney Site Allocation notes that the site is appropriate for mixed-use development and should be developed in accordance with the BGY IPG. The BGY IPG suggests that the site could accommodate up to 2,000 homes.

Hackney comments

238 Hackney Council have noted that the site is designated as PEA on the Hackney side of the borough boundary. As such Hackney would support an employment-led proposal and they have commented that this is not the case with the current proposals. This is addressed in the Land-use principle and Employment sections of this report.

Analysis

239 The delivery of 1,356 new housing units on this site would be a benefit at the local and London-wide level. This is a significant proportion of each council's annual target and is welcomed. It is noted that, notwithstanding the Hackney issue concerning land-use, no objections were raised by either Council with regards to the contribution to housing supply.

Density

240 London Plan Policy 3.4 requires development to optimise housing output for different locations taking into account public transport capacity, local context and character and the design principles in Chapter 7 of the London Plan. Table 3.2 in the London Plan provides indicative net residential density ranges to guide development, based on public transport accessibility level (PTAL) and local setting. Individual developments with densities varying from those indicated may be considered acceptable where they can be justified by local circumstances.

241 The application site is within the City Fringe opportunity Area. London Policy 2.13 'Opportunity Areas' states that development proposals within the OAs should seek to optimise residential and non-residential densities and where appropriate contain a mix of uses, and contribute towards meeting (or where appropriate, exceeding) the minimum guidelines for housing and/or employment capacity. The City Fringe OAPF identifies the potential for 15,000 new homes throughout the OA.

242 The PTAL of the site is 6b "excellent" and the site lies within a Central setting as defined by the London Plan. Table 3.2 of the London Plan gives an indicative density range of 650-1,100 habitable rooms per hectare (hr/ha) for this site, which equates to a range of 14 – 405 units per hectare (u/ha), depending on how many habitable rooms the average dwelling has.

243 The BGY IPG envisages a high density development on the site, and BG19 states that residential densities of 1100 hr/ha could be achieved. BG28, however, states that the site could deliver approximately 350,000 sqm of development overall, comprising up to 2,000 homes and 75,000 – 150,000 sqm of non-residential floorspace and 1.8 ha public open space. This would result in a density of around 2,300 hr/ha, significantly higher than suggested in BG19, which is considered below.

Tower Hamlets comments

244 Tower Hamlets acknowledge the potential for individual sites to have higher densities than those indicated in Table 3.2 of the London Plan, and the requirement for sites in opportunity areas in particular to optimise densities. In that context, Tower Hamlets consider the following definition of 'optimising', as set out in paragraph 1.3.1 of the Housing SPG: 'developing land to the fullest amount consistent with all relevant planning objectives'. It is noted that Paragraph 1.3.41 of the (then) Draft Interim Housing SPG (2015) is relevant here, advising that proposals above the density ranges indicated must be tested rigorously against all policies that are relevant to high-density development. It is noted that it is particularly important to take account of massing, scale and character in relation to nearby uses and that regard should be had to their bearing on the capacity of existing local amenities, infrastructure and services to support the development.

245 Tower Hamlets acknowledge the significant potential benefits that the proposals offer but, having considered the above and having regard for the site's constraints which limit its development potential, remain unconvinced that a case has been made for significantly exceeding the London Plan density range. It is considered that this is demonstrated by a series of buildings that would be excessively tall for the local context, cause substantial harm to the

setting of heritage assets and have major implications for local living conditions due to the unacceptable daylight/ sunlight impact.

Hackney comments

246 Hackney Council points out that, using the indicative capacity assessment set out in BG28 of the BGY IPG, a development with a residential density of approximately 2,300 hr/ha could be considered acceptable for this site. It is noted that this exceeds the indicative densities set out in London Plan Table 3.2 and BG19 and therefore considers that BG19 be more appropriate as it is consistent with London Plan Policy 3.4.

247 It is also considered that the guidance of the (then) Draft Interim Housing SPG (2015) is particularly relevant. This acknowledges that counting very large, on-site, publically accessible spaces, such as those proposed for some opportunity areas, could serve to artificially lower density calculations. Consequently applicants are advised to agree a bespoke method of calculating density. Additionally it was noted that the overground railway line similarly occupies a substantial portion of the site area and further serves to artificially lower actual densities.

248 It is concluded that, whilst having no objection in principle to high density development on this site, regard needs to be had to the impact on local character and wider context of the proposal. In particular account needs to be taken of the schemes impact in terms of massing, scale and character in relation to nearby uses and design should be exemplary. As such Hackney continue to have serious concerns relating to the scale and massing of the proposals and the impact on local character and wider setting. Furthermore, it is not considered that the design is exemplary. As such the proposed density is not considered acceptable.

Mayors Stage 1 comments

249 At the Stage 1 consultation stage the applicant confirmed that the amended scheme would have a net residential density of 1,322 habitable rooms per hectare, exceeding density indicated by the London Plan density matrix . GLA officers commented that, while there was not an in-principle objection to high-density developments, Policy 3.4 establishes that housing output be optimised taking into account, amongst others, the design principles of the London Plan, and taking note of paragraph 1.3.41 of the Mayor's Housing Supplementary Planning Guidance with regard to high-density development, which states that *"Such proposals must also be assessed in terms of their bearing on the capacity of existing local amenities, infrastructure and services to support the development"*. It was highlighted as important that high density proposals be tested rigorously with regards to their contribution to local place shaping.

250 The scheme's potential significant benefits were noted, and it was suggested that a scheme of this density could be considered acceptable. It must be noted, however, that this conclusion was reached when the Mayor was being asked to comment on strategic issues. Furthermore the view was taken at a point before the impact on neighbouring amenities, such as daylight and sunlight levels, had been assessed.

Analysis

251 As this is a mixed-use scheme, paragraph 3.31 of the London Plan requires that the density be calculated using net residential area, as set out in the Housing SPG.

252 On this basis the proposals have a density of 1,322 hr/ha or 514 u/ha across the site. This is higher than the maximum indicated in Table 3.2, however, the density ranges are not intended to be applied mechanistically and, as discussed above, consideration should be given to all other relevant planning objectives.

253 Paragraph 1.3.37 of the Housing SPG gives detail on how large sites such as this, particularly those in opportunity areas, can define their own setting and accommodate higher densities. This should be considered on a case by case basis, taking into account the location of the site including distance to town centres and other infrastructure; the potential for place shaping and place shielding; and the local and strategic objectives for the area.

254 London Plan Policy 3.7 encourages residential developments on large sites. The gives further detail on the implementation of this policy. In particular it emphasises that where large sites abut areas with a particularly distinctive character a considered approach to the design of edge conditions along a site's boundary may be necessary in terms of height, massing, scale or landscaping to enable higher densities to be achieved within a site interior.

255 London Plan Policy 7.6 requires new development to avoid causing 'unacceptable harm' to the amenity of surrounding land and buildings, particularly in relation to privacy and overshadowing and where tall buildings are proposed.

256 Housing SPG paragraph 1.3.46 considers 'unacceptable harm' to neighbouring daylight/sunlight amenity and recommends that decision makers recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced, but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.

257 As discussed in the daylight/ sunlight section of this report, an independent assessment has been conducted within this context and concludes that the development proposals cannot be said to avoid unacceptable harm to neighbouring amenity. It is acknowledged that the constraints of the site limit the applicant's ability to respond and more effectively use the interior of the site in order to minimise such negative impacts. In compromising other London Plan objectives, such as those set out in London Plan Policy 7.6, the proposals do not meet the Mayors definition of optimising development i.e. '*developing land to the fullest amount consistent with all relevant planning objectives*'

258 The proposals would have a density significantly higher than the range indicated in the London Plan. The site has the potential for high density development but in this instance the density proposed may partially be driving the unacceptable harm caused to neighbouring amenity. The proposed density is likely higher than that which could be considered to optimise development and is therefore inconsistent with the development plan.

259 Affordable housing/ viability

Affordable Housing/ Viability

National policy

260 Increased housing supply is a fundamental policy objective at national, regional and local levels. This includes the provision of affordable housing. NPPF Paragraph 7 advises that the second dimension of achieving sustainable development is a "social role" supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 9 advises that pursuing sustainable development includes widening the choice of high quality homes. NPPF Section 6 advises local planning authorities on 'Delivering a wide choice of high quality homes.' Paragraph 47 requires local plans to meet the full objectively assessed need for market and affordable housing and to identify and update annually a supply of specific deliverable sites sufficient to provide five years housing supply with an additional buffer of 5%.

261 The NPPF is very clear that local plans should set policies to meet identified need for affordable housing on site, unless off site provision or a financial contribution of broadly

equivalent value can be robustly justified. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, paragraph 50 says local planning authorities should:

“Where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”

262 Paragraph 173 provides that, to ensure viability, the costs affordable housing, standards, infrastructure contributions should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing developer so as to ensure the development is deliverable.

Local and regional policy

263 The Mayor’s approach to affordable housing is set out in Policies 3.10 to 3.13 of the London Plan. Policy 3.11 provides that that the Mayor will, and boroughs and other relevant agencies and partners should, seek to maximise affordable housing provision and ensure an average of at least 17,000 more affordable homes per year in London over the term of the Plan. In order to give impetus to a strong and diverse intermediate housing sector, 60% of the affordable housing provision should be for social and affordable rent and 40% for intermediate rent or sale. Priority should be accorded to provision of affordable family housing.

264 London Plan Policy 3.12 requires that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes. Negotiations on sites should take account of their individual circumstances including development viability, resources available from registered providers (including public subsidy), the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation (‘contingent obligations’), and other scheme requirements.

265 Under Policy 3.12 it is set out in paragraph 3.71, that in estimating provision from private residential or mixed use developments, boroughs should take into account economic viability and the most effective use of private and public investment, including the use of developer contributions. Furthermore, boroughs should evaluate these appraisals rigorously, drawing on the GLA development control toolkit and other independent assessments which take account of the individual circumstances of a site, the availability of public subsidy and other scheme requirements.

266 The London Plan policies are mirrored in the Housing SPG which was adopted in March 2016. The Affordable Housing chapter however, remains as a draft due to uncertainties regarding the Planning and Housing Bill which is currently moving through the Parliamentary approval process. The policy re-emphasises the London Plan Housing targets across London of approximately 17,000 more affordable homes over the term of the plan. It also specifies the affordable housing tenure mix of 60% Social and affordable rent and 40% intermediate housing.

267 The adopted version of the SPG also introduces a new chapter on Affordable Housing – Viability Appraisals. This section provides guidance with regard to Site Valuation and Review Mechanisms.

268 Tower Hamlets Core Strategy Policy SP02 (2) supports the delivery of new homes in line with the London Plan housing targets. Policy SP02 (3) sets a borough-wide strategic target for affordable homes of 50% until 2025. This is to be achieved by requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability).

269 In the Core Strategy supporting text it is explained that the borough-wide 50% target will be delivered through negotiations as a part of private residential schemes, as well as through a range of public initiatives and effective use of grant funding. In some instances exceptional circumstances may arise where the affordable housing requirements need to be varied. In these circumstances detailed and robust financial statements must be provided which demonstrate conclusively why planning policies cannot be met.

270 Hackney Core Strategy Policy CS20 sets out the Councils approach to affordable housing. New housing developments should seek to meet a borough-wide affordable housing target of 50% of all units subject to site characteristics, location and overall scheme viability.

271 BG21 of the IPG advises that a minimum of 35% affordable housing (calculated by habitable room) should be provided on site, subject to viability and site specific circumstances as outlined in the London Plan.

Applicant's initial offer

272 The application initially proposed that 10% of the habitable rooms within the Tower Hamlets part of the development would be provided on site as affordable housing. This was identified as 68 units providing 26 intermediate housing within Blocks C and D and 42 social rented units within Block E. Within Hackney, the affordable housing offer comprised a £12 million payment in lieu (PiL) that would go towards providing affordable housing off-site. The applicant contended that *"If affordable housing were to be accommodated within Plots F and G, it would be limited to intermediate units as the residential towers would need a separate core and as such the service charges would be too high to be borne by a Registered Social Landlord (RSL)."*

Financial Viability Assessment

273 The planning application is supported by a Financial Viability Assessment (FVA), compiled on behalf of the applicant by DS2 LLP. The assessment claims that no affordable housing is financially viable. Despite this the applicant acknowledged policies to achieve an element of affordable housing and to secure a mixed and balanced community, and made the above offer. In order to assist Tower Hamlets and Hackney officers in determining compliance with policy. the FVA has been independently reviewed by BNPP Paribas (BNPP) on behalf of both Councils.

274 Following initial analysis of the submitted FVA, BNPP indicated that the scheme could viably absorb 31% affordable housing on-site plus a £12 million payment in lieu. Indicatively, this surplus return would enable the conversion of the following blocks from private to affordable, assuming that the units are provided as affordable rent at a value of £242 per square foot:

- Block D (301 units)
- Block E (56 units)
- Total affordable 425 units (31%) plus payment in lieu of £12 million.

275 DS2's FVA report asserts that *"debt finance for the project as a whole would generally not be forthcoming at a profit expectation below 20% Internal Rate of Return (IRR) on a present day model and a 25% un-g geared IRR on the outturn model (to be issued)"*.

276 BNPP advised that the currently accepted IRR range on an un-grown and un-g geared basis is between 12% and 14%. This was established at the London Borough of Tower Hamlets CIL

Examination in Public and on the basis of the change in tenure above, the development would generate an ungeared, ungrown IRR of 14.75%.

277 BNPP has also run an additional appraisal which applies 3% real growth (i.e. net of inflation on costs) on the residential sales values. The results indicate that the scheme could generate an IRR in excess of DS2's target of 20%.

278 BNPP advised that the councils and the Mayor should consider incorporating periodic review clauses in any section 106 agreement so that affordable housing provision can be maximised whilst also ensuring the scheme is deliverable. It was noted that this approach to phased development and the delivery of affordable housing accords with London Plan Policy and advice in the NPPG.

Tower Hamlets Comments

279 Following advice from BNPP, Tower Hamlets concluded that that the proposed market / affordable tenure mix does not accord with the Mayor's London Plan policies, Tower Hamlets Core Strategy Policy 02 which seeks to deliver 35-50% affordable homes, or the minimum 35% required by Design Principle BG21 of the BGY IPG. Therefore the proposal is not policy compliant on affordable housing provision.

280 It was also noted that the indicative phasing plan provided by the applicant indicates that the majority of the on-site affordable housing would be delivered in the later phases of the scheme. Tower Hamlets Council considers this unacceptable and believe that it should be delivered at the beginning of construction or in parallel with the private housing.

Hackney Comments

281 Hackney Council raised issue with the applicant's contention, set out in the FVA report, that the development cannot provide any affordable housing when considered on a present day basis. Hackney officers raised the evident gap between the conclusions of the DS2 report and BNPPs advice, as well as the fact that BNPP had found it necessary to amend some of the FVA inputs

282 Hackney concluded that the proposed development could provide a substantially greater level of affordable housing than that offered.

Mayors Stage 1 update comments

283 In the original submission, a 10% provision of affordable housing across the scheme was proposed. At Stage 1 the Mayor noted that, given the scale of development proposed, it was extremely disappointing that the quantum of affordable housing had not been altered in the revised submission.

284 When the Mayor considered the application at Stage 1, a number of outstanding matters remained which prevented a conclusion relating to the maximum reasonable amount of affordable housing proposed.

285 With regards to the PiL, it was noted that the applicant had still not presented a robust exceptional case for the off-site provision of affordable housing, or demonstrate that the cash contribution would have demonstrable benefits in furthering the affordable housing or other planning policies.

286 As noted in the affordable housing statement, should an off-site affordable housing provision be acceptable, the nominated site and proposal would need to be identified and secured to allow an assessment of the benefits gained in the off-site option. The site would also

have to demonstrate the affordable housing additionality that would be possible as a result of the off-site option.

287 Given the scale of the scheme, and the development programme, GLA officers strongly recommended the investigation of a review mechanism to capture any additional value in the scheme, in line with Policy 3.12 and paragraph 4.4.42 of the Housing SPG.

Update

288 Since taking over the application, GLA officers have been in negotiations with the applicant in order to address the concerns raised by the Councils regarding the overall level of affordable housing and the residential mix. During this period, the applicant has formalised an improved affordable housing offer set out as follows:

Within Tower Hamlets, the provision of 25% affordable housing by habitable room comprising 48 intermediate and 93 social rent. Within Hackney, a payment in lieu of on-site affordable provision of £21.825m, which equates to 15% affordable housing by unit (87.32 dwellings comprising 35 intermediate and 52 social rent.

289 This has been set out in this way in order to respond to the local planning policies of the Councils. In keeping with the GLAs 'site-wide' appraisal of the scheme it is useful to also consider how this translates into a site-wide affordable housing percentage. For this purposes, the proposed PiL is converted into a notional 87.3 additional units in accordance with indicative costings provided by Hackney Homes and in line with the analysis in the tenure split and residential mix sections of this report. This shows a total of 1443 units to be delivered, of which 228 are affordable housing. This is the equivalent of 15.8% affordable housing by unit.

290 The applicant also provided an affordable housing strategy in support of the application which the applicant gives a commitment to levels of rent consistent with Tower Hamlets framework affordable rents, which will apply to all on-site affordable housing. This is supported as the framework rents address issues of affordability in areas of central London such as this and are devised to respond to local need.

291 Following the BNPP appraisal and the subsequent comments received from the Councils, GLA officers decided to appoint a viability consultant to provide robust advice on the suitability of the FVA and to assist in further negotiation with the applicant with a view to securing a renewed affordable housing offer which could be considered the maximum reasonable amount. Gerald Eve LLP (GE) were appointed to provide this advice and in doing so investigate and report on the following issues of concern raised by the Councils:

- Site value
- Internal Rate of Return (IRR)
- Residential values
- Cost assumptions
- Review Mechanism

GE analysis- current offer and scrutiny of the applicant's viability position

292 The information and opinions of DS2 and BNPP have been considered, and where appropriate GE have carried out their own research to help inform their opinions where they differ. The viability information and therefore the FVA review is considered up-to-date to reflect

the market movements, and amendments to the scheme made since the Mayor determined to become the planning authority.

293 The GE review has been carried out in accordance with Royal Institution of Chartered Surveyors (RICS) Guidance Note: "Financial Viability in Planning" (published August 2012) ("RICS GN 94/12"), NPPF, PPG, The London Plan and the GLA Housing SPG. The majority of the review is focused on reviewing the proposed Site Value and appraisal inputs (including those raised as concerns by the Councils) and, other areas it is considered must be addressed having regard to RICS GN 94/12. GE have had an open exchange of correspondence with both DS2 and BNPP, where both consultants have provided supporting information.

Site value

294 In assessing the Site Value, GE have had regard to the recommended guidance which reflects national, regional and local planning policies. This includes the NPPF, supported by PPG and the RICS (GN 91/12). Consideration has also been given to the London Plan and the London Housing SPG.

295 The NPPF is accompanied by an online Planning Practice Guidance which is intended to provide guidance on the implementation of the NPPF. The guidance considers viability and advises that:

"Central to the consideration of viability is the assessment of land or site value. Land or site value will be an important input into the assessment. The most appropriate way to assess land or site value will vary from case to case but there are common principles which should be reflected. In all cases land or site value should:

- *Reflect policy requirements and planning obligations and, where applicable, any CIL charge;*
- *Provide a competitive return to willing developers and land owners and;*
- *Be informed by comparable, market based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise"*

296 The PPG describes the meaning of a competitive return to a willing land owner as follows:

"the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy".

297 GE are of the view that the site is complex because of significant abnormal factors and therefore consideration of what is a 'competitive return' for a landowner is not straight forward. GE consider that the relevant factors that should be included in reaching a balanced judgement will be the value in current use, alternative uses and comparable market evidence that has been fully analysed and reflects planning policy requirements.

298 DS2 have assessed site value at £83m based on local transactional land sales evidence between 2007-2014. These transactions have not been indexed to reflect an assumed up-to-date market position. GE are of the view that there is a considerable amount of variance in comparability of the transactions DS2 included and there are significant factors and site characteristics which are not shared. Care needs to be taken, therefore, to reflect these issues in

reaching a balanced judgement. The assessment does not provide any commentary on other relevant factors such as Existing Use Value (EUV) or Alternative Use Value (AUV).

299 BNPP adopted a site value of £20m based on their assessment of EUV of the site. This assessment is based on opinion only with no supportive evidence underpinning it. No weight has been given to comparable market based land sales evidence. GE consider that this assessment significantly understates the EUV, and as such, would not meet the criteria of a ‘competitive return’ for a reasonable landowner.

300 GE have considered all of the information and approaches by DS2 and BNP in arriving at a balanced assessment of site value and have also undertaken their own analysis. GE considers that the assessment by DS2 does not overstate the site value, and can therefore be accepted.

301 In order to further test the site value, GE conducted a benchmarking exercise, plotting site values used for FVA purposes against the total gross development value (GDV) of several strategic schemes across London. The nine schemes selected are unnamed, for reasons of commercial confidentiality. The average variation between site value and GDV in these schemes is 11%. This is demonstrated in the following graph.

302 Assuming a GDV of approximately £1.8bn for the application proposals, the assumed site value of £83m would be 4% of GDV. This is significantly below the 11% average in the strategic comparables.

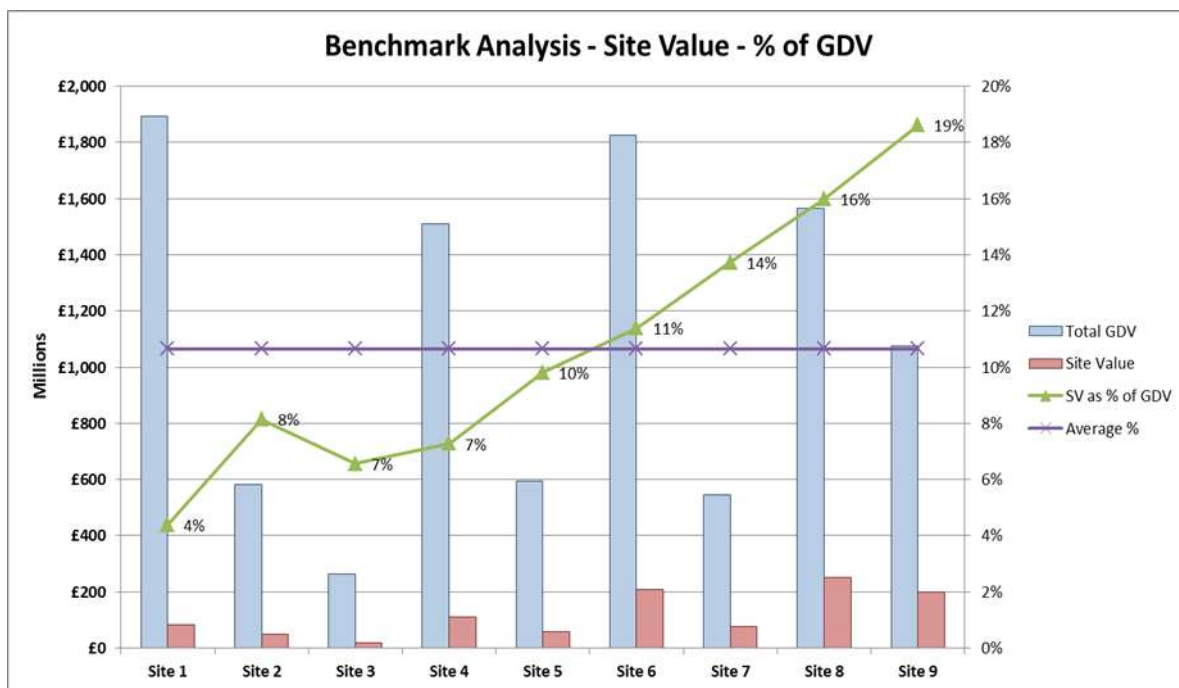


Figure 3: GE Benchmark analysis: Site value v % of GDV

Internal Rate of Return (IRR)

303 When reviewing the potential level of return across the Scheme, it is agreed with both BNPP and DS2 that Internal Rate of Return (“IRR”) is the most appropriate proxy to determine the viability of the Scheme. Our opinion in relation to an appropriate target rate of return for both present day and growth are that on a present day basis the target IRR should be 13% to 15% and on a growth basis the target IRR should be a minimum of 20%.

304 These rates are consistent with the target returns adopted on other schemes determined by the Mayor, having regard to the risks of the scheme in each case. The adopted target rates

are also broadly in line with those put forward by BNPP, and no evidence has been provided to justify why a target rate of return below 20% on a growth basis would be appropriate.

305 Whilst there were differences between DS2 and BNPP in relation to certain inputs, the method and approach undertaken by both is considered robust, and broadly in accordance with RICS Guidance Note 94/12.

Residential value and cost assumptions

306 The manner in which BNPP and DS2 have looked to the market to understand current day residential pricing in comparable schemes, which are in the vicinity of the site, is in line with accepted valuation practice, and encouraged by the RICS, albeit private residential pricing is one of the key areas of disagreement.

307 GE are satisfied that the development cost review exercise has been undertaken in an appropriate manner. Whilst there is disagreement in certain areas it is considered that the majority of the cost (both construction and infrastructure) input assumptions provided by DS2 are reasonable at this stage of the delivery process.

308 In view of the magnitude of the development proposal and the timeframe over which they are to be delivered, it is necessary to consider anticipated future movements in both costs and values to understand the effect of a growth approach to viability.

309 In determining appropriate growth rates to apply to residential values, and cost inflation GE rely upon data provided by the major property consultancy houses and their own in-house research. A comparative of the present day and growth approaches are shown in the table below.

	GE Present day	GE Growth
IRR	11.2%	17%
Target IRR	14%	20%

Table 3: Gerald Eve Appraisal outputs- Present day and growth

310 Whilst a number of the assumptions are agreed, GE are of the view that there is likely to be variance in the key variables during the course of the development. Sensitivity testing has therefore been undertaken in accordance with best practice, and in considering the robustness of the Scheme appraisal. The variables tested are residential sales values and construction costs (including utilities, infrastructure and roads). The Sensitivity analysis shows that the scheme is within a reasonable range of the target rate of return on a growth basis and is therefore potentially capable of being viable.

Review mechanism

311 The Scheme has been assessed on a present day basis, reflecting up-to-date cost and value inputs, and also on a growth basis, where the developer is forecasting an outcome and therefore taking all the risk associated with an offer based on that predicted outturn. The applicant has accepted the principle of a review mechanism, as recommended by the Councils and the GLA, and GE also provide advice on this. The review mechanism enables the scheme's viability to be monitored to ascertain whether it is progressing in the manner it was assumed. Any subsequent adjustment to affordable housing or planning obligation contribution would need to be justified.

GE conclusion

312 On the basis of the adjustments set out in this report, and the information provided by the applicant, it is concluded that the scheme can provide the current offer- 25% of affordable housing, by habitable rooms onsite in the Tower Hamlets part of the site and a PIL of £21,825,000 to Hackney, without jeopardising the viability or deliverability of the scheme. Provided that an appropriate review mechanism can be agreed and secured by s106 legal agreement, this can be considered the maximum reasonable level of affordable housing. This conclusion was reached in tandem with the ongoing s106 negotiations and assumes a planning obligations payment of £64m. Should this change by the time any agreement is signed, then it is anticipated that the review mechanism would capture any surplus value.

313 GE advise that the mechanism should be broadly consistent with that which was agreed for the Convoy's Wharf scheme. albeit with certain modifications.. This has yet to be agreed but has been accepted in principle by the applicant.

Analysis

Level of affordable housing

314 Having considered the information submitted by the applicant and reviewed by the GLA consultant, officers are satisfied that the offer represents the maximum reasonable amount of affordable housing, taking into the individual circumstances of the site and the need to encourage rather than restrain residential development. As stated above, GE has concluded that this is the maximum reasonably viable amount of affordable housing that can be achieved, in accordance with London Plan policy 3.12. This also accords with the local policies which also set out that the maximum reasonable amount of affordable housing is expected, subject to financial viability assessment. This is also in accordance with the NPPF and PPG which set out that development should provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. The details of the affordable housing would be secured in any section 106 agreement, should permission be granted. This is yet to be agreed but would likely include details of any agreed review mechanism as well as affordable housing definitions, fit out, transfer/lease to a Registered Provider, the income thresholds for the intermediate accommodation, and the retention of the affordable units at the proposed rent levels in perpetuity, for instance.

Phasing

315 The applicant has provided a proposed phasing and construction as part of the submitted FVA material. This has been adapted from the original submission in order to reflect the final offer, provided envisages that all on-site residential units will be built and sold in a period of 17 years.

316 With regards to phasing, the applicant has made considerable efforts to adjust the phasing to address Tower Hamlets concerns that no affordable housing would be delivered on-site until the latter phases. Block E, which it is envisaged will only contain affordable housing and the entire affordable rented element, would now be delivered as part of the first phase. Furthermore the applicant has agreed that the part of the park above the Braithwaite Arches in Plot H will be delivered as part of phase 1, and be open to the public upon completion. As part of the process that led to the applicant agreeing this, the impact of negotiations viability and deliverability considerations have been tested by GE throughout. As such, GLA officers are satisfied that this proposal represents a reasonable balance between early delivery of public benefit and maintaining the viability and deliverability of the scheme.

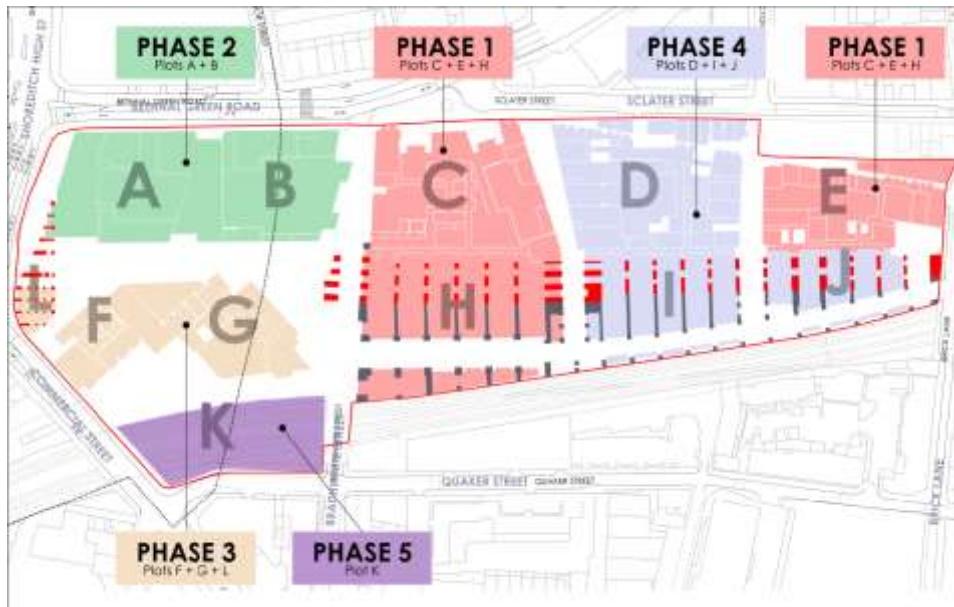


Figure 4: Phasing plan

Review mechanism

317 Noting that this scheme comprises two planning applications, to be built out in phases, the requirement for a review mechanism has been a consideration during the financial viability review process. This is acknowledging Policy 3.12, as stated above, and the following paragraph 3.75, which confirms that viability re-appraisals may be used to ensure that maximum public benefit is secured over the period of development, and that account needs to be taken of economic uncertainties and in respect of schemes presently anticipated to deliver lower levels of affordable housing. Paragraph 4.4.42 of the Mayor of London’s Housing SPG (2012), goes on to states that where schemes are built out in phases, “consideration should be given to a re-appraisal mechanism which specifies the scope of a review of viability for each phase”. In terms of general principles, a review mechanism sets out requirements to re-evaluate the viability of a scheme at a certain point in time or in phases, refreshing and updating inputs and assumptions that are relevant at that time. If a scheme is more financially viable than when approved then the review mechanism would normally trigger the provision of additional affordable housing, either on site, off site or in the form of financial contributions towards affordable housing elsewhere.

318 In conclusion on matters relating to review mechanisms, officers are entirely satisfied that these review mechanisms are required to ensure that a maximum level of affordable housing is secured over the lifetime of the development. Review mechanisms are effective, equitable and entirely conventional means to secure this objective. The details as to how these review mechanisms are expressed is a matter which requires further discussion between the GLA, the Councils and the Applicant. Should the Mayor resolve to grant planning permission then it is recommended that this be subject to a planning obligation that provides for a review mechanism with the detail of which to be subject to discussion and ultimately determination by the Assistant Director of Planning (and Deputy Mayor for Planning if deemed appropriate).

Housing mix

Regional and local policy

319 London Plan Policy 3.8 promotes housing choice and seeks that new developments offer a range of housing choices, in terms of the mix of housing and types. This should take into account the housing requirements of different groups and the changing roles of different sectors, including the private rented sector, in meeting these. London Plan Policy 3.9 provides

that communities that are mixed and balanced by tenure should be promoted across London whereas London Plan Policy 3.11 requires 60% of affordable housing provision to be social and affordable rent and 40% to intermediate accommodation.

320 Tower Hamlets Core Strategy SP02 is in general conformity with the London Plan but proposes variations based on assessed local need. SP02 requires:

- A tenure split of 70% social rented and 30% intermediate and;
- A mix of small and large housing on new sites, with an overall target that 30% should family accommodation and 45% of the social rented homes be for families. Family accommodation is defined as being three bed or larger.

321 Tower Hamlets MDD Policy DM3 requires development to provide a balance of housing types in accordance with the following breakdown:

Tenure	1 bed %	2 bed %	3 bed %	4 bed %
Market	50	30	20	
Intermediate	25	50	25	0
Social rent	30	25	30	15

Table 4: DM3 Unit size mix

322 Hackney Core Strategy Policy 20 states that in line with identified need the required tenure split of affordable housing is 60% social rented and 40% Intermediate by unit. For all new social rented and intermediate homes, the preferred affordable housing size mix will include an element of 3 bed or larger family housing in line with or exceeding the minimum requirement set out in the London Plan and addressing specific priority housing need in Hackney. Hackney DMLP Policy DM22 requires all residential proposals to provide a mix of dwellings in accordance with the Council’s preferred dwelling mix. This is set out in Table 1 as follows:

Tenure	1 bed (2 person)	2 bed (3 or 4 person)	3 or more bed (5 person plus)
Social / affordable rent	Lower % than 2 bed	Higher % than 1 Bed	36%
Intermediate	Lower % than 2 bed	Higher % than 1 Bed	16%
Market	Lower % than 2 bed	Higher % than 1 Bed	33%

Table 5: DM22 Unit size mix

Tower Hamlets comments

323 Tower Hamlets provided comments relating to the proposed unit size mix across the whole site and on the tenure split within the Tower Hamlets part of the site. The unit size mix for all tenures across the site was assessed as follows:

Studio	1 bed	2 bed	3 bed	4 bed	5 bed	Total
10%	38.1%	37.9%	12.7%	1%	0.3%	100%

Table 6: Unit size mix: Tower Hamlets assessment December 2015

324 The residential mix within Tower Hamlets, broken down by tenure, was assessed as follows:

	Affordable housing		Market housing
Unit size	Affordable rent	Intermediate	Private sale
Studio	0%	0%	11.2%
1 bed	48%	35%	34.2%
2 bed	26%	46%	37.3%
3 bed	19%	19%	15.3%
4 bed	5%	0%	1.6%
5 bed	2%	0%	0%

Table 7: Unit size mix and tenure split: Tower Hamlets assessment December 2015

325 It was considered that the market housing element of the proposals were reasonably compliant with Policies SP02 and DM3. It was also noted that the tenure split of 62% affordable rented and 38% intermediate was broadly compliant with the Councils preference as set out in SP02.

326 The size mix within the affordable rented and intermediate tenures was considered unacceptable with insufficient family housing and weighted too heavily towards the provision of smaller units. Overall it was considered that the proposals would fail to support mixed and balanced communities and did not therefore comply with the development plan. It was considered that the provision of open space as part of the proposals did not offer acceptable mitigation. Hackney Council did not comment on the unit size mix or tenure split.

Mayors Stage 1 comments

327 When the Mayor considered the revised application on 9 September 2015 it was noted that considerable amendments had been made to the proposed mix in light of comments made on the previous application. The proposed mix was welcomed, particularly the efforts made to reduce the number of studio apartments.

Update

328 The overall level of affordable housing is dealt with above, but changes that have been secured have meant that the mix has changed slightly. The table below summarises the current on-site mix across all tenures by Plot:

Plot	Studio	1 Bed	2 bed	3 bed	4 bed	5 bed	Total
C	64	120	133	36	5		358
D	15	130	125	43			313
E		21	28	42	8	4	103

F	31	136	126	29			322
G	26	110	102	22			260
Total	136	517	514	172	13	4	1356

Table 7: Current on-site unit size mix, by plot

Payment in lieu

329 As discussed in the next section, the affordable housing provision on the Hackney side is entirely to be made in the form of a payment in lieu. Hackney Council have raised the issue of the balance of residential and employment floorspace within the PEA designation. As discussed in the employment section of this report it is considered that the overall balance of uses across the site is acceptable and the level of employment floorspace is consistent with the City Fringe OAPF. Furthermore it is considered that any increased in office floorspace within the PEA would not be desirable in view of the likely impacts on height and massing and other local and regional planning objectives.

330 It is assessed that that only a limited number of affordable units could be provided within the residential elements of the PEA (Plots F and G), because of affordability issues and design limitations due to the residential units being provided within two towers where management costs could not be controlled. This would also likely be an issue for any would-be Registered Provider. The applicant has asserted that a better offer could be possible off-site in terms of level of provision, unit sizes and affordability. Hackney Council have plans to deliver significant levels of affordable homes to meet local need throughout Hackney through the 'Hackney Homes' programme.

331 Whilst adopting a 'site-wide' approach to assessment of the scheme insofar as it is possible, the fact that the applicant has sought to respond to local housing policy from a very early stage cannot be ignored. It is proposed that the £21.85m off-site PiL will contribute towards the delivery of additional units off-site through the Hackney Homes programme and this is considered a reasonable approach to rationalising Hackney Policies on employment floorspace and affordable housing alongside the strategic objectives of the London Plan. As such it is considered that the circumstances justify the off-site provision of affordable housing.

Residential mix

332 This has then been converted into a notional tenure and unit size split, as is confirmed would be achievable using those assumptions. The following tables summarise the overall mix achieved when combining these notional units with the units proposed on-site:

Unit size	Affordable housing		Market housing
	Affordable rent	Intermediate	Private sale
Studio	0%	0%	11%
1 bed	15%	34%	40%
2 bed	24%	42%	38%
3 bed	47%	24%	10%
4 bed	8%	0%	0%

5 bed	6%	0%	0%
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Table 8: Overall mix % by unit size and tenure

		Suite	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Hackney	Affordable rent Units	0	7	7	30	4	4	52
	Intermediate units	0	14	15	6	0	0	35
	Total Hab rooms	0	42	66	180	24	28	340
Tower Hamlets	Affordable rent Units	0	15	28	38	8	4	93
	Intermediate units	0	14	20	14	0	0	48
	Total Hab rooms	0	58	144	260	48	28	538
Overall (units)	Affordable rent Units	0	22	35	68	12	8	145
	Intermediate units	0	28	35	20	0	0	83
	Market units	136	488	466	120	5	0	1215
Total units (1356 on site plus 87.3 notional)								1443

Table 9: Overall mix, by unit numbers, size and tenure

Tenure split

333 The overall split proposed is now 64% affordable rent and 36% intermediate, which is considered acceptable when considering the respective requirements of the Councils and the strategic target.

334 The unit size split within the affordable tenures is broadly compliant with Hackneys policy requirements, with fewer 1 bed units than 2 bed units in both social rented and intermediate sectors. The level of provision of family units exceeds the requirements of Hackney’s policy, however, it should be noted that most of the larger units are in the Tower Hamlets part of the site and the scheme was clearly seeking to respond accordingly.

335 The proposed split is considered to respond well to the Tower Hamlets policy, with provision of affordable rented accommodation skewed in favour of larger units and this is supported. The intermediate mix favours provision of smaller units, however, this is reasonable when considering the affordability of larger intermediate units in this part of London and the likelihood that these units would not meet an identified need. Within the market housing sector the proposal deviates slightly from that which Tower Hamlets had previously assessed. The level of 1 bed accommodation is now 51% against a target of 50%, whereas the provision of 2 bed accommodation is 38% against a target of 30%. The level of family accommodation in the market sector has dropped from 17.3% to 10% against a target of 20%. Whilst this has increased the shortfall against meeting the target, this is the result of efforts by the applicant to prioritise affordable rented family accommodation by converting larger market units to affordable rent. This was encouraged by GLA officers and is supported.

Summary

336 Overall and on balance, it is considered that the unit size mix across all tenures is reasonably compliant with the development plan.

Design

National policy

337 Chapter 7 of the NPPF states that *“Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* Paragraph 73 of the NPPF identifies the important contribution high quality open spaces can make to the health and well-being of communities.

Regional and local policy

338 Good design is central to all objectives of the London Plan, and is specifically promoted by the policies contained within chapter seven, which address both general design principles and specific design issues. London Plan Policy 7.1 sets out a series of overarching design principles for development in London. Other relevant design policies in this chapter include specific design requirements relating to: optimising the development potential of sites (Policy 7.6); tall and large scale buildings (Policy 7.7); heritage assets (Policy 7.8); heritage-led regeneration (Policy 7.9); local character (Policy 7.4); public realm (Policy 7.5); architecture (Policy 7.6); and, designing out crime (Policy 7.3).

339 London Plan Policy 2.18 seeks enhancements to London’s green infrastructure and is supported by London Plan Policy 7.18, which encourages the creation of new open spaces to ensure satisfactory levels of local provision in areas of deficiency.

340 Tower Hamlets MDD Policies DM4, DM10, DM23 and DM26 aim to ensure high quality design in housing, amenity and open space, streets and public realm whereas Policy DM26 deals with building heights. MDD Chapter 3 provides Site Allocations and identifies Bishopsgate Goods Yard as Site Allocation No. 1:

“A comprehensive mixed-use development opportunity required to provide a strategic housing development, a local park, an Idea Store and a district heating facility (where possible). The development will also include commercial floor space and other compatible uses.”

341 The MDD goes on to say that development should recognise the latest supplementary guidance for the Bishopsgate Goods Yard. This is currently the BGY IPG, also referred to above.

342 Hackney Council’s approach to assessing design is set out in Core Strategy Policy 24 ‘Design’ and DMLP Policies DM1 ‘High Quality Design’ and DM2 ‘Development and Amenity’. Hackney Council also support the design guidelines of the BGY IPG and consider the South Shoreditch Supplementary Planning Document (SSSPD) (2006) and the Hackney Tall Building Strategy (TBS) (2005) as still being relevant to the site. Hackney DMLP Policy DM1 ‘High quality design’, DM3 ‘promoting health and wellbeing’ supports development proposals that create new open space.

343 The delivery of new public spaces within the redevelopment is a requirement in the BGY IPG. Both Councils have an adopted Site Allocation for the site. A common theme in local and regional policy is the requirement that new open spaces be integrated within the wider local and strategic network.

344 The IPG identifies four main opportunities for new public open spaces:

- A green park on top of the Braithwaite Viaduct;
- An new public square, opening on to Quaker Street, Braithwaite Street and Commercial Street as part of a new diagonal connection across the site, subject to bridging over the rail lines;
- A public forecourt to Shoreditch High Street Station; and

- A small urban square on Brick Lane with a connection to the higher level park above the Braithwaite Viaduct.

Analysis

Height/ massing

345 London Plan (2011) policy 7.7, which relates to tall and large-scale buildings, are of particular relevance to the proposed scheme. This policy sets out specific additional design requirements for tall and large-scale buildings, which are defined as buildings that are significantly taller than their surroundings and/or have a significant impact on the skyline and are larger than the threshold sizes set for the referral of planning applications to the Mayor. Tall and large scale buildings should generally be limited to sites including those in the CAZ and Opportunity Areas which have good transport connections. The site is within the CAZ and the City Fringe OA and has excellent transport connections. Furthermore, the City Fringe OAPF and the BGY IPF indicate that the western end of the site is a suitable location for tall buildings.

346 The proposed development includes a number of tall buildings ranging from 15 to 46 storeys in height. Whilst a number of tall buildings exist in the adjoining City, and others have been recently constructed or approved close to the site, the proposed buildings are significantly taller than the surrounding contextual height of the area, making them visually prominent from the surrounding areas acting as a landmark to the site. Given the strategic location of site at the intersection of Shoreditch High Street, Great Eastern Street, Commercial Street and Bethnal Green Road; the proposed park above the viaduct; the new square and hub of retail activity; and the location of Shoreditch High Street station, GLA officers consider this to be an appropriate location for landmark buildings, and the proposal will significantly improve the legibility of the wider area.

347 The height of some of the proposed buildings inevitably makes them visible from a number of important heritage assets. As set out in the heritage section of this report officers do not consider this to cause them any substantial harm. The contrast between larger new buildings and smaller historical buildings is characteristic of the area and officers consider this contrast would enhance the presence and historic character of these assets.

348 The broad arrangement of massing on the site, where taller elements are located to the west, reflects the importance of the intersection of the streets set out above and the growing cluster of taller buildings in the city fringe which is supported by planning policy. The BGY IPG also identifies the eastern side of Braithwaite Street as being suitable for medium scale buildings in order to deliver the desired development quantum, but requires that this be delivered without harming neighbouring amenity. However, locating tall and bulky buildings along the northern edge of the site in Plots C and D produces significant overshadowing of Bethnal Green Road and Sclater Street and creates challenges relating to impact on local amenity, particularly daylight and sunlight levels, with significant impacts on a number of neighbouring properties. London Plan Policy 7.7 provides that tall and large buildings should not affect their surroundings and neighbouring amenity adversely. This is discussed further in the Daylight and Sunlight section of this report.

Layout

349 The layout of the proposal increases the permeability across the area for pedestrians and provides a number of public open spaces within the site which is welcomed. In particular it creates a 0.97 Ha south facing park above the listed Braithwaite Arches. This can be accessed from Commercial Road, Braithwaite Street and Brick Lane. The park is lined by the residential units to the north, with all cores providing direct access on to this space. The park would provide a significant local amenity with views south to the City and will contribute to the delivery of the

London Green Grid by providing a contiguous link to existing green space to the east at Allen Gardens. Officers are disappointed that the units at park level cannot have an interface with the park, to provide more front entrances and animation on to the space to ensure it feels safe and well used throughout all times of the day. A commitment that the park will be open and accessible to the public throughout the day is required as well as conditions stipulating the extent of activities restricted and allowed here.

350 A new pedestrian route is provided from Shoreditch High Street to Braithwaite Street, animated by retail and commercial uses. This route widens where it meets Wheler Street to become a large triangular open space which is strongly supported. Wheler Street is mostly opened up to the sky, making it more legible and inviting which is also welcomed.

351 This east west-connection continues to Brick Lane in the form of a covered route within the viaduct arches, London Road. This route reflects the design principles of the BGY IPG and the City Fringe OAPF. It provides an alternative to Quaker Street and Sclater Street and is lined with retail units on both sides. It is important that this route is open 24 hours and that the retail units along it provide activity throughout all times of the day and night given the lack of residential uses along it and its enclosed nature. It is proposed that this be dealt with by planning obligations. A further two routes, Cygnet Lane and Farthing Lane, connect London Road to Sclater Street which is welcomed, however, as with the route above, their role through all times of the day and night needs confirmation.

352 A small lane named Phoenix Place is provided between Commercial Road to Wheler Street named Phoenix Place. This route is flanked by listed arches to the north and the proposed office block building to the south. The residential forecourt to the north of the arches will provide some activity on this route but officers are concerned that in spite of this, the 100 meter long lane will lack sufficient active frontage to generate pedestrian activity or provide passive surveillance to ensure it feels safe and inviting. This route is also partly covered by a walkway providing access to the park, and accommodates servicing access to an adjacent building, further undermining its quality, and making it heavily reliant on policing and CCTV.

353 London Road's heritage features including the granite sets and inset rail tracks will be retained and it will provide a key route linking Shoreditch High Street and Brick Lane. This should bring significant economic benefits to existing businesses. The applicant's commitment to retaining the evocative and gritty industrial character of London Road is strongly supported.

354 Given the importance of east-west connections that have led to the removal of the listed Oriel Structure, it is important that the routes provided feel safe and inviting. This could be achieved along Phoenix Place by creating shallow retail units within the arches and along Plot K, making it feel safer and more inviting. Moving the stairs further east, reducing the extent to which this route is covered, would also improve its quality and needs to be considered. A combination of these measures would ensure Phoenix Place becomes an important element of the schemes wider public realm network, providing good quality east-west permeability and would help justify the removal of the listed Oriel structure.

355 Offsite measures proposed by TfL as part of its Shoreditch Triangle scheme aims to improve public realm, pedestrian, cycle, and bus links in the wider area. The local authorities have also proposed offsite measures that improve facilities for pedestrians, cyclists and bus users. Developer contributions to fund TfL Shoreditch Triangle project to west and north of the site and relevant local schemes on Bethnal Green Road and the east of the site to help tie this site into the wider urban realm will be secured through section 106 obligation as set out below.

Residential quality

356 The overall residential quality of the scheme is high. The well-proportioned floorplates of all residential buildings will limit the number of units on each floor to no more than eight,

ensuring a strong sense of ownership over communal landings and providing a high proportion of dual aspect units per floor. The residential blocks have all been oriented on a north south axis, ensuring there are no north facing single aspect units which would receive little sunlight and the number of south facing units which could overheat are also minimised. Each core is accessed directly from the public realm providing legible entrances and a good distribution of residential activity at street level across the scheme. A concern was raised by Tower Hamlets that some of the units are below space standards, but this can be addressed by a commitment from the applicant that all units below 50 sq.m. will be marketed as one person, rather than two person, studio units. Should the Mayor resolve to approve planning permission, this should be secured by s106 legal agreement. Floor to floor heights are at least 3.15m, allowing for clear floor to ceiling heights of 2.5 metres in line with the guidance in the Housing SPG.

357 The outline aspects of the scheme are accompanied by a set of design principles that commit to space standards, orientation and number of units sharing the same landing which is welcomed and gives confidence that when these are fully designed they will also be of a high residential quality.

Architecture

358 The elevations of the detailed aspects of the scheme are considered of a high quality. The materials are robust and detailing is carefully considered to ensure the buildings will weather well in the future. Each building is carefully designed to create a rich and varied environment, which is distinct when viewed both close up and in long distance views.

Public open space

359 In addition to the 1.09 Ha of private and communal amenity space proposed within the scheme, the development proposals would provide a total of 2.25 Ha of new public realm and landscape. This is considered a significant public benefit. This is broken down as:

- A landscaped public park on top of the Braithwaite Viaduct comprising an area of 0.97 Ha
- Street level public realm making up the proposed public squares and new routes comprising 1.28 Ha

360 The application proposes a quantum of new public open space consistent with that set out in the BGY IPG. This substantial, elevated, south facing space will be a significant addition to the open space network in the City Fringe and is strongly supported. Whilst the layout is not exactly as envisaged in the BGY IPG, it is an entirely reasonable degree of deviation within the context of an outline masterplan, where some flexibility of application should always be anticipated. Whilst the delivery of the proposed new public spaces is welcomed, Tower Hamlets Council raised a concern about the timing of the delivery of the Braithwaite Viaduct Park, citing the IPG and Tower Hamlets MDD Site Allocation as requiring its early delivery. The IPG in particular states that 'a key principle that will apply to any phasing strategy will be the delivery of the park above the Braithwaite Viaduct as part of the early phases of the main development'.

361 Since the Mayor directed that he was to become the determining authority, GLA officers have engaged in negotiations to address this. The applicant has now revised the proposed phasing to include delivery of the part of the park in Plot H as part of Phase 1. Viability has subsequently been independently tested and it is confirmed that this will not jeopardise the delivery or the viability of the scheme. Whilst this is not the park in its entirety, this will constitute a significant part of the park and is considered the maximum reasonable amount of park provision that can be delivered early in the scheme.

362 A detailed landscape strategy has been submitted for the park, which articulates an attractive and thoughtful vision for this important piece of public realm. The application responds well to development plan requirements for new public open space and should the Mayor grant planning permission appropriate planning obligations will ensure early delivery of a significant part of the park.

Summary

363 In summary the scheme is generally well designed, comprising good quality architecture and materials, high quality accommodation, good permeability and well located public open spaces. Officers are concerned with aspects of the layout regarding the lack of passive surveillance on Phoenix Place and the overshadowing of neighbours from the mass of buildings on the north east section of the site, in Plots C and D. Both of these aspects could be improved by design revisions.

Inclusive design

Policy

364 London Plan Policy 7.2 requires that all future development meets the highest standards of accessibility and inclusion. The applicant should explain how, following engagement with relevant user groups, the principles of inclusive design, including the specific needs of older and disabled people, have been integrated into the proposed development and how inclusion will be maintained and managed. Policy 7.6 requires that buildings and structures meet the principles of inclusive design. London Plan Policy 3.8 'Housing Choice,' the Mayor's Accessible London SPG, and Tower Hamlets MDD Policy DM4 require 10% of new housing to be wheelchair accessible or easily adaptable for residents who are wheelchair users. London Plan Policy 4.12 seeks to improve employment opportunities for Londoners by removing barriers to employment.

Analysis

365 The revised scheme (current application) has been submitted with an updated access statement as part of the revised design and access statement. In relation to the residential elements of the scheme, the updated access statement includes a Lifetime Homes and wheelchair accessible housing compliancy check for the residential units located within the detailed elements of the scheme i.e. Plots C, F and G. This shows that 100% of the units in these plots will be designed to Lifetime Homes standards. Within Plots F and G 40% of the units have been designed to the Wheelchair Housing Design Guide (Habinteg, Second edition), as have 77% of the units in Plot C.

366 The lack of step-free access to the underground bicycle storage proposed within the scheme was raised as a concern by GLA officers at Stage 1. The applicant has responded explaining that access will be by means of a bicycle accessible stair with a ramp to the side and an accessible lift and this is considered acceptable.

367 In relation to the parking arrangements for blue badge holders, the applicant has agreed to provide a car parking management plan which would identify and provide for accessible spaces as the accessible units are developed. This will also include the way spaces would be allocated. This should be also secured by condition.

368 Chapter 7 of the revised design and access statement explains how inclusive design has been an integral feature of the masterplanning process. The results of the applicant's design review indicate that the proposals are unlikely to be detrimental to disabled people. The applicant states that access arrangements for the outline elements of the scheme will be addressed in further detail as the scheme develops. Details should be submitted for approval at the reserved matters stage.

369 While the revised access statement does contain a significant amount of additional information showing how the needs of disabled and older people are to be addressed, the document highlights the plan for consultation with key accessibility groups and charities. This is strongly supported and, should the Mayor resolve to approve planning permission, this should be secured by suitable condition to ensure that consultation with key groups is ongoing throughout the design and development process.

Strategic views

370 London Plan Policy 7.11 and 7.12 establish the London View Management Framework (LVMF), which seeks to designate, protect and manage 27 views of London and some of its major landmarks and the LVMF SPG seeks to provide a method to understand and protect the characteristics. In accordance with Policy 7.12 new development is expected to make a positive contribution to the characteristics and composition of the designated views. The application documentation includes a Townscape and Visual Impact Assessment (TVIA) which provides accurate visitations from all relevant points set out in the LVMF SPG, together with assessments on the potential impact on the viewer's ability to recognise and appreciate the strategically important landmarks(s).

371 Part of the application site lies within the background of the protected view of the designated panorama from Westminster to St Paul's Cathedral (8A.1) and King Henry VIII's Mound, Richmond to St Paul's Cathedral (9A.1). The height and form of the buildings have been influenced by the viewing plane. The proposal would not be visible from either of these views.

372 The development would be visible from a number of other LVMF views; Alexandra Palace (LVMF 1A.1), Parliament Hill (LVMF 2A.1), Kenwood (LVMF 3A.1), Primrose Hill (LVMF 4A.1), Greenwich Park (LVMF 5A.1), Blackheath Point (LVMF 6A.1), Waterloo Bridge Downstream (LVMF 15B.1/2), Gabriel's Wharf (LVMF 25A.1/.2/.3) and St James's Park Bridge (LVMF 26A.1). From all of these viewpoints there would be a minor change to the view as a result of the proposal and the impacts would be neutral due to the distance of existing and consented development. The current design has been revised so as to minimise impact on LVMF 10.A.1, Tower of London from Tower Bridge north bastion. In the summer the amended proposals will not be visible, obscured by trees. In winter the revised scheme remains mostly obscured by dense branches and is barely noticeable, with a clear gap between the White Tower and the tops of Blocks G and F. This is a view of high sensitivity but the change to this view is considered to be a negligible.

Historic environment

World Heritage Site

373 London Plan Policy 7.10 states that development within the setting of World Heritage Sites should conserve, promote, make sustainable use of and enhance their authenticity, integrity and significance. It also states that any development should not comprise the viewer's ability to appreciate the asset's Outstanding Universal Value.

374 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the tests for dealing with heritage assets in planning decisions. In relation to listed buildings, all planning decisions should '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' and that this should be given significant or special weight in the balance of making planning decisions. The NPPF identifies that the extent and importance of the significance of the heritage asset is integral to assessing the potential impact, and therefore the acceptability. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a

development will lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. These aims are transposed in London Plan Policy 7.8 which requires the identification, conservation, restoration and re-use of heritage assets.

375 The Tower of London World Heritage Site is just over a mile to the south of the development site and when this national monument is viewed from the south bastion of Tower Bridge, the top storeys of the previous design iteration would have been visible above the crenelated parapet of the White Tower. Commenting on the original application, as noted in the response to consultation section of this report, Historic England expressed particular concern about the harmful impact on the setting of the Tower of London when viewed from Tower Bridge.

376 In light of concerns raised by HE as well as GLA and local borough officers, and following, the applicant revised the scheme and lowered the height of these towers. In the amended scheme, when viewed from the south bastion of Tower Bridge, only block G would be visible through the crenelated parapet of the Tower of London. HE have subsequently advised that they welcome the height reduction, however, believe that the revisions will reduce the degree of harm to the Tower of London but would not remove it.

377 In light of the revision GLA officers consider that the impact on this view is minor and any harm to setting of this heritage assets of Outstanding Universal Value is less than substantial.

378 The impact on the setting of the Tower of London is to be weighed against the benefits of the scheme in the final planning balance. The harm to the setting of World Heritage Site will therefore be considered alongside other impacts in the conclusion section of this report.

Applications for Listed Building Consent

379 Applications for listed building consent for part or whole of the same works as those covered by a planning application should be applied for and considered together. In large part the same heritage considerations apply to applications for listed building consent as to planning applications.

380 Statutory tests for the assessment of planning applications affecting listed buildings are found in the Planning (Listed building and Conservation Areas) Act 1990. Section 66(1) relates to applications affecting a listed building or its setting. It requires the decision maker to: "have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". The emphasis for decision makers is that in balancing benefits and impacts of a proposal, the preservation of the heritage assets should be given "special regard/ attention" and therefore considerable weight and importance.

381 In support of the planning application and listed building consent the applicant has provided a Heritage Statement, prepared by KM Heritage. This report assesses the effects of the proposals on the various heritage assets within the site, including the oriel Gate and Braithwaite Viaduct, as well as within its wider context. The scheme in its entirety, together with the specific aspects of the proposals have been considered against the significance of the heritage assets and the relevant statutory and policy context.

382 NPPF paragraph 132 confirms that in considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the assets conservation. Any harm or loss should require clear and convincing justification.

383 If a proposal will lead to substantial harm or the total loss of significance of the designated heritage asset, the approach set out in paragraph 133 is to be followed, namely that consent should

be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm.

Braithwaite LBC PA/14/02096:

384 Listed Building Consent is requested to restore and repair of the Grade II listed Braithwaite Viaduct and adjoining structures for Class A1/A2/A3/A5/D1 uses at ground and basement levels. Structural interventions are proposed to stabilise the London Road structure, including the removal of sections of London Road roof to create openings over proposed new public squares; formation of new shop front openings and the installation of new means of public access up to park level. Part removal of an adjoining unlisted wall on Brick Lane to provide improved public realm and pedestrian access into the site.

385 The Grade II listed Braithwaite Viaduct is a building at risk as identified by Historic England, as it is in a poor state of repair with the potential to deteriorate further. The proposals seek to sensitively repair the viaduct, whilst respecting its special interest and patina and introduce viable, sustainable and appropriate new uses. A number of interventions are proposed, including:

- The removal of sections of the 'lid' to London Road where key routes converge
- The demolition of later structures at the western end of the Braithwaite Viaduct so as to give the structure greater prominence, visibility and accessibility
- A number of new openings in the spine walls of the unlisted vaults
- A new stair to be housed in the easternmost arch of the Braithwaite Viaduct which would provide access from Brick Lane to the proposed park above London Road.
- Opening up of the wall between the last arch and Brick Lane to provide access on axis with the Braithwaite Viaduct

386 London Road is also in a poor state of repair and the proposals seek to reinstate this as a public thoroughfare, to provide a direct link from Brick Lane to Braithwaite Street and the centre of the site. It is intended to retain as much of the historic fabric of London Road as possible.

387 At the eastern end of the Braithwaite Viaduct, a new entrance will be created to give access to the site from Brick Lane. This necessitates the removal of an unlisted section of wall at the Brick Lane end of the site.

388 The proposals relating to the Braithwaite Viaduct, London Road and adjoining wall on Brick Lane are considered sensitive and the interventions minimal and necessary to achieve the overall aim, which secures the structural integrity of an 'at risk' structure and brings it back into viable and long term use. All of the retail frontages and servicing have been sensitively located so as to ensure minimal ongoing impact on the historic fabric of the Viaduct, and to maximise active frontage along London Road.

389 In relation to the tests set out in statute and in the NPPF, it can be seen that the proposals specifically seek to conserve the Braithwaite Viaduct, enhance its setting and significantly provide access to the public so that they can better appreciate its features of architectural and historic interest. The proposed works in relation to this listed building application would be welcome and strongly supported. Should the Mayor resolve to grant planning permission for the hybrid application, it is recommended that Listed Building Consent be granted, subject to conditions listed at Appendix A.

Oriel LBC 2014/2427:

390 Listed Building Consent is requested to restore and repair the existing Grade II listed oriel and gates and adjoining historic structures to provide the principal western pedestrian gateway into the associated development (2014/2425) and to accommodate proposed Class a1/A2/A3/A5 retail use into a number of the existing arches at ground floor. In addition the part removal of a section of adjoining unlisted structures proposed to provide public realm and pedestrian access into the site.

391 The Oriel Gateway is the historic entrance to the site and is a Building At Risk as identified by Historic England. The structure is in particularly poor condition and far more exposed to the elements than the Braithwaite Viaduct, which leave it very vulnerable to ongoing deterioration through water ingress and the corrosion of the structure. The eastern face has been left exposed with its structure visible and it has become overgrown with vegetation. The Oriel Gateway itself has been hoarded so as to protect against further deterioration, as have the original gates to the site. These have been repaired but are still vulnerable to theft and damage if left exposed.

Hackney Council comments

392 In the committee report of December 2015 Hackney Council raised various issues in relation to the proposed works to the Grade II Listed Oriel Gateway. The principal objection is that the proposals result in direct and substantial harm to the designated heritage asset itself. Furthermore, Hackney considers that the development goals could be achieved without the harm caused. This relates to the removal of the original ramp (R4) and wall (B2) to the south of the Oriel Gateway, which the applicant has identified as being unlisted, whereas Hackney Council identify it as being part of the Grade II listed structure of the Oriel Gate. Furthermore, Hackney Council cite an email received from Historic England on 18 February 2015 confirming their view. Other objections raised by Hackney Council related to:

- The specific treatment of the Oriel Gate- namely the shape of new elements, materials, the historic accuracy of proposed treatments and the type of glazing selected
- The phasing and subsequent risk to exposure of the structure to the elements during and post construction
- The requirement of a method statement.
- The requirement for specific designs for the shops in the gate, as opposed to alternative ones.
- The specific uses in vaults G1 to G4.

393 Since these points were raised by Hackney Council, GLA officers have received confirmation from the applicant that the proposals do involve the removal of B2, but not R4. GLA officers have also reviewed the Historic England Listing and obtained a copy of the email to Hackney Council confirming that the extent of the listing includes R4 and B2. The email also cites a High Court judgement on the matter relating to the adjacent London Underground proposals in 2002 (Hammerton v London Underground Limited Ref: CO/3697/02).

394 According to the judgment of Ouseley J to which (then) English Heritage draw attention, the Secretary of State (SoS) based a previous decision on the following premise. *“the curtilage of the listed structure includes the ramp and wall adjacent to Bethnal Green Road, which extends continuously as far as Wheler Street as shown in stippled tone on the Appendices to the application”*. Ouseley J does appear to question the conclusion of the SoS but has done so without ruling on it. In such instances it is considered appropriate to place substantial weight on the view of the specialist heritage body and Historic England have confirmed that they consider the SoS interpretation to be correct and therefore the elements R4 and B2 must be treated as part of the Grade II listed structure for the purposes of determining the application and associated listed building consent.

395 In light of this and with regards to the requirement in law to have special regard for the desirability of preserving the building and the tests laid out in the NPPF. A comprehensive statement of justification for the removal of all or any part of the listed structure or its modification is therefore required which must accord with statute, the development plan and guidance issued by Historic England.

396 Concerning the other points raised by Hackney Council. On 14 March 2016 the applicant provided additional information (1455 KMH response to GLA comments March 2016 R1) to specifically address these points. This is summarised as follows:

- *The specific treatment of the Oriel Gate- namely the shape of new elements, materials, the historic accuracy of proposed treatments and the type of glazing selected.* The applicant has agreed to accept that the treatment of the concrete wall and details of how this would be attached to the existing perimeter wall will be subject to a condition. Furthermore the applicant has confirmed that the 'show of arms' is will be reinstated at the top of the Oriel Gateway. The applicant also confirmed in writing that painted timber sash windows will be reinstated in the Oriel's openings, rather than inserting toughened glass infills. The applicant has confirmed that they agree to a condition to address matters of detail associated with the use of materials and glazing etc.
- *The phasing and subsequent risk to exposure of the structure to the elements during and post construction.* The applicant has confirmed that the condition of the heritage asset will be stabilised during and post construction, and accepts that this can be secured by way of condition.
- *The requirement of a method statement.* The applicant has agreed to a condition requiring the submission of a method statement
- *The requirement for specific designs for the shops in the gate, as opposed to alternative ones.* The applicant has confirmed that designs are fixed and not the subject of alternatives. Drawing PC(31) 9 was submitted with the revised application in June 2015 and shows the design of forward extensions to the shop units for the arched openings in the retained front wall facing Shoreditch High Street, either side of the oriel window. They appear a well-designed and an innovative solution to extending the floorspace of the units within the arches, and appear to take as an appropriate historical design reference a section of a steel-bodied goods wagon emerging from the arched tunnel.
- *The specific uses in vaults G1 to G4.* The applicant has confirmed that the vaults G1, G2 and G3 will be used for active uses, such as retail and vault G4 is proposed as part of a pedestrian route.

397 It is considered that the applicant has satisfactorily addressed the above additional concerns raised by Hackney Council, and agreed these aspects can be dealt with by appropriate conditions should the Mayor decide to approve planning permission.

398 The issue of the removal of the wall south of the Oriel Gateway along Commercial Street, however, remains unresolved. The applicant emailed GLA officers on 24 March 2016 stating that their strong view remains that this wall is not listed and that even if it was it does not automatically mean that consent cannot and should not be granted. The applicant contends that, taking into account the GLAs statutory duties under s72 of the planning (listed buildings and conservation areas) act 1990 to have regard to the desirability of preserving the building or its setting, recent case law and government policy in the NPPF, it is still possible to grant planning permission and listed building consent for a development which involves the demolition of a listed structure. Factors that the applicant considers relevant here are:

- The demolition would be of only part of the listed structure and would be a peripheral element

- The focus of the listing is the forecourt wall and the gates, not the B2 boundary wall.
- Demolition of the wall and replacement by the new development would enhance the setting of the forecourt wall and gates and be an improvement on the current position.
- The B2 boundary wall, if retained, would need to be demolished in any event and rebuilt given its current condition.
- The applicant also argues that that it is necessary to demolish the wall in order to achieve the recognised substantial public benefits to be brought about by the scheme.

399 Whilst having some sympathy for the applicant's argument, it cannot be accepted that this additional statement constitutes a comprehensive statement of justification that would be necessary for the Mayor to accept the demolition of a listed structure. It must also be noted that the application for listed building consent, as well as the supporting documentation, does not request permission to demolish a listed structure. Admittedly this is because of the applicant's thus far differing assumption on the extent of the listing, however, listed building consent cannot be granted until the application is revised to reflect the listed status of the wall. Any new application for listed building consent should also explain any subsequent necessary changes that have been made to the proposals and/ or a comprehensive statement of justification.

Designated Heritage Assets

400 On-site designated heritage assets include the Grade II listed Braithwaite Viaduct and Grade II listed former forecourt walls and gates to the Goods Yard. The site is also surrounded by a number of designated heritage assets.

401 Within the site, the proposal would preserve the existing designated heritage assets. The proposal includes the repair of the Braithwaite Viaduct and its conversion into retail units. This would also include the unlisted vaults to the south which adjoin London Road. These proposals would secure a viable, long-term future for the listed structure and ensure its on-going conservation.

402 London Road which runs to the south of the Braithwaite viaduct, along the northern edge of the railway cutting, is unlisted but forms an important part of the setting of the listed viaduct and contains many original features associated with the Goods Yard including a wagon lift, brick jack arches and granite cobble stones which have rails set into them. In the pre-application proposals these would have been significantly altered, undermining the character of the building and harming the setting of the listed structure. The applicant has responded positively to requests to retain the integrity of these features and the original alignment of London Road and the current proposals should enhance the setting of the Braithwaite Viaduct. The proposals will introduce retail into the structure without over-restoring the structure thereby retaining its patina of age and gritty industrial character.

403 The listed forecourt walls, gates and the oriel at the entrance of the site are also listed and would be repaired as part of the proposals. This is so as to open up the historic entrance to the site and focus the east-west route across it. The ground floor of the forecourt would be opened up to provide the opportunity for additional retail units. As discussed in the listed building consent section, the proposals include demolition of wall B2, which is part of the listed structure of the oriel. Whilst this does not result in the complete loss of the heritage asset, this is considered to be substantial harm and therefore necessitate the required level of justification to be provided by the applicant. The benefits of demolishing the wall are acknowledged as being substantial, including better access to the site, improved east-west permeability and access to the new park. The significant benefits arising from the restoration of the gateway and the oriel, which have for a long time been on the 'at risk' register are also acknowledged. However, the applicant needs to make this case as part of a listed building consent application.

404 While unlisted, the illustrative scheme for plots D and E includes the renovation of the derelict Weaver's Cottages to provide an entrance into the retail ground floor of the development. Each cottage would be converted into two office units suitable for small and medium sized enterprises (SMEs), providing additional small pockets of commercial uses in Tower Hamlets. The Mission Hall would also be repaired and incorporated into the wider scheme. The northern Victorian boundary wall running from Braithwaite Street and into Sclatter Street is to be preserved and restored, with entrances opened up through the arches to enable access to the residential buildings above and a larger, new opening to provide access to the proposed Farthing Lane. This is also welcomed as a significant conservation gain.

405 The preservation and restoration of these elements of the scheme would enhance their significance as heritage assets. Their inclusion in the scheme is well thought out and allows them to be brought back into active use and become accessible to the public. These elements provide a genuine benefit for the scheme and would be in accordance with London Plan Policy 7.8.

Conservation areas

406 In relation to conservation areas, the Planning (Listed Buildings and Conservation Areas) Act 1990 states that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. The development would affect views from a number of conservation areas. The height and scale of the development would have varying degrees of impact upon the setting of the South Shoreditch, Boundary Estate, Redchurch Street and Elder Street Conservation Areas and on the character and appearance of the Brick Lane & Fournier Street Conservation Area which includes part of the site. The tall buildings of the eastern part of the City already form part of the setting of most of these conservation areas, as does the existing Shoreditch High Street Station concrete box and bow-string bridge. In addition, parts of the Goods Yard site have been derelict and deteriorating for many years which exerts a negative impact on the setting of the surrounding conservation areas, but also means that any form of development on this site is likely to have a significant effect on local views.

407 Of the views outlined in the TVIA there are several where the impact should be noted.

- I. South Shoreditch Conservation Area In the long view down Epworth Street the development would largely be screened by 'The Stage' development which gained permission in 2013 and is now under construction. The two towers on Plots F and G would terminate the view along Great Eastern Street, and have a moderate impact on the setting, although the tallest tower would be almost entirely screened by trees in the summer. It should be noted that this view already includes relatively modern buildings towards the south-eastern end of the street, and the empty Foundry Building in the foreground, which contribute little in townscape terms. Furthermore the Foundry Building is subject to a live planning application for the L'Art Hotel development which, once built, will be prominent in the foreground of this view and further dilute the impact of the proposals. The view of the towers from Worship Street which, would appear above the Grade II* listed Nos. 91-101, but this is not considered to harm the background settings of these buildings, given the scale of buildings that can already be seen in this context ; particularly when consideration is given to the consented schemes for 'The Stage' and 'Principle Place' developments.
- II. Shoreditch High Street The proposal would be clearly visible in views down the High Street from within the South Shoreditch Conservation Area, and would be considerably higher than the Tea Building. The latter would mediate the increase in scale moving south towards the City and while visible at the northern end of the High Street, it would not affect the immediate setting of Grade I listed St Luke's Church.

- III. Boundary Estate Conservation Area Most of the key LCC mansion blocks are Grade II listed. The scheme would be visible along Camlet Street from Arnold Circus, during the winter months when the large plane trees are not in leaf (in the summer they would be obscured by the trees). This is an urban environment and the towers would be seen as prominent elements in the middle distance, the profiles of which would be not greatly higher than the existing roof profile of the estate. When moving onto the pavements of Camlet Street the views of the buildings would be much diminished and largely obscured by the trees even in the winter. The setting of the listed buildings is not considered to be harmed in this view. The view from Arnold Circus along Club Row would also be affected, but the recently completed Avant Garde tower already fills much of this view and the impact is unlikely to be great. There would be a marked change to the views of the Boundary Estate across the churchyard of St Leonard's Church from Austin Street, though the Broadgate Tower already intrudes, albeit to a lesser extent, on this view.
- IV. Redchurch Street Conservation Area Views along Chance Street and Bethnal Green Road would be significantly changed by the proposed development and would substantially alter the background setting of the conservation area. This is not, however, considered to constitute substantial harm. This harm will, however, be considered in the planning balance alongside the other impacts and public benefits of the scheme.
- V. Commercial Street: junction with Hanbury Street In this view the two towers complement and form an attractive composition with the two faience Art Deco buildings to the right of the view. The setting of the Elder Street and Brick Lane & Fournier Street Conservation Areas and listed buildings in this view would be altered. Whilst it is accepted that this would mean a significant change to this view it is not considered to constitute substantial harm. This harm will, however, be considered in the planning balance alongside the other impacts and public benefits of the scheme.
- VI. Brick Lane and Fournier Street Conservation Area Some views from within the Conservation Area would be altered, including those of St Matthew's Church from Hereford Street where there would be a moderate impact on the background in the middle distance. Along Commercial Street the towers would rise above the Grade II listed Spitalfields Market halls and Commercial Tavern, altering the view and having a moderate impact on the setting of the Brick Lane and Fournier Street Conservation Area. The view down Elder Street is of high sensitivity given the listed Georgian terraced houses and the proposal would have an adverse impact, causing harm to this view by virtue of the tallest towers terminating this vista which is currently closed by low level buildings, and the expanse of visible sky which would be lost. However it needs to be borne in mind that any development on the Goods Yard site is likely to be visible in this view and that prior to its demolition the historic Goods Yard structure would have had a significant presence in this view for a period of over a century. The harm to the setting is considered to be moderate and will be considered in the planning balance alongside the other impacts and public benefits of the scheme
- VII. Geffrye Museum In longer distance winter views the southern wing of the museum would be affected, but given the distance would constitute less than substantial harm.

- VIII. Elder Street Conservation Area The views down Blossom Street and Elder Street would be fundamentally changed with the current backdrop of this vista being transformed from sky to the south elevations of the two tallest towers, terminating the view along the street. Although this represents a significant impact, as with other similar views nearby, it needs to be borne in mind that any development on the Goods Yard site is likely to be visible and that prior to its demolition the historic Goods Yard structure would have been visible. The impact is harmful, and the re-introduction of a building to this view is considered acceptable and mitigated by the fact that the new building would be of high quality architecture and a symbol of London's regeneration.

408 The potential impact of the proposals on relevant LVMF views is not considered significant, although it is accepted that there would be some harm to the setting of the Tower of London World Heritage site when viewed from the south bastion of Tower Bridge. The impact on some local views would be more significant as set out above. Although less than substantial, this harm and the impact on some of the conservation area views and the setting of listed buildings needs to be weighed against the public benefits of the scheme, in line with guidance set out in the NPPF. The harm identified above, alongside the other impacts identified elsewhere in this report, will be weighed against the public benefits of the scheme in the conclusion section of this report.

Climate change and Sustainability

National policy

409 The NPPF encourages new development to incorporate renewable energy and promote energy efficiency. Chapter 10 of the NPPF states that *"Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change"*.

Regional and local policy

410 London Plan climate change policies (set out in chapter five) collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, and to minimise carbon dioxide emissions. London Plan Policy 5.2 sets strategic targets for carbon dioxide reductions, London Plan Policy 5.3 ensures future developments meet the highest standards of sustainable design and construction, London Plan policy 5.6 prioritises the delivery of decentralised energy in development proposals, and London Plan policies 5.9-5.15 promote and support the most effective climate change adaptation measures including passive thermal regulation, urban greening, and water management.

411 In accordance with the Mayor's latest guidance on preparing energy assessments (March 2016), as the stage 1 scheme was received by the Mayor prior to 1 October 2016, a flat carbon dioxide reduction target beyond Building Regulations Part L 2013 of 35% will be applied to both residential and non-residential components of the development.

412 Policies CS 29 and 30 of the Hackney Core Strategy aim to address climate change at local level and encourage the use of renewable technologies for on-site energy generation and the establishment of decentralised energy networks. Policy DM37 of the DMLP sets performance targets for major development. Policy DM 41 sets out how new development must demonstrate that the heating, cooling and power systems have been selected to minimise carbon dioxide emissions, in line with the London Plan targets.

413 Strategic Objective SO3 of Tower Hamlets Core Strategy seeks to ensure that new development limits carbon emissions, delivers decentralised energy and renewable energy

technologies and minimise the use of natural resources. Core Strategy Policy SP11 incorporates the London Plan carbon dioxide reduction targets and requires a 20% reduction of carbon dioxide emissions through on-site renewable energy generation.

414 Tower Hamlets MDD Policy DM29 goes further than the London Plan in that it increases the carbon dioxide savings target for residential buildings to 50% above building regulations 2010 for the years 2013-2016. This equates to 45% above building regulations 2013.

Issues previously raised by the Mayor

415 The Mayor considered a report on the original application on 12 December 2014 (D&P/1200b&c/01). Although there have been significant changes made since and an amended application submitted, the key issues relating to energy and climate change remain largely unchanged. The key issues raised by the Mayor at the consultation stage in December 2014 were as follows:

- The applicant was requested to review and resubmit the energy strategy against a Building Regulations Part L 2013 baseline and ensure that that this baseline should be met through energy efficiency measures alone. At the time the application had been assessed against 2010 Building Regulations.
- The applicant was requested to undertake dynamic thermal modelling to assess overheating risk and evidence compliance with the Mayor's cooling hierarchy.
- The applicant's investigation of the heat network was welcomed but details of how future connections would be provided on site were requested. The applicant was also asked to confirm that all domestic and non-domestic space would be connected to the site heat network. Further details were also required to show of how a future connection to a decentralised energy network could be achieved in practice (i.e. location of space safeguarded for heat exchangers and pipe runs connecting to a wider network).
- The applicant was also requested to further investigate the feasibility of a single energy centre and the three proposed energy centres should be reviewed in conjunction with the combined heat and power (CHP) proposal. Details of the proposed phasing approach for the three energy centres were also requested.
- The provision of on-site renewable energy in the form of solar photovoltaic panels was welcomed.

Amended scheme

416 Following the Mayor's consideration of the original application, the applicant made a number of amendments to the energy strategies and submitted an amended planning application. In accordance with London Plan Policy 5.2 the applicant has submitted a site-wide energy strategy, which sets out how the scheme proposes to reduce carbon dioxide emissions in accordance with the London Plan energy hierarchy.

417 In relation to the 'lean' stage the applicant aims to achieve a reduction of 14% in regulated carbon dioxide emissions across the whole site compared to a 2013 Building Regulations Part L compliant development through energy demand reduction measures.

418 The demand for cooling would be minimised through the provision of openable windows. The applicant has committed to ensuring that the detailed design would meet criterion 3 of Part L 2010 on high summer temperatures. The dwellings are proposed to have solar control glazing but

also active cooling. The potential for heat recovery from the on-site 33kW electrical substation is also being considered.

419 The 'clean' stage has been addressed by the proposal to utilise district heating, heat networks and combined heat and power (CHP). In relation to district heating, the applicant has identified that Citigen district heating network is in close proximity to the site. While the site is too far away to make a connection to this network at this point, the applicant proposes to ensuring the development allows for future connection should a new network become available.

420 The applicant is proposing to install a site-wide heat network powered by three energy centres across the site. The installation of the energy centres will be phased to accommodate the completion of individual blocks. On completion of the development the energy centres will be linked. This could achieve a reduction in regulated carbon dioxide emissions of 14% per annum (beyond the 'lean' stage).

421 The 'green' stage has been addressed with the proposed inclusion of 71 kWp of solar photovoltaic panels on the roof of the proposed buildings. This could achieve a reduction in regulated carbon dioxide emissions of 0.8% per annum beyond the 'clean' stage.

Analysis of amended application

422 On 15 September 2015 the Mayor considered a report (D&P/1200b&c/02) on this, in which the following issues were raised:

- The applicant reassessed the projected site wide carbon emissions using the Part L 2013 methodology. The overall reduction is estimated to be a 27% savings from a Part L baseline. The estimated emission savings for the energy efficiency measures was estimated at 14%, which was welcomed.
- The applicant was requested to provide further evidence that the Mayor's cooling hierarchy had been followed and that there was no significant risk of overheating without reliance on mechanical cooling. The applicant was requested to provide Part L compliance data sheets of the sample dwellings with ventilation restrictions. The applicant was requested to undertake dynamic thermal modelling.
- Further information was sought regarding the three proposed energy centres and the potential future connection points to a district energy network. Information was again sought to confirm that all apartments and non-domestic buildings uses would be connected to the network. Further information was requested around the possibility of a single energy centre.

423 The applicant subsequently provided a further response. GLA officers considered this response and liaised with the applicant in order to address the outstanding points. The applicant's response and the GLA's further comments (December 2015) are outlined below:

- The applicant provided additional sample SAP compliance sheets as requested, which predicted the majority of units would be predicted 'medium' risk of overheating. It was not accepted that this sufficiently demonstrated compliance with the cooling hierarchy in London Plan Policy 5.9 and the applicant was asked to consider integration of additional passive measures to those dwellings at a higher risk of overheating.

- The applicant confirmed that all dwellings and building uses are to be connected to the site wide network. The applicant provided confirmation that the energy centres will incorporate sufficient space provision for a plate heat exchanger, meters, secondary circulating pumps and the necessary ancillaries to connect to a future district heating network.
- The applicant did not provide sufficient information to demonstrate that the opportunity for a single energy centre had been thoroughly investigated. GLA officers again requested this information and sought further advice on proposed energy centre phasing timescales.
- The applicant was advised that any shortfall in on-site carbon emissions savings (below the London Plan Policy 5.2's 35% beyond Part L 2013 target) would need to be secured through a carbon-offset payment.

424 The applicant provided a further response in January 2016. This included additional information concerning the proposed three energy centres. This information successfully demonstrated that this solution is designed to meet the necessary air quality (see below) and energy related policy requirements and allowed site constraints and the land-use mix of the proposed to be taken into account. This approach is considered acceptable subject to planning obligations ensuring that each energy centre can be connected to a district energy network in future.

425 In order to ensure the development proposals are compliant with the development plan, the following section 106 planning obligations are included in the draft agreement:

- The applicant is to achieve the reductions to regulated carbon dioxide emissions of at least 27% beyond Part L 2013 of the Building Regulations as predicted in the submitted Energy Statement with the remaining shortfall amount below 35% being the subject of a carbon offset payment.
- The applicant is required to undertake and submit dynamic thermal modelling of overheating risk to further demonstrate compliance with London Plan policy 5.9.
- The applicant is required to provide a site wide heat network designed in accordance with the London Heat Network Manual with all uses on the site connected.
- Provision for each of the three energy centres to connect to a future district energy network is required. Phasing requirements and activation requirements for each energy centre were secured.

Air quality

National Policy and legislation

426 The Clean Air for Europe (CAFE) programme revisited the management of Air Quality within the EU and replaced several EU Framework Directives with a single legal instrument, the Ambient Air Quality and Cleaner Air for Europe Directive 2008/50/EC (Ref. 12-6). This is currently transcribed into UK legislation by the Air Quality Standards Regulations 2010 (Ref. 12-7). These limit values are binding on the UK and have been set with the aim of avoiding, preventing or reducing harmful impacts on human health and on the environment as a whole.

427 The National Planning Policy Framework (NPPF) (Ref. 12-8) published in March 2012 states that: *"The planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable*

risk from, or being adversely affected by unacceptable levels of soil, water, or noise pollution or land instability..." Annex 2 of the NPPF defines 'Pollution' as "Anything that affects the quality of land, air, water or soils, which might lead to an adverse impact on human health, the natural environment or general amenity. Pollution can arise from a range of emissions, including smoke, fumes, gases, dust, steam, odour, noise and light".

428 Paragraph 124 of the NPPF states that; "Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

429 The National Planning Practice Guidance (NPPG) (Ref. 12-9), provides a summary of the air quality issues set out in the NPPF and gives guidance on what an air quality assessment should include. The guidance then advises that the applications should proceed to decision with appropriate planning conditions or planning obligation, if the proposals (including mitigation) would not lead to an unacceptable risk from air pollution or prevent sustained compliance with EU limit values.

Regional and local policy

430 London Plan Policy 7.14 , Hackney Council DMLP Policy DM42 and Tower Hamlets Council MDD Policy DM9 relate to air quality. Tower Hamlets Core Strategy Policy SP03 'Creating healthy and liveable neighbourhoods' is also relevant. The site is within an area designated as an Air Quality Management Area and both councils have published an Air Quality Action Plan.

431 The applicant has submitted an assessment of the proposal in relation to air quality, set out in Chapter 12 and Appendix N of the Environmental Statement (ES). The submitted ES has assessed the impact on air quality in relation to the construction and operation of the development, traffic generation and the on-site energy centre emissions.

Issues raised by Hackney Council

432 Both Hackney and Tower Hamlets Councils raised issues relating to air quality following their (post call-in) committee meetings. Hackney Council advised that the assessment against Air Quality Neutral requirements show that the development did not meet the required standard and was therefore not considered acceptable.

433 The main modelling study specifies specific technology that does not appear to meet Air Quality Neutral requirement, while the guidance on Air Quality Neutral suggested that a cash payment or provision of other local improvements could potentially be used to offset excessive emissions, which was not considered appropriate.

434 The results of the modelling work suggested impacts that are greater than would normally be acceptable from a development. The report was not considered to be of sufficient quality to demonstrate that the scheme is acceptable or otherwise in Air Quality terms. Hackney Council therefore recommended that the assessment be re-done to address these issues.

435 The report did appear to show a number of unacceptable impacts and locations where exceedances of the annual mean Nitrogen Dioxide standard are expected. Of particular concern were the impacts from the proposed energy centres, where adverse impacts were expected at 12 receptors. On a few occasions a 'minor adverse' impact might be acceptable but only under exceptional circumstances.

436 In addition to this the Air Quality Assessment set out a method for assessing the impacts of the energy centres against the 'short term' Air Quality standard for NO₂. As this can't easily be assessed directly the concept of allowable pollution 'headroom' has been adopted from the Environment Agency H1 guidance. The allowable 'headroom' is exceeded at a number of receptors.

437 In Hackney Council's view it is likely that either less polluting engines or emissions mitigation equipment will need to be installed to address these issues. Should mitigation equipment be required, the applicant would need to demonstrate that there is sufficient space within the energy centres for the installation and maintenance of this equipment.

438 Overall and in view of the above issues, Hackney Council advised that the proposals are considered contrary to Policy DM42 of the Hackney Development Management Local Plan 2010.

Issues raised by Tower Hamlets

439 Tower Hamlets Council advised that the submitted ES Technical Appendix N showed that the proposed building emissions do not meet the calculated building emissions benchmark. For nitrogen dioxide and particles (specifically PM₁₀) Tower Hamlets Council has designated an Air Quality Management Area (AQMA) across the borough that sets air quality objectives.

440 The results and impacts of the proposed development are set out at ES Table 12.29 which shows Change in Air Quality Statistics predicted with and without the development in year 2032. Within Tower Hamlets this shows that there will be an increase of 0.5 µg m⁻³ NO₂ at receptor R25a (32-42 Bethnal Green Road) that is claimed to represent a small adverse impact. In this location, Tower Hamlets Council consider that even a small adverse impact is significant, as ES Table 12.26 states that the predicted annual NO₂ concentration in the 'with development' scenario, at this receptor is 57.33 µg m⁻³. This vastly exceeds the annual Air Quality Objective within the Air Quality Action Plan and an increase of this magnitude is unacceptable.

441 The energy centre emissions are expected to have adverse impacts on 12 of the modelled receptors. Of these locations, 9 receptors are within Tower Hamlets, in Plots C and E. The highest would be an increase of 8 µg m⁻³ which is a 'major adverse' impact. "The other impacts are 'minor adverse'." It is noted that only a limited number of floors have been modelled and it is likely that other floors would experience similar or more severe impacts.

442 Overall, Tower Hamlets Council considered that the impacts associated with the energy centres were too high to be acceptable, however, advised that other impacts such as the residential exposure could be dealt with via conditions. It was recommended that the energy centres be re-examined to reduce the emissions impacts attributed with them and to meet Air Quality Neutral emissions. It is likely that either less polluting engines or emissions mitigation equipment would need to be installed.

443 This was not raised in the initial officers report, but added in the addendum as the following additional reason for refusal:

- *"The submitted Environmental Assessment fails to demonstrate that the proposed development would be air quality neutral. There would be significant adverse impacts on air quality that would not be mitigated. This includes increasing air pollution levels at existing residential receptors and significant impacts associated with the energy centres. This is inconsistent with the air quality objectives of the Tower Hamlets Air Quality Action Plan, the Mayor's London Plan Policy 7.14 'Improving air quality' and Tower Hamlets Core Strategy Policy SP03 'Creating healthy and liveable neighbourhoods.'"*

444 The ES concludes that during the construction phase, levels of airborne dust would increase. However, such increases would be infrequent and could be controlled by mitigation measures during the construction works. In terms of the increase in traffic generated by the scheme, the assessment considers that the changes in air quality due to road traffic would be negligible. The impact on air quality as a result of the energy centres in the development is considered to be minor adverse to negligible.

Update following feedback from the boroughs

445 Following the advice received from both Hackney and Tower Hamlets Councils, detailed above, GLA officers engaged with the applicant in order to address these issues. Additional information and an amended ES Addendum (January 2016) has subsequently been received and further clarification provided in relation to air quality.

446 Report quality- Worst case scenario: In order to confirm that worst case scenario had been modelled for the energy centres, GLA officers asked for confirmation of the profile used in Table 12-10 of the ES. The applicant confirmed that a seasonal and a diurnal profile were used, and that confusion was attributable to incorrect referencing in the ES. It is accepted that the applicant's use of an operational profile provides a realistic worst case scenario.

447 Report quality- Road traffic impacts: When modelling air quality impacts road traffic, the applicant's 2013 existing baseline scenario is calculated using the 2013 'three months' NO₂ monitoring annualised to year 2012, with 2012 meteorological data, 2012 traffic emissions and 2012 background Defra concentration. It was therefore not clear why 2013 data was not used instead of 2012 data. The applicant subsequently explained that the original assessment was undertaken in 2013, and as such a full set of data for 2013 for local continuous monitoring units was not available, so the diffusion tube monitoring data could not be factored to a 2013 annual mean equivalent. It was therefore factored to 2012. Traffic data, meteorological data and emission factors were used to match the monitoring data. When the assessment was revised, the applicant decided to maintain consistency with the original data, and contends that, in any case, this approach provides a worst-case assessment. This argument is accepted.

448 Report quality- adjustment factors: Three model bias adjustment factors are calculated in the modelling, depending on zones selected by the applicant. GLA officers requested clarity regarding which adjustment factor is used for each of the modelled receptors. The applicant subsequently provided clarification of which adjustment factors are used for which receptors.

449 Adverse impact at six receptors: GLA officers noted that the applicant's impact assessment uses the 2010 EPUK guidance which has now been replaced by the 2015 EPUK/IAQM guidance. Furthermore it was recognised that if the results had been considered using the updated 2015 EPUK/IAQM guidance on significance, moderate adverse impacts may have been identified at some receptors. As the overall significance of effect of a development is based on the quantitative description of impacts and professional judgement, it could therefore reasonably have been concluded that overall impacts on pollutant concentrations at existing receptors are not significant. However, as moderate adverse impacts are predicted at six out of 28 modelled receptors, it could also have been concluded that impacts were significant. The level of traffic impact shown in Appendix N of the air quality assessment is surprising considering that the design of the scheme does include measures that will minimise the impact of traffic on local air quality. Car parking provision will be minimal. It is intended for the office and retail uses to be car free and that for the residential use, it is proposed to provide a maximum of 51 spaces at basement level. Furthermore, the submitted Transport Statement indicates that a peak hour two-way car trip generation is only 20 movements. Further clarification was therefore sought in relation to traffic impact, in order to better understand this.

450 The applicant subsequently responded explaining that the estimated service trips to the development contribute more to the higher average annual daily traffic (AADT) levels in comparison to the residential peak-hour trips. If the annual number of vehicle movements have been over-estimated then the air quality assessment presents a very conservative scenario. The assessed scenario is predicted to contribute small (maximum of $0.5 \mu\text{g m}^{-3}$) changes in annual mean concentrations of NO₂. In practice, changes in concentration of this magnitude are likely to be very different to distinguish through any post operational monitoring regime due to the number of potential sources of NO₂ in an urban environment and the inter annual effects of varying meteorological conditions.

451 The applicant contends that the potential consequence of any overestimation in the number of vehicle movements would be to increase the margin of confidence associated with the conclusion that the impact on local air quality is not significant. Furthermore the applicant contends that this position is supported by the air quality neutral emissions calculations which demonstrate that the proposals are air quality neutral. This point is accepted and the delivery and service plans for the proposed development should be used to minimise the impact on local traffic flows (see Transport section).

452 Exposure of new residents to level of NO₂ above the Air Quality Objectives (AQO): In light of concerns raised by the boroughs, GLA officers recommended that the applicant provides mitigation measures to be put in place to reduce this exposure, particularly in the light of the legal opinion recently offered by Robert McCracken QC (http://cleanair.london/wp-content/uploads/CAL-322-Robert_McCracken-QC-opinion-for-CAL_Air-Quality-Directive-and-Planning_Signed-061015.pdf).

453 In response to this request the applicant stated that mitigation measures have been incorporated in to the design of the proposals through the selection of less sensitive uses in Building A and for lower floors in Building F. GLA officers noted that the energy centre is predicted to contribute $8.0 \mu\text{g m}^{-3}$ of NO₂ to a total concentration just below the AQO ($39.6 \mu\text{g m}^{-3}$) at receptor PC1_4_30, located on the 30th floor of Plot C. The assessment suggests that this is a result of the emissions from Combined Heat and Power (CHP) flue exhausted on the roof of Plot F.

454 Upon further consideration, however, it is accepted that although the modelled concentration on the 30th floor of Plot C is close to the annual mean AQO of $40 \mu\text{g m}^{-3}$, this concentration has been predicted using the ground level background concentration of $31.6 \mu\text{g m}^{-3}$ from the DEFRA background maps. The actual background level at 30 storeys is likely to be significantly lower than $31.6 \mu\text{g m}^{-3}$. It is therefore accepted that there is no risk of either the annual mean or short-term mean AQO level being breached.

455 Air Quality Neutral Assessment: With regards to Air Quality Neutral Assessment, this was reviewed in January 2016 by Amec Foster Wheeler (Amec), on behalf of the GLA. Amec concluded that the development is air quality neutral for transport emissions, but building emissions were marginally above the benchmark (although within the margin of error for this calculation). As the boilers and CHP meet Band B emissions standards, the energy centres could be considered air quality neutral. Despite this, the benchmark emissions used in Tables 5 & 6 of Appendix N required clarification, as they used different emissions benchmarks, which if correct, would mean that the development could not be considered air quality neutral.

456 It was also noted by Amec that the applicant had used only one year (2012) of meteorological data for the assessment of the energy centres, rather than five. Following further discussion with the applicant it was accepted, however, that the use of additional years in the modelling process would be unlikely to change the overall significance of the air quality effects from this source of pollutants as contributions are less than $0.2 \mu\text{g m}^{-3}$.

457 The applicant subsequently confirmed that the benchmarks in Table 5 of Appendix N were actually a typographical error, and the ones in Table 6 were the correct ones. In light of this, Amec advise that the development can be considered air quality neutral.

Summary

458 Overall, the revised ES addendum and additional information provided by the applicant show that that the development would not have a significant impact on air quality. The application is therefore considered compliant with the relevant legislation and the development plan in air quality terms.

Neighbourhood amenity

National Policy

459 Paragraph 17 of the NPPF sets out Core Planning Principles to underpin both plan-making and decision-taking. This includes the principle that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Regional/ local policy

460 London Plan Policy 7.6 requires buildings not to cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to privacy, overshadowing, wind and microclimate. This is particularly relevant where tall and large-scale buildings are proposed.

461 Tower Hamlets Core Strategy policy SP10 aims to protect residential amenity whereas MDD Policy DM25 requires development to avoid unacceptable daylight and sunlight conditions.

462 Hackney DMLP Policy DM2 aims to ensure that development does not have adverse impacts on the amenity of neighbours and provides that the individual and cumulative impacts will be considered when determining their acceptability.

463 Design Principle BG14 of the BGY IPG states that *“The location of tall buildings must not create unacceptable impacts on the amenity of existing or future residents in terms of access to daylight and sunlight”*

Neighbourhood amenity: Daylight/ Sunlight/ Overshadowing

464 As such a key strategic site and relatively open and undeveloped, in a central London location, it is broadly accepted that the approach to assessing daylight/ sunlight impact should reflect this context. A pragmatic approach is therefore required, and one which minimised harm to neighbouring amenity whilst not onerously preventing an appropriate and necessary scale of development.

465 The accepted methodology for carrying out analysis of daylight and sunlight impact is set out in the Building Research Establishment document ‘Site layout planning for sunlight and daylight, a guide to good practice’ (known as the BRE Guide). This is the industry standard method of assessment and currently there is no alternative accredited method of assessing the impact of a development on neighbouring buildings.

466 In its basic form the BRE Guide uses a relatively simple method to assess impact. The existing level of daylight or sunlight is assessed at the relevant window and expressed in percentage terms of available sky visibility for daylight or available sun hours for sunlight.

467 The assessment of daylight also carries with it a test for the penetration within any room of visible sky. The test of available sky at the window is called 'Verticle Sky Component' (VSC) and the penetration within the room the 'No Sky Line' (NSL).

468 If in any circumstances the development proposals would reduce either of the above percentages by more than 20% of the existing values then the BRE Guide states that this would be a noticeable change. For a development to therefore demonstrate that there is no impact on amenity there should be no loss beyond 20%. In practice, this is what most local authorities seek.

469 The BRE Guide recognises, however, that in certain locations such as inner cities, this may not always be possible and therefore it may be possible to robustly justify an alternative benchmark. This appreciates the need for flexibility in such locations as if in every single case the loss of daylight was restricted to 20% then it would impose a restriction on development which was disproportionate to the actual loss of light. For example one kitchen window experiencing a reduction of light greater than 20% could theoretically prevent the construction of hundreds of flats. As a result many local authorities allow flexibility and consider the loss of amenity within the planning balance alongside the public benefits of the proposals.

470 In such circumstances applicants must justify an alternative benchmark suitable to the location and demonstrate that the level of retained light is still sufficient for use and habitation. The level of light one can reasonably expect will naturally change with location, with a city centre use expecting a lower level of daylight than a rural or suburban setting.

Analysis

Delva Patman Redler analysis on behalf of Tower Hamlets and Hackney Councils

471 The applicant submitted an ES in support of the application in June 2015, with Chapter 11 and Appendix B assessing the environmental impacts of the development in terms of daylight/sunlight, overshadowing, light pollution and solar glare. The ES was informed by technical analysis undertaken by the consultant Gordon Ingram Associates (GIA) in accordance with the BRE Guide mentioned above.

472 In order to inform their judgement on this matter Hackney and Tower Hamlets Councils jointly commissioned an independent review of the ES. This review was undertaken by the consultant Delva Patman Redler (DPR) and based on the data provided and assumed that the technical analysis carried out by GIA was correct.

Daylight

473 Rather than concentrate on the 20% loss of VSC set out in the BRE Guide, the applicant sought to make the case that the results of their assessment should be considered acceptable if the retained VSC levels at windows in the surrounding area were commensurate with the site's urban location. This was accepted in principle by the local authorities, with DPR recommending that a retained VSC of 20% or above should be considered typical of the area, and that a VSC of 18-20% could be considered acceptable in some locations.

474 The ES, prepared by GIA, sought to justify an alternative VSC benchmark using a hypothetical massing based on the applicant's assumptions and the BGY IPG. This was not

considered a valid methodology by DPR as the IPG does not prescribe the dimensions of buildings, and they didn't agree with the assumptions underpinning the hypothetical massing.

475 Following their detailed assessment DPR concluded that, given the scale of the proposals minor adverse impacts (a reduction of 20.1% to 29.9% VSC) were inevitable and suggested that properties suffering only minor adverse impacts could be considered acceptable in the context of the development as a whole. It was therefore considered appropriate to focus more on the properties that would experience a moderate (reduction of 30-30.9% VSC) or major adverse (40% plus) impact to windows or rooms.

476 The ES includes an impact assessment that identifies where the moderate and major adverse impacts occur. In some cases DPR disagreed with the ES impact assessment and identified 30 properties (three in Hackney, 27 in Tower Hamlets) where the worst impacts would be experienced. The retained levels of light in these properties were considered to be of a level which must cause concern to the amenity of the properties, with lighting levels below that which can be considered reasonably good or acceptable for an urban location.

Sunlight

477 With regards to sunlight DPR considered the properties most likely to experience the greatest reduction in sunlight hours. This assessment considered the percentage reductions in annual and winter sunlight, as well as the retained levels of sunlight and had regard to the BRE Guide advice that a reduction of annual probable sunlight hours (APSH) of up to 4% in real terms is unlikely to be noticeable.

478 DPR concluded that the principal impact would be on winter sunlight, with significant reductions experienced by properties to the north of the site between September and March. Despite this, the results for annual sunlight were either good or at a level commensurate with a dense, urban location.

Overshadowing

479 The ES contains summary diagrams showing hours of sun exposure for amenity areas (eight were tested) and shadow plot diagrams. DPR advised that only two of the amenity areas will be left with less than 50% their area seeing less than two hours of direct sunlight on 21 March. These amenity areas are the Shoreditch House rooftop swimming pool and the internal courtyard to 1 Sclater Street.

480 The Shoreditch House rooftop swimming pool would be left with 36% of its amenity space seeing two hours of direct sunlight on 21 March and the transient shadow assessment shows that this amenity area will be in shadow for much of the day during the winter months. The assessment for 21 June shows that it would be largely free from shadow during the summer months.

481 The inner courtyard to 1 Sclater Street will have none of its area seeing 2 hours of direct sunlight on 31 March, being already overshadowed by existing buildings and will effectively become a fully shaded area during the winter months. It will also be largely shaded during the summer. The other six amenity areas tested by DPR met the standards in the BRE guide.

Solar glare

482 DPR made no criticism of solar glare.

BRE analysis on behalf of JAGO Action Group

483 In addition to the assessment commissioned jointly by the local authorities, the locally-based JAGO Action Group commissioned an independent assessment from the Building Research Establishment. This was initially based on the previous planning application and did not take into account the revised ES of June 2015. The assessment was made available to Tower Hamlets and Hackney Councils in advance of their respective committee meetings on 10 December 2015.

484 Following the submission of an ES Addendum in January 2015 BRE updated their assessment and this was submitted to the GLA on 11 February 2016.

485 As there are a large number of properties potentially affected, the BRE assessment focusses only on the worst affected. This identified 21 properties (some of which were large blocks of flatted accommodation) where the loss of daylight would be 40% or more.

486 The BRE assessment advised that the ES identified 1,584 windows that would fail the basic BRE guideline for loss of daylight, 873 of which would suffer a reduction of more than double the 20% recommended in the BRE Guide. Furthermore the BRE assessment identified seven properties where there would be a major adverse loss of sunlight. It also identified that there would be a large number of surrounding properties that would also experience reductions of sunlight greater than 20%.

487 The BRE assessment acknowledged that the guidelines can be used with flexibility, especially in urban environments. Even so the BRE assessment still concludes that a very large number of existing properties would still experience retained levels of light lower than what should be expected in such an area.

488 The BRE assessment also criticised the ES, stating that it was misleading with regards to the number of properties that still fell below its own suggested benchmark of 18% retained VSC. This was based on the fact that the ES implied that only 13 households were adversely affected, whereas the actual figure was in excess of 200 homes due to the large blocks of flats contained within the 13 properties identified. The assessment similarly criticised the claims around sunlight impacts, where 16 properties identified by the ES actually contained over 100 homes.

489 The updated BRE Assessment highlights the fact that the massing proposal used by GIA to justify the impact of the application scheme contradicts the BGY IPG and therefore should be disregarded. BRE also contest the calculations used in the ES to establish the alternative 15% VSC target, stating that they include ground floor commercial units which should be discounted.

490 BRE also draw attention to the fact that many of the windows that would experience significant loss of light are in upper floor windows, whereas GIA use existing ground and second floor windows to justify lower levels of retained light. BRE also believe that GIA have underplayed the loss of sunlight in the ES Addendum.

Tower Hamlets Council comments

491 Tower Hamlets Council concluded in their committee report of 10 December 2015 that the scheme would have unacceptable impacts on the level of daylight and sunlight that would be received by many surrounding properties. They raised particular concerns with regards to 'a continuous wall of development subtending a 45 degree angle in section' along Sclater Street and felt that the scheme would lead to be an unacceptable sense of enclosure for adjacent residents.

492 Tower Hamlets consider that the extent and severity of the impacts are such that the development would not be consistent with the development plan, in particular London Plan Policy 7.6, Tower Hamlets Core Strategy Policy SP10 and MDD Policy DM25. The development was also deemed to be in conflict with Design Principle BG14 of the BGY IPG which requires the location of

tall buildings not to create unacceptable impacts on the amenity of existing or future residents in terms of access to daylight and sunlight, particularly the residents to the residential area north of the site.

493 Tower Hamlets also raise the issue of a large recently approved residential scheme not being taken into account in the ES. On 5 August 2015 the Planning Inspectorate (Ref. APP/E5900/A/14/2225592) granted permission for the redevelopment of the Huntingdon Industrial Estate (HIE) at 2-10 Bethnal Green Road. This is a 14 storey proposal directly to the north of the site that, if implemented, will include 78 residential units on the upper floors. Tower Hamlets point out that this would likely lead to further adverse impacts if included in any assessment.

Hackney Council comments

494 Hackney Council concluded that the proposals would have a severe adverse impact on daylight to a large number of properties in the surrounding area, with a large number of locations identified where impacts and retained levels of light were not considered acceptable. Despite taking a pragmatic view having given consideration to the nature and location of the site, Hackney Council deemed proposals contrary to MDLP Policy DM2 and Design Principle 14 of the BGY IPG.

Mayor's Stage 1 response

495 The Mayor did not consider daylight/ sunlight in his response of 9 September 2015. At that time his considerations were confined to strategic issues and the Delva Patman Redler analysis was still ongoing.

Update

496 An updated ES addendum was submitted in January 2016, following the Mayor's decision to become the determining authority for the application. Appendix F of the ES Addendum contains additional daylight/ sunlight analysis and has been provided with a supplementary report prepared by GIA, aimed at addressing the points raised by DPR on behalf of the local boroughs. Given the difference of opinion between GIA, DPR and BRE with regards to the acceptability of the impacts the GLA have instructed GVA Schatunowski Brook (GVASB) consultants to give an independent assessment of the impacts.

GVA Schatunowski Brook (GVASB) initial analysis on behalf of the Greater London Authority

Daylight

497 Given the case history, and the fact that that the original analysis showed many transgressions of the BRE 20% reduction test, the ES Addendum and supporting information provided by GIA, on behalf of the applicant, seek to set a revised alternative level of acceptability for the local area surrounding the Goodsyrd.

498 To the north of the site is the extensive residential Boundary Estate and GIA have analysed this to see what levels of daylight are currently received in this urban environment. These are calculated to be between 17% VSC and 25% VSC from ground to second floor levels. In addition they use an example of a central London location where consent has been granted and where retained levels of daylight are at 11%. GIA use these figures to suggest that a VSC value of 15%-18% might be the reasonable expectation for habitation in an area such as Shoreditch.

499 GVASB advise that they have no objection to this type of analysis and advise that on that basis an acceptable target value for neighbouring residential use in such a location and with the

desired level of redevelopment might be between 15% VSC and 18% VSC. GVASB have therefore looked at the levels of compliance with this criteria across those properties highlighted by DPR as being significantly impacted.

500 GIA have set out in their document an analysis of the individual properties questioned by DPR and explained the level of impacts and a reasoning as to why the levels of impact should be seen as acceptable.

501 GVASB have taken these and also checked the actual levels of daylight to see what the residual levels of daylight are like compared to the alternative target level suggested by GIA, described above. In doing so, it is possible to record the number of windows per property that will be below the 15% level. GVASB discounted those windows that by way of their existing design currently receive a low level of VSC, as these will record a high percentage reduction whatever the scale of development proposed and clearly could not be said to enjoy any usable level of amenity in the existing condition. The results are as follows:

- *Telford Homes Block A*: This is a large recent redevelopment to the north side of the scheme. It has a large number of units within it and consequently 788 windows were analysed, out of these 403 will see retained levels at less than 15 % VSC. In this case there are many Living/Dining rooms that see this impact where levels are being taken down from 23% to around 13%. In this block GIA have also, as allowed in the BRE guidance , run a set of assessments that ignore the balcony projections to the flats that often cause a greater than normal reduction in light . If in such circumstances the results then achieve compliance it can be stated that it is the inherent design of the balcony that is causing the issue. In this case the GIA testing shows that half the windows would still be reduced to below 15% VSC and thus the level of impact must be due to the proposed scheme's mass.
- *119 Brick Lane*: This building has 12 windows, from these 6 will have less than 15% VSC ranging from 9% up to 14%.
- *97-105 Brick Lane*: 51 windows are within this building which is located at the far East end of the site and not directly opposite the development. There are two windows that see a large reduction and will be below 15% VSC retaining at 6% and 5% respectively.
- *78 Quaker Street*: Of 14 windows 6 will be reduced to less than 15%, the values ranging from 11%VSC to 14% VSC.
- *3 Club Row*: With 12 windows located in this building there will be 10 that will be left at less than 15%, although some windows are already below 15% the reductions are significant with retained levels between 2.6% and 11%.
- *1-48 Wheler House West*: This is an extensive balcony access block south of the scheme and at 90 degrees to it. It has 51 tested windows and out of these 40 will have light left at less than 15%. The retained levels are from 3% VSC up to 11%VSC. Some 8 of the 40 actually see a small reduction however that leaves 32 windows that see a significant reduction and will be left at less than 15% VSC.
- *1-48 Wheler House (Main Block)*: This is the main block attached to the above building and thus parallel to the scheme. It has 190 windows tested. Out of these 142 will be left with less than 15% VSC but it would be fair to comment that many of the values are already low and the retained level of light will not be significantly different from that

existing . However there are 71 windows that move from a reasonable level of light to single figures, the retained levels here will range from 3% VSC-13% VSC.

- *25 Wheeler Street:* This building is located some distance to the South with 87 tested windows, of these 21 will retain less than 15% VSC . It is argued by GIA that the distance from the site means that despite the reductions in light , which in some cases are significant , and the low levels of the retained light there will not be disproportionate impact . GVASB cannot agree with that statement, it is true some of the existing values are low but in some instances the level of light is reduced to zero or near zero, that cannot be acceptable as an impact.
- *10 Quaker Street:* Again, south of the scheme a property with 29 windows 17 of which will fall below 15%VSC. 9 of these move from well over 30% VSC to under 15% and indeed 2 of them from 29% to 5% VSC.
- *167 Commercial Street:* This is a small building over a ground floor commercial unit to the west of the site.
- All 13 windows fall from over 30% VSC to less than 15%.
- *195 Shoreditch High Street:* Located diagonally North West of the site on the main road junction this building again has units over ground floor commercial. This building sees 4 of its 10 windows fall from high levels of daylight to less than 15%.
- *194 Shoreditch High Street:* Located diagonally North West of the site on the main road junction this building again has units over ground floor commercial. This building sees 5 of its 10 windows fall from high levels of daylight to less than 15%.
- *Tea Building 65-66 Bethnal Green Road:* This is a non-residential use, these are not usually incorporated into Daylight analysis unless the local authority specifically requests. GVASB have assumed the GLA would not wish to consider this building an issue although clearly there will be impacts on light.
- *13 Bethnal Green Road:* This is a non-residential use, these are not usually incorporated into Daylight analysis unless the local authority specifically requests. GVASB have assumed the GLA would not wish to consider this building an issue although clearly there will be impacts on light.
- *30 Redchurch Street:* This is a small property whose rear elevation is located to the north and separated by an intermediate block of property. The two windows here will retain in excess of 15% VSC and under the suggested criteria be acceptable.
- *32 Redchurch Street:* This is a small property whose rear elevation is located to the north and separated by an intermediate block of property. The two windows here will retain in excess of 17% VSC and under the suggested criteria be acceptable.
- *17 Bethnal Green Road:* This is another small property to the North of the site but it is directly opposite the North Elevation. Its 5 windows all see a reduction to less than 15% VSC from levels over 30% VSC.
- *70 Redchurch Street:* Again to the North and separated by other property blocks this has 21 windows 18 of which will be left at less than 15 % VSC. 9 of these reduce significantly and are left with levels of VSC between 8% and 14 % VSC.

- *63 Redchurch Street:* Located three property blocks to the north of the site this building does not currently appear to be in residential, use.
- *1-16 Sheba Place:* Although located directly to the South of the scheme the windows facing the site are kitchens and not thought to be other than food preparation rooms. On that basis GVASB would normally find the impacts acceptable.
- *1-40 Eagle House:* This block is also south of and parallel to the site and contains 191 windows that face the site. From these 24 will retain less than 15% VSC with the majority around 13 % VSC.
- *23-24 Wheler Street:* Separated by one property block to the south of the site 8 of the 18 windows are reduced to less than 15% VSC. It could be argued that the impacts here are acceptable as only two windows see a greater than 20% reduction. Based on the 15% criteria however there is a reasonably high impact.
- *154 Commercial Street:* This building is immediately to the South of the scheme at its western end. Only 16 achieve a compliance in reduction terms and when assessing against the 15 % VSC criteria 40 of the 63 windows do not retain that level. It is argued that many are bedrooms, our additions show 20 that are in fact lounge areas.
- *19-29 Redchurch Street:* Located almost 100m to the north of the site the building has 23 windows of which 11 will be left with less than 15%VSC. In the case of this building there are reductions from 10% and 8% to 0.84%VSC to 0.56% VSC for example.
- *15 Bethnal Green Road:* Given the layouts of the floors for this building there is no issue.
- *25 Bethnal Green Road:* This building does not appear to be in residential, use.
- *28-30 Bethnal Green Road:* Located on the prominent corner between Bethnal Green Road and Sclater Street the building sits immediately to the North of the scheme. Its 42 windows see large reductions and 23 are left at less than 15% VSC. Many existing levels are high but these reduce to 6-10% VSC.
- *14 Chance Street:* This property has only 4 windows facing the site and the design is such that the windows are set deep within recessed balconies. Existing light levels are so low these are not considered to constitute usable amenity, any reduction will not change the ability to use these rooms.

Sunlight

502 The actual sunlight availability figure is not referred to in the document and the whole subject is concluded in one paragraph. Justification for what will be significant impacts on neighbour's sunlight are based on there being a significantly high abnormal availability across the site in the existing condition and that therefore large reductions will be inevitable. Also that winter sun, being so low, will be lost in any reasonably sized development of the site.

Overshadowing

503 This analysis applies to any neighbouring open amenity space that has the expectation of sunlight. The only two analysed further are the Shoreditch House rooftop swimming Pool and the internal Courtyard to 1 Sclater Street.

504 In terms of the pool the test is failed in that at least 50 % of the area should get 2 hrs sun on March 21st . The mitigation offered is that the pool will be well sunlit in summer, although this would not be the case in winter months.

505 In terms of 1 Sclater Street there is little sunlight in the existing condition, it was clearly not an overriding issue at design stage and any reductions will make no meaningful difference to its use.

GVASB initial conclusion

506 On the basis of the criteria suggested by GIA, on behalf of the applicant, out of the 1643 windows that were the subject of the DPR concern 808 fail to retain the 15% level.

507 Following this initial analysis GVASB met with GIA to discuss the results and allow them to respond. GVASB and GIA went through each property where a major impact had been noted and GIA explained their reasoning as to why the impacts may be acceptable.

508 It was clear from this meeting that a number of properties had been included in the analysis that had been found to be commercial in use and therefore should not be part of the analysis. GIA were advised that it would be useful for them to produce a further document which rectified this and summarised their reasoning on the acceptability of the impacts for each property.

GVASB further analysis

509 The requested document was subsequently provided in letter format dated 18th February and titled "Bishopsgate Goodsyrd – Daylighting Impacts Summary Note". GVASB undertook a review of this document.

510 The note sought to justify the impacts on the various affected buildings, however, it was considered that the explanation for the impacts as a whole were not consistent and sought to use differing justifications in each circumstance.

511 In order to more clearly understand the impacts and the justification, GIA were advised to provide a further report. This report would considered each property under a set of specific parameters such that it would be possible to reach a conclusion on the total number of rooms impacted around the scheme that did not meet any of those criteria. This would therefore allow GVASB to quantify the total number of neighbours truly impacted using this method. The revised analysis was provided and titled "Flow Chart Report – 8/3/2016"

512 The parameters and their priority requested by GVASB in this report were as follows:

- Building by building list the number of habitable rooms tested and how many of these see a more than 20% reduction in VSC
- Building by building then list the total number of rooms that will remain above 15% VSC
- Building by building where rooms are left below 15% how many would pass the ADF test and be left with a daylight distribution contour of over 70% of room area.
- If there are ADF levels already below standard then how many rooms fall into that category and how many see a more than 20% reduction.

513 The reasoning for the above is as follows:

- The headline test for impact is to check the percentage reduction in available sky (VSC). If this is more than 20% of existing there will be a noticeable change for the occupant.
- Having accepted the urban nature of the site and that there will inevitably be higher reductions in light the second test asks whether the impacted rooms retain 15% VSC (which can be agreed as a reasonable level of daylight for this locality)
- The third test relates to the Average Daylight Factor (ADF). This is a test set up by British Standards and seeks to test the average light throughout a room and this gives minimum criteria for habitation. The test uses the room surface areas, the glazed area and internal and external reflectivity to achieve the analysis. In conjunction with this the Standard asks that as well as passing the minimum ADF that a sufficient proportion of the room should be directly lit from the sky, the No- sky line (NSL) test. Both these tests should be passed to indicate satisfactory living conditions.
- The final analysis suggested looks at percentage reductions in ADF, there is no prescribed test as such, however, it has been argued that if a percentage reduction is allowable within the VSC criteria then the same should apply to the ADF criteria. In GVASB's view this is not a sound analysis as the ADF is an absolute test and not a comparative one. However there are circumstances where the ADF is, in the existing condition, below the minimum criteria and it can be useful to look at the change. GIA however have not used that fourth test.

514 GVASB analysed the "Flow Chart" report on the above basis and concluded as follows:

- *Telford Homes: 213 of 413 rooms fail.*
- *63 Redchurch St: 2 rooms fail and have very low levels of light.*
- *196 Shoreditch High Street: all retain above 15%.*
- *194-195 Shoreditch High Street: All pass.*
- *30 Redchurch Street: Assumed top floor only is residential, if correct all pass.*
- *10 Quaker Street: 6 rooms fail.*
- *23-24 Wheler Street: 3 fail with very low ADF levels.*
- *1-48 Wheler House: 67 rooms fail. (No precise information on actual Habitable room numbers.)*
- *14 Chance Street: 2 fail (note here these are hugely recessed windows and existing light levels are very low, impact not noticeable).*
- *97- 105 Brick Lane: 10-15 rooms impacted (no precise room use information , therefore not possible to be precise about ADF failure).*
- *25 Wheler Street: 12 rooms fail, residual impacts very high.*

- 19 -29 Redchurch Street: 8 rooms impacted, these have very high percentage loss.
- 17 Bethnal Green Road: 4 out of its 5 rooms are impacted.
- 70 Redchurch Street: 12 rooms fail.
- 119 Brick Lane: 3 rooms are failing here, the impacts are extremely high.
- 1-42 Eagle House: 16 rooms are impacted.
- 28 – 30 Bethnal Green Road: 6 rooms impacted.
- 3 Club Row: 4 rooms fail
- 1-16 Sheba Place: 1 room fails, this is a massive impact.
- 154 Commercial Road: 22 rooms fail, very severe impact with losses up to 88% of existing light levels.

515 There are 20 properties listed here as GIA have said that the other 6 properties previously listed have been found to be commercial. GAVSB have accepted that point without further checking as that would require a further site inspection.

GVASB further conclusion

516 In summary, of the 914 rooms tested by GAVSB, it was found that 412 do not achieve a 15% retained VSC level and cannot be justified as being well lit in terms of the ADF criteria.

Daylight/ sunlight: Applicant's mitigation arguments

517 In addition to the ES addendum GIA have provided additional supporting information seeking to justify the above impacts in a number of ways. These are as follows:

Tight building configuration

518 The applicant contends that the existing tight building configuration should be taken into account. This undoubtedly leads to difficult scenarios when developing sites, particularly in areas such as Shoreditch, as some buildings have limited views to the sky and the closing of small gaps in the view can lead to high impacts. This, however, cannot be viewed as a reason to justify the level of impact which would leave an existing neighbour with very low levels of retained light. The site circumstances are known in advance and it has to be expected that, as far as is reasonably practicable, this can be addressed through design, accepting the particular constraints of this site and its central location.

Open site

519 The site is currently open and any development would cause a significant impact. This is accepted and could assist justification, as it will be inevitable that high impacts will be felt as the baseline level of daylight on a cleared site is extremely high. This, however, has been accounted for within the methodology and subsequent alternative target levels agreed between GVASB and GIA, described above. By allowing retained VSC to be a primary consideration, reducing to a certain point

the target for VSC and indeed by allowing ADF /NSL criteria to also become a target, GVASB have agreed to vary significantly from the standard BRE Guidelines and provide ample flexibility to account for this point.

Fusion Scheme previously granted planning permission

520 GIA have sent a copy of the Daylight studies for a completed scheme of 26 residential units and commercial space on a former car park adjacent to the rear of the Telford Homes development. Impacts have been allowed that would not have passed the criteria that GVASB have been using for this application and GIA seek to show that as a reason why a number of neighbours can be allowed to fall below those criteria. This is considered a reasonable point but only where very low numbers of neighbours are potentially impacted. The sheer numbers of neighbours potentially impacted in this case is very different. Effectively the Fusion Scheme, being low rise on an old car park site, actually impacted few neighbours and it would have been unlikely to have been possible to develop that site at all if more stringent criteria were imposed. That is not the case on the BGY site. Different design would alter the number of impacts, albeit accepting that this could lead to a reduction in overall quantum of development and that there would still be some harmful impact. However, the degree to which that harmful impact occurs could be reduced.

Telford Homes

521 The applicant rightly contends that a large number of the seriously impacted rooms are located in the Telford Homes Scheme on Bethnal Green Road. Evidence has been provided by the applicant to show that a pre-existing agreement had been signed between the developer of the Telford Homes scheme and the applicant, as such that there would be no objection in light terms. Inspection of this document reveals that this is clearly a common law light agreement and not related to daylight/ sunlight as a planning consideration. It is not considered possible for a freeholder to contract out any leaseholder/tenant from objecting to a planning application on daylight grounds. The applicant does contend that, although not a planning agreement, this should be given some weight.

522 It is considered that this agreement can be given little, if any, weight in planning terms. If, however, it was agreed that this could carry some weight, then this could perhaps further substantiate the rationale for establishing the flexible alternative daylight targets that have been used for assessment of the current application, given that so many of the impacts are associated with the Telford Homes scheme. It could not, however, be accepted that this agreement be used to justify an additional reduction in retained levels of light for residents of the Telford Homes scheme.

523 The applicant also contends that the balconies on the Telford Homes scheme have an undue adverse impact on VSC levels. Telford Homes design is typical of modern urban apartment block with balconies utilised as amenity space. These do limit light availability and it can be argued that there is a trade between light and amenity and that the balconies are the reason for the light issue rather than the neighbouring development. This is true to an extent, however, one should still consider what the residual levels of daylight for the occupant will be. In reality the balcony will not be removed and they will have to live in the consequent conditions. This issue has, in any event, been analysed by GIA and even with the balconies removed there is still, in the officers view, significant impact caused by the development proposals.

BGY IPG

524 The applicant contends that the BGY IPG has an indicative quantum of development that is not deliverable without the level of impact currently shown. The IPG is indicative and did not have any Daylight or Sunlight analysis with it. As such Design Principle BG14 has been included and this clearly states that any scheme should comply with these guidelines. It is accepted that an attempt

to reduce the level of impacts to neighbours would not allow the version of the IPG massing shown in the GIA documentation to be built. This massing is not, however, set out in the IPG and considering the explicit intention of Design Principle BG14 it can be attributed little weight in planning terms. If a Daylight analysis had been undertaken to inform the IPG then BG14 may not have been deemed necessary. By the same token any subsequent massing suggested within the IPG would not be as shown in the GIA analysis. It also needs to be borne in mind that Policy BG14 of the BGY IPG states that development on the Goodsyard site should not unduly harm residential amenity.

Daylight/ sunlight: GIA further Analysis 24 March 2016

525 Following this analysis and the above conclusions, the applicant submitted a further updated report (2016-03-23_BGY flow chart report_update_L) on 24 March 2016. Although received later than requested, the report attempts to explore potential remedies that could be possible within the context of the application being partly in outline. The report seeks to show that an acceptable level of impact could be possible should the scheme be developed to its minimum parameters only. Clearly this would likely have different levels of impact for the surrounding buildings although it would be necessary for GVASB to model and understand the differences in that level of impact. The applicant was therefore asked to provide the relevant data so that GVASB could undertake this exercise.

526 It has not subsequently been possible for the applicant to provide the data requested for the minimum parameters for the whole site. They have, however, provided GIAs interpretation using impact testing on the Telford Homes building . GVASB do not have the tabulated figures for any of the neighbouring properties in that scenario .

527 Page 49 of the report gives 3-d model views of 3 scenarios and GIA's view of the varying reductions in impacted rooms within the Telford Scheme if blocks on the proposed site were reduced to minimum parameters or if Block D of the scheme is completely removed. Removing Block D, whilst potentially improving the impacts, would likely necessitate a significant revision to the planning application.

528 GIA suggest that if the minimum parameter scheme is built then the residual impact would be 21 rooms in the Telford building that would fail the tests GVASB have outlined in the earlier parts of this report. This figure, however, is based on an assumption that one can count a "pass" if a room passes only one of the ADF or No sky line tests. In practice a room will be sufficiently lit if it passes both tests and therefore on that basis the impacted rooms with Telford Homes would be 32, assuming all other analysis has been carried out correctly. One then has to add back in the other impacts around the site which do not necessarily change with the reductions in mass shown. In the absence of the requested information, that would be estimated as 181 rooms impacted that do not sit within the Telford Homes scheme , if one then adds in the impacts to that building the number of "fails" in total to the surrounding buildings would be 202 on GIA's basis and 223 if not.

529 It is not clear if , as in discussions , GIA have sought to argue that the level of impacts can further be reduced by rounding figures up to achieve the 15% target where the precise percentage calculated is within a few decimal points of the target on the basis that the difference would not be noticeable. It is not contested that the difference may not be noticeable but it should be remembered that the context of the analysis is that the target is already a lower target than the headline BRE tests. Rounding up will naturally reduce the number of impacted rooms as it will include rooms which actually fell below the adjusted target.

530 The removal of the whole of Block D suggest that 38 rooms would fail all the tests and thus in that scenario there would be 219 units around the site impacted.

531 These are both improvements on the previous level of impact for the maximum parameter scheme which GVASB had calculated as 412 “fails”. GIA have some issue with that number and believe that GVASB should be calculating that as 355. It may be that the discrepancy is because more rooms have been found to be commercial in use but given the timescales from receipt of the latest report to completion of the planning report it has not been possible for GVASB to check every figure.

532 In any event the fact remains that in the best-case scenario 219 properties would fail to meet the acceptable level (GVASB have counted the neighbouring buildings as flats) which would need to be set in the planning balance with all other aspects of the scheme. Officers have also discussed reductions in height to the outline building proposed for Plot K, which would further reduce the identified impacts, but which haven’t been tested.

Daylight/ sunlight: GIA further Analysis 29 March 2016

533 On 29 March 2016 DP9, on behalf of the applicant, submitted a summary note to GLA officers reiterating some of their mitigation relating to the Telford Homes development and setting out the changes in impacts that could be expected in that scheme if Block D1 was removed, or if minimum parameters were used to inform the development of Blocks D1 and D2. On 1 April 2016 further information was submitted by the applicant in the form of an Excel spreadsheet setting out the results in seven different development scenarios, including the current maximum parameter assumptions. This summarised potential impacts as follows:

- Submitted Scheme - Maximum Parameter
350 impacted rooms
- Revised Proposal - Maximum Parameter (Minimum for Plot D only)
281 impacted rooms
- Scenario 01 - Minimum Parameter for Plot A,B,D,E & K
239 impacted rooms
- Scenario 02 - Maximum Parameter (Tower D1 Removed)
281 impacted rooms
- Scenario 03 - Maximum Parameter (Minimum for Plot D & E only)
267 impacted rooms
- Scenario 04 - Maximum Parameter (Minimum for Plot D, E & K only)
239 impacted rooms
- Scenario 05 – Minimum Parameter (Tower D1 Removed)
171 impacted rooms

534 It should be noted that GLA officers had met with the applicant several times to discuss this matter and had set a final extended deadline of 22 March 2016 for submission of additional supporting information. This has limited the ability of GVASB to independently assess the information submitted after 22 March 2016.

GVASB final conclusion

535 Depending on the variation of scheme assessed there are clearly still a high number of rooms impacted and it should be remembered that these are virtually all flats and thus each room will mean one occupant impacted.

536 The assessment has been made on new lower target criteria than the BRE headline guidance, and the number of failures should be seen in that context.

537 Whilst huge efforts have been made to show a reduced level of impacts this has been based on very simple alterations to the proposed blocks. GVASB is of the view that setting aside other parameters that have driven the scheme to be massed in the locations, it is currently showing that it would be possible to alter the block layouts to give a reduced level of impacts to the neighbourhood. This may necessarily alter elements of the scheme but from a daylighting perspective this should be achievable.

538 There would still be impacts and these would need to be weighed in the balance of these against the benefits of the scheme and in the normal planning context.

Daylight/ sunlight/ overshadowing: Summary

539 Given that the site is currently clear, and has been for quite some time, it is likely that neighbouring properties could expect a noticeable difference in daylight/ sunlight and overshadowing in the event of any significant development. It is in this context that the application has been considered, taking a pragmatic and flexible approach. It should be noted that concerns relating to this policy area have generated a significant number of the local objections.

540 The sunlight and overshadowing impacts are significant, particularly in the winter months, however, on their own could perhaps be seen as acceptable, given the context of the site. Despite this, the significant impacts are not considered in isolation and must be assessed alongside the daylight impacts of the scheme.

541 Prior to the Mayor becoming the determining authority the development proposals had been assessed for daylight/ sunlight impact by three different expert consultants; on behalf of the applicant, the local authorities and the JAGO Action Group. In order to better understand the impacts and rationalise the differences of opinion on this matter, GVASB were instructed to provide an independent assessment of the daylight/sunlight impacts of the scheme.

542 The initial assessment has been followed by several additional meetings and submission of additional analysis by the applicant. This has allowed a comprehensive understanding of the impacts set within the context of the site and the surrounding area, and additional reasons why the applicant believes that these impacts should be viewed as acceptable.

543 The applicant has suggested some broad alternatives to the massing strategy in an attempt to explore ways of making changes within the context of the current planning application. It is clear, however, that these changes would still result in an unacceptable level of impacts as they are only slight variations on the current proposals. Furthermore these alternatives have been proposed very late in the process, have not provided the appropriate opportunity to be independently fully assessed and are lacking in sufficient supporting detail to enable proper consideration.

544 Following this extensive, thorough and robust process GLA officers conclude that the current proposals would have unacceptable impacts on the level of daylight and sunlight received by properties adjacent to the Bishopsgate Goodsyrd site. Despite efforts to demonstrate that these impacts can be reduced by making some changes to the scheme in its current form, it is clear that the current design cannot be delivered without causing an unacceptable scale of impact, despite the other public benefits offered by the application. Furthermore, despite taking a very pragmatic approach and having regard to the specifics of the site and the arguments put forward by the applicant, it is not considered that there are mitigating circumstances that would mean that these impacts can be considered acceptable.

545 The majority of the impacts are caused by the development proposed along the southern edge of Sclater Street, and to a lesser extent the proposed commercial building on Plot K. The BGY IPG clearly anticipates this issue and is worded specifically to avoid development proposals that

result in a “wall of development” and the impacts associated with this. It is considered likely that a revised design could still deliver significant public benefit and avoid such a severe level of impact by making significant changes, particularly in these areas of the scheme.

546 The proposals are contrary to London Plan Policy 7.6 ‘Architecture’, Tower Hamlets Core Strategy Policy SP10 ‘Creating distinct and durable places’, Tower Hamlets MDD Policy DM25 ‘Amenity’, Hackney DMLP Policy DM2 and Design Principle BG14 of the Bishopsgate Goodsyards Interim Planning Guidance. The development is not, therefore, consistent with the development plan in daylight/ sunlight terms and the level of impact cannot be justified when considered within the planning balance. It is therefore recommended that the application be refused planning permission accordingly.

Neighbourhood amenity: Privacy

547 The local policy context at the beginning of this section indicates that privacy should be safeguarded by maintaining a separation of 18 metres between facing windows. This is long established and relates to the degree of indivisibility that it is assessed is acceptable to most residents.

548 The BGY IPG design principles BG10 and BG11 state that the design and frontage of development Bethnal Green Road, Sclater Street and Brick Lane is central to integrating the development into its context and crucial when considering tall buildings. Tall buildings should be setback from the main street edges, either on a podium or behind lower rise buildings. The podium or lower rise buildings should relate to the building heights of the surrounding context.

549 There are no existing buildings within 18 metres of proposed buildings F and G and attention therefore focussed on the residential proposals along Bethnal Green Road, Sclater Street and Brick Lane. At these locations the applicant proposes two residential towers on Plot C (detailed 31 and 27 storeys), two residential towers on Plot D (outline with parameter plans indicating approximate heights of 25 and 18 storeys) sited at right-angles to Bethnal Green Road and Sclater Street. Plot E (outline) proposes a residential block approximately 17 storeys sited parallel to Sclater Street.

550 The residential accommodation and outdoor amenity space within the western tower proposed on Plot C would be set back from the retained Goods Yard boundary wall along Bethnal Green Road and Sclater Street by approximately 16.5 metres. Similar accommodation in the eastern tower would be recessed from the wall by some 14 metres. At these locations the distance across Bethnal Green Road from the boundary wall to the Huntingdon Industrial Estate and residential accommodation to the east on the northern side of Bethnal Green Road is some 25 metres to 35 metres. The separation between the development on Plot C and existing and proposed residential buildings on the north side of Bethnal Green Road therefore exceed the Council’s 18 m. standard.

551 The distance across Sclater Street to the southern façade of the existing buildings at 28-30 Bethnal Green Road and 2 Sclater Street is approximately 14 metres. The separation between the development on Plot C and existing residential accommodation in that building would be some 28 metres, also exceeding the 18 metres standard.

552 On Sclater Street, the existing Telford Homes development comprises a 4-storey element No. 5 Sclater Street, the Avant Garde Tower and a series of six storey high residential apartments arranged around a courtyard. These buildings are all located to the north of Plot D. The maximum and minimum parameter plans for the two residential towers proposed at Plot D indicate that the towers would be set back from the Goods Yard boundary wall by between approximately 9 and 12 metres (western tower) and between approximately 24 metres to 18 metres (eastern tower). The distance across Sclater Street to the Avant Garde development is some 13 metres. The siting of

both towers at Plot D on both the maximum and minimum parameters would therefore exceed the 18 metre standard. Furthermore, part of the Avant Garde development at 5 Sclater Street also fitted with horizontal fins to maintain privacy.

553 At Plot E the application site boundary is set back by some 25 metres from the back edge of the pavement on the northern side of Sclater Street providing a compliant separation distance including to any new residential accommodation on Cygnet Street.

554 In conclusion, both the detailed and outline elements indicate that the development would comply with the development plan and the BGY IPG in terms of satisfactory privacy between existing and proposed buildings.

Neighbourhood amenity: Microclimate

Regional and local policy

555 London Plan policy 7.6 deals with architecture and 7.7 with tall buildings and their potential impacts. These policies seek to ensure that new buildings do not cause unacceptable harm to the amenity of the surrounding area, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate.

556 Tower Hamlets MDD Policy DM24 requires development to take into account impacts on microclimate and the BGY IPG requires tall buildings not to create uncomfortable environmental conditions such as high wind speeds for pedestrians in or around the proposed development. Tower Hamlets MDD Policy DM26 deals specifically with building heights and sets similar criteria.

557 Hackney DMLP Policy DM2 states that proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours. This specifically includes microclimate impacts of the kind associated with large scale buildings.

558 The potential for the development to create issues associated with wind tunnelling has been raised by some respondents to public consultation.

559 The applicant's Environmental Statement (including amendments) includes an assessment of the potential impacts of the amended scheme on the wind microclimate within and around the development site. Wind tunnel tests have been conducted and the impacts assessed in accordance with Lawson Comfort Criteria (LCC). Five configurations were tested which included the baseline (as existing), one construction phase, the completed proposed development with existing surroundings and the completed proposed development with proposed (cumulative) surroundings.

560 These show that the existing site and surrounding area experiences relatively calm conditions, with a wind microclimate that is suitable for 'standing or sitting' at most receptors throughout the year, except for receptors located to the north of the site on Sclater Street, which are suitable for 'leisure walking' during the windiest season.

561 During both construction and once the proposed scheme is complete, the wind environment at most areas of the site would be suitable for their intended uses with the exception of the passageways under the London Overground line; the northwest corner of Plot A; and several balcony and terrace areas within the development. Mitigation measures have been proposed and the applicant has demonstrated ways in which the windier areas can be sheltered. The applicant contends that that overhead porous baffles suspended from the underside of the London Overground Viaduct would reduce any impact to 'minor adverse' at pedestrian thoroughfares. Furthermore, a combination of balustrades, screens and soft landscaping would provide shelter to roof terraces. Whilst this is accepted, the detail would need to be reassessed during the detailed

design phases. The assessment provided notes that Plots A, B, D, E and K have been tested as outline proposals using the maximum parameters of each plot, in order to provide a conservative (i.e. relatively windy) result until detailed design of these plots is reached. The minimum parameter plans would conversely be expected to create wind conditions that are locally calmer than the conditions measured in the maximum development scenario assessment.

562 The application is considered compliant with the development plan in terms of microclimate impact. It is advised, however, that the wind microclimate and proposed mitigation measures for the outline plots be reassessed during detailed design in order to ensure that any potential impact is minimised in the final built scheme.

Noise and vibration

Regional and local policy

563 London Plan 7.15 seeks to reduce and manage noise associated with new development, improve and enhance the acoustic environment and to promote appropriate soundscapes.

564 Tower Hamlets Core Strategy Policy SP10 'Creating distinct and durable places' requires development to use design and construction techniques that reduce the impact of noise. This policy is intended to work alongside Tower Hamlets MDD Policy 25 'Amenity' which seeks to limit the impact of existing noise and vibration sources on new development and from new development.

565 Hackney DMPL Policy DM2 'development and amenity' required development proposals to be appropriate to their location and designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours, including vibration and noise.

Analysis

566 The ES provided includes an assessment of the potential and residual impacts on noise and vibration during the demolition and construction phase and on completion and occupation of the development. This assessment concludes that suitable mitigation can be implemented during construction and in the fabric of the proposed buildings to provide suitable levels of internal noise and vibration for their intended uses.

567 This complies with London Plan Policy 7.15 and is also consistent with Tower Hamlets Core Strategy SP10, MDD Policy 25 and Hackney DMPL Policy DM2.

568 Should the Mayor grant planning permission then the relevant conditions in Appendix A should be imposed to ensure provision of satisfactory details of acoustic glazing and ventilation in the residential accommodation and to ensure that the noise level emitted from any plant/machinery/equipment of any extract/ventilation/air conditioning shall be lower than the lowest existing background noise level by at least 10 dBA. These conditions will ensure that the application is compliant with the development plan in terms of noise and vibration.

Contaminated Land

Regional and local policy

569 London Plan Policy 5.21 states that the Mayor supports the remediation of contaminated sites and will work with strategic partners to bring contaminated land to beneficial use. Furthermore it is required that appropriate measures be taken to ensure that development on previously contaminated land does not activate or spread contamination.

570 Tower Hamlets MDD Policy DM30 has similar criteria and requires a site investigation and remediation proposals to be agreed in order to deal with any contamination.

571 Hackney DMLP Policy DM42 states that, where proposals relate to contaminated land, planning permission will be refused where it has not been demonstrated that sufficient and economic decontamination can be achieved and where the appropriate level of desk study information has not been submitted. Where necessary, applicants will be required to enter into planning obligations to ensure that the approved remediation strategy is fully complied with.

Analysis

572 The Bishopsgate Goodsyards site is known to have been in use as a railway goodsyard, therefore it is possible that the land could be contaminated. As such a site investigation should be carried out to identify any contamination and to ensure that any contaminated land is properly treated and made safe before development commences. A condition requiring a contamination report and associated investigation is recommended in appendix A. Should the Mayor grant permission, this condition should be imposed in order to ensure that the application is compliant with development plan policy on contaminated land.

Flood risk

National policy

573 The NPPF states that the susceptibility of land to flooding is a material planning consideration. National government looks to local planning authorities to apply a risk-based approach to their decisions on development control through a sequential test.

Regional and local policy

574 The NPPF approach is reflected in London Plan Policy 5.12 'Flood Risk Management, Tower Hamlets Core Strategy Policy SP04 (5) within 'Creating a Green and Blue Grid' and MDD Policy DM13 'Sustainable drainage' that requires development to reduce run off through appropriate water reuse and Sustainable Urban Drainage (SUDS) techniques. Hackney Core Strategy Policy CS31 and DMLP Policy DM 43 deal with flooding and flood risk. DM Policy 43 states that development may be required to provide or contribute to strategic or site-specific infrastructure in line with the Council's CIL and/or Planning Contributions SPD to address and mitigate the impacts of flood risk, particularly when they are located in areas considered at high risk of surface water and fluvial flooding.

Analysis

575 The Environment Agency's Flood Map shows that the site is located in Flood Zone 1 which comprises land assessed as having low annual probability of flooding from fluvial or tidal sources. The submitted Flood Risk Assessment within the ES finds that the site has a low probability of flooding from all potential sources including groundwater and surface water. No representations have been received from the Environment Agency following statutory consultation. The site is allocated in the Local Plan for development as a comprehensive mixed-use development opportunity and has passed the sequential test.

576 The NPPG confirms that areas within Flood Zone 1 have no constraints on development other than the need to ensure that the development does not increase run-off from the site to greater than that from the site in its undeveloped or presently developed state. London Plan Policy 5.13 'Sustainable Drainage' requires development to utilise SUDS, unless there are practical reasons for not doing so, in accordance with a specified drainage strategy.

577 Should the Mayor grant planning permission the recommended conditions should be imposed in order to ensure compliance with the flood risk policies of the development plan.

Biodiversity

National policy

578 The NPPF provides that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.

Local and regional policy

579 London Plan Policy 7.19 'Biodiversity and access to nature' states that development proposals should, wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity, and give sites of borough and local importance for nature conservation the level of protection commensurate with their importance.

580 When considering proposals that would affect directly, indirectly or cumulatively a site of recognised nature conservation interest, the following hierarchy will apply:

- avoid adverse impact to the biodiversity interest
- minimize impact and seek mitigation
- only in exceptional cases where the benefits of the proposal clearly outweigh the biodiversity impacts, seek appropriate compensation.

581 Tower Hamlets Core Strategy Policy SP04 'Creating a green and blue grid' promotes and supports new development that incorporates measures to green the built environment including green roofs whilst ensuring that development protects and enhances areas of biodiversity value. Tower Hamlets MDD Policy DM11 concerns 'Living buildings and biodiversity' and requires developments to provide elements of a 'living buildings.' This is explained to mean living roofs, walls, terraces or other building greening techniques. Policy DM11 (2) requires existing elements of biodiversity value be retained or replaced by developments.

582 Hackney Core Strategy Policy CS27 'Biodiversity' aims to protect, conserve and enhance nature conservation areas, in particular in and around Dalston and Shoreditch for their biodiversity value. Where appropriate, a biodiversity survey of the site must be carried out, with actions to enhance the biodiversity value, mitigate or compensate for any harm to habitats and / or species.

Analysis

583 Bishopsgate Goods Yard was previously part of a Site of Importance for Nature Conservation (SINC). Following the construction of London Overground, most of the SINC was lost and the remaining habitats fragmented. The SINC was de-designated in 2011.

584 The submitted Environmental Statement (ES) assesses the habitats on site as being of borough importance. Tower Hamlets Council have assessed that the top of the Braithwaite Viaduct meets the criteria for a SINC at Borough Grade 2 level and the definition of the UK priority habitat Open Mosaic Habitats on Previously Developed Land, a priority habitat in the Tower Hamlets Local Biodiversity Action Plan (LBAP).

585 The submitted ES reports that the protected black redstart has bred on the site in recent years and that site has the potential to support notable invertebrates. There are no bat roosts, but the site is used for foraging by three protected bat species. London Plan Policy 7.19 requires development to, where possible, make a positive contribution to the biodiversity and Tower Hamlets MDD Policy DM11 also requires net biodiversity gains in line with the LBAP. The development proposals involve the removal of all the existing 8,600 sq. m. of habitat vegetation currently on site. In order to meet the requirements of the development plan, habitat creation within the landscaping and buildings should more than offset losses.

586 The proposals include a variety of habitat creation and features beneficial to biodiversity and LBAP objectives, including habitats in the new park, green roofs, and bird and bat boxes incorporated in the buildings. The proposed inclusion of these features is welcomed, however, the park's detailed design should be subject to a planning condition setting minimum areas of specific habitats, including native woodland, species-rich grassland and possibly open mosaic habitats. These areas should be those specified in paragraph 17.201 of the submitted ES. The ES also states there will be 916 sq. m. of biodiverse roofs that should be secured by condition.

587 If well designed and successfully implemented, the proposed habitat creation should be sufficient to ensure an overall benefit for biodiversity as required by Policy DM11. Should the Mayor grant planning permission, the relevant conditions in Appendix A should be imposed in order to secure the biodiversity enhancement that will ensure the application's compliance with the biodiversity policies of the development plan.

Transport

National Policy

588 The NPPF emphasises the role that transport policies play in achieving sustainable development and achieving wider sustainability and public health objectives. The NPPF specifically stipulates that people should be given a real choice about how they choose to travel. New development should be located and designed to prioritise sustainable transport modes such as walking and cycling, with access to high quality public transport facilities, create safe and secure layouts minimising conflicts between traffic and cyclists or pedestrians and consider the needs of people with disabilities.

Local and regional policy

589 London Plan applies these principles within the strategic approach for transport in London. Policy 6.1 sets out the strategic approach and in this case the other relevant policies are: Policy 6.2 Providing public transport capacity and safeguarding land for transport; Policy 6.3 assessing effects of development on transport capacity; Policy 6.9 cycling; Policy 6.10 walking; Policy 6.12 road network capacity; Policy 6.13 parking; Policy 6.14 freight; Policy 8.2 the Mayor's priorities for planning obligations; and, Policy 8.3 Mayoral Community infrastructure levy.

590 The City Fringe Opportunity Area Framework 2015 provides a strategic overview of emerging public realm improvements that are necessary to create a quality environment and high levels of local connectivity which are considered important for contributed investment, development and regeneration. It notes that locations such as the Shoreditch Triangle present a challenge in terms of improving public realm and local connectivity. It highlights that development of this site could provide increased pavement width and improve crossing facilities as well as enable removal of what remains of the Shoreditch gyratory.

591 The OAPF also identifies this site as a future key destination for cyclists. Hence the design of new development should ensure improved facilities for pedestrians and cyclists, with rationalised junctions integrated with high quality routes.

592 Hackney Council sets out its approach to transport in Core Strategy policies 6 and 33; Dalston AAP policies DTC15, DTC16, DTC19 and DTC20; and, DMLP Policies DM45, DM46, DM47 and DM48.

593 Tower Hamlets Core Strategy Objective SO20 seeks to “*Deliver a safe, attractive, accessible and well-designed network of streets and spaces that make it easy and enjoyable for people to move around on foot and on bicycle*”. Core Strategy Policy SP09 provides detail on how this is to be achieved. Other relevant transport policies are set out in Core Strategy SP08 ‘Making connected places’ as well as MDD Policies DM20, DM21, DM22 and DM23.

594 The Site Allocation for the Bishopsgate Goodsyards site, detailed in the Tower Hamlets MDD, shows indicative walking and cycling routes running east-west and north-south through the site. The BGY IPG also sets out aspirational access improvements in Policies BG2 and BG3. These should focus main connections through the site as follows:

- North to south by re-opening and upgrading Braithwaite Street for pedestrians and cyclists. Access for small vehicles to service the space beneath the Braithwaite viaduct should be at the southern end. General through access for vehicles should not be provided on Braithwaite Street.
- East to west by re-opening London Road between Braithwaite Street and Brick Lane as an enclosed public street serving new shops, businesses, leisure and cultural uses in the arches beneath the Braithwaite viaduct.
- Extending the main east-west route from Braithwaite Street to Shoreditch High Street incorporating the listed forecourt wall and gates as an entrance feature.
- Connecting the diagonal route between Bethnal Green Road and Norton Folgate by bridging over the open railway lines into Liverpool Street.
- Creating secondary east-west routes between Brick Lane and Braithwaite Street running parallel to London Road and also across the top of the Braithwaite viaduct through a new linear open space;
- Creating secondary north-south routes into the site from Bethnal Green Road and Sclater Street.

Servicing

595 The development would be serviced through four main access points. The primary route would serve Plots K, F and G from the southern part of Braithwaite Street. There would also be three secondary servicing routes. One of these would serve Plots A and B from Bethnal Green Road and two new routes would run from Sclater Street to serve Plots C, D and E via the new Farthing Lane and Cygnet Lane access ways. There is also an additional access point from Brick Lane proposed to enable smaller vehicles to access the shops along London Road, beneath the Braithwaite Viaduct.

596 All vehicular servicing will take place within the site boundary, and this is supported. There are, however, two residents ‘pick-up/ drop-off’ spaces proposed on Sclater Street near the junction with Bethnal Green Road. Tower Hamlets Council have raised the point that this will result

in the loss of parking bays in Sclater Street and although this will not have a detrimental effect on current demand, it is considered that the public highway should not be relied upon for development servicing and that all vehicular activity should therefore take place within the site. Tower Hamlets Council is the highway authority on Sclater Street.

597 The draft section 106 agreement includes provision for securing site-wide Delivery and Servicing Management Plan (DSMP), which will include measures promoting best practice aiming at both businesses and residents. This is important to help encourage best practice, road safety (especially vulnerable road users, cyclists, pedestrians) to minimise peak period deliveries and manage deliveries and servicing trips for residents and businesses within the confines of space available. The applicant proposes consolidation of refuse collection in the service yard for all elements of the scheme with the exception of those in Plot K and this is welcomed. Plot K fronts onto Quaker Street close to its junction with Commercial Street and adjoins the railway viaduct and as such there are issues of detail design Transport for London will need to review at reserved matters stage. The applicant's rationale for on-street servicing seems reasonable. The local highway authorities will need to agree specific changes proposed under Section 278 of the Highways Act 1980, including those relating to the width of the footpath adjacent to Plot K following construction.

598 The Delivery and Servicing Management Plan should help reduce the impact of freight and servicing trips to the local network and promote Fleet Operators Recognition Scheme (FORS) in accordance with Policy 6.14.

Shoreditch High Street station

599 As stated above, London Plan Policy 6.2 deals with public transport capacity and safeguarding land for transport. A key aim of this policy is to improve the integration, reliability, quality, accessibility, frequency, attractiveness and environmental performance of the public transport system. The site is served by Shoreditch High Street Overground Station, which is located within the boundary of Plot B and currently has only one entrance facing Braithwaite Street. Although there are currently no plans to build a second entrance, it is important that the proposed development does not prevent this being delivered at some point in the future. The application proposals for Plots A and B are in outline, however, the applicant should ensure that the option to provide a future second entrance to the station is safeguarded and not precluded by the detailed design of the commercial building currently proposed for Plots A and B.

600 If constructed, any second entrance would need to be able to open throughout station opening hours. It is London Overground's aim to have trains serving Shoreditch High Street station all night on Friday and Saturday nights. This is particularly important given the area's significant night-time economy and the number of visitors this attracts. The earliest this could be implemented would be December 2017.

601 Although there are several options to be considered before detailed design stage, a second entrance onto the proposed Shoreditch Place public square would contribute to the vitality and the quality of the public realm as well as help safeguard future public transport capacity. The option of providing an entrance onto Bethnal Green Road or Shoreditch High Street are also not ruled out by the outline planning approval and could have similar benefits. In order to make the station more visible to future users, assist with wayfinding and give it more of a presence on Shoreditch High Street the applicant has agreed to provide additional signage and this is welcomed. This is to be secured by s106 planning obligation.

602 The applicant has agreed to ensure that a potential second entrance is safeguarded through the use of s106 planning obligations. The draft s106 agreement includes provision that a second entrance could be constructed based on a safeguarded area, chosen to enable use of existing lifts

and stairs and provide space for two standard gates and double width gates. Transport for London will also be obliged to work with the applicant to ensure that this option is not compromised by details submitted at the reserved matters stage.

Highway improvements

603 Shoreditch High Street and Commercial Street are part of the Transport for London Road Network (TLRN). This road network caters for significant traffic volumes. Given the very low ratio of car parking, the main development impact will be in the form of increased pedestrian footfall, cycling and public transport use, as well as additional servicing and delivery trips. The applicant predicts that overall, the development will generate 2795 two-way public transport, 138 cycle and 400 walking trips in the morning peak period. At the same time it will generate 68 two way servicing and delivery trips which will be mitigated by means of off-street provision and Delivery and Servicing Management Plan, limited on street vehicular servicing is reasonable provided it does not compromise the safe operation of the local highway.

604 The impact of additional pedestrian (with associated public transport) and cycle trips from this development will be mitigated by the applicant contributing to offsite highway works including financial contribution to the Transport for London Shoreditch Triangle scheme as well as highway works identified by each local authority.

605 Transport for London is developing plans for major highway improvement scheme for the Shoreditch Triangle area with the aim of improving pedestrian and cycle links, public realm while safeguarding bus journey time reliability. The applicant has agreed to partly fund these works and in turn TfL has agreed to develop the scheme to incorporate measures required by the development. Visitors, employees and residents of the development will also benefit from improved public realm and links to wider public transport nodes. The s106 agreement will identify the intervention priorities closest to the site and lesser priorities further away – as to enable local pedestrian and cycle improvements along with wider safeguards/ improvements that are needed to help maintain reliable bus access to the area, as well as cater for vehicular traffic to site and to other parts of London.

606 The applicant has agreed to contribute £5,900,000 towards this scheme, and this is strongly supported welcomed as it will enable these public realm improvements to be brought forward in a timely fashion to mitigate the additional walking and cycling demand from the development as will the proposed provision of Legible London signs

607 The local highway authorities have defined their own requirements for local highway improvements. TfL will be obliged to work with all stakeholders to develop the wider Transport for London scheme to meet local development need and wider London Plan and transport objectives. If TfL are unable to progress the Shoreditch Triangle scheme as currently envisaged, it is expected that the developer would still be obligated to deliver the priority improvements as identified in s106 agreement under a section 278 Highways agreement with Transport for London.

608 The developers' contribution will also help achieve a number of other London Plan policy goals including policy 6.7 related to bus stop accessibility and bus priority, policy 6.9 related to cycling and policy 6.10 related to walking. How this relates to the site is set out in more detail below.

Buses

609 Based on the extensive bus network in the surrounding area, it is expected that the additional bus trips generated by the development (160 two way trips in the AM peak and 151 trips in the PM peak) can be accommodated on existing services as long as TfL are able to maintain

and improve local bus priority and operational infrastructure. Prior to relocation of any bus stop that is necessary to facilitate the development; the design and costs will need to be agreed with TfL taking account of TfL Bus Stop Accessibility Guidance and use of the appropriate standard of bus shelter and associated technology. Any new stops shall be delivered through a section 278 agreement with the relevant highway authority. The developer will also fund bus priority measures through their overall contribution to Shoreditch Triangle scheme in line with Policy 6.7.

Pedestrians and Cyclists

610 The City Fringe OAPF, Tower Hamlets MDD Site Allocation and the BGY IPG identify the potential for north-south connections through the site and the BGY IPG identifies improvements to walking and cycling through the site. The City Fringe OAPF highlights the fact that the strategic north-south route for pedestrians and cyclists from Hackney Road to Aldgate involves the use of Brick Lane, and this can only be used in the south-north directions by cyclists. Where possible opportunities should be taken to create new and more legible north-south linkages to address this.

611 Primary pedestrian access is proposed from Braithwaite Street, Shoreditch High Street (via the Oriol Gateway) and from Brick Lane to Braithwaite Street south of the Braithwaite Viaduct along London Road. There would be secondary pedestrian access from Braithwaite Street to Commercial Street and south from Sclater Street via the proposed new routes Farthing Lane and Cygnet Lane. Both Farthing Lane and Cygnet Lane provide pedestrian only routes into the site from the north, but are not extended over the railway line to the south to connect through the site as the railway is not proposed to be decked at that point. Once within the site boundary the only way for pedestrians to move north-south through the proposed development would be to use the existing north-south route at Braithwaite Street.

612 There would be one primary cycle route running north-south along Braithwaite Street maintaining connections with the existing cycle route to the south and along Chance Street to the north. There is, however, no east-west route proposed for cyclists through the site.

613 Tower Hamlets MDD site allocation and the BGY IPG both indicate a secondary east-west route through the site connecting Brick Lane and Braithwaite Street. Tower Hamlets and Hackney Councils have raised this as an important omission from the proposals, stating that this would improve integration of the City and the residential community to the east and would also open up the northern side of the listed viaduct.

614 Tower Hamlets view is that overall, the development fails to provide adequate pedestrian permeability through the site in conflict with Tower Hamlets Local Plan and the BGY IPG.

615 In their report of 10 December 2015, Hackney Council state that the nature of the Goods Yard today means that it is a barrier to movement and lacks good connections to the surrounding area. The proposed development would provide two new access points running south from Sclater Street. These, however, would not provide any direct connection to the south and would require east or west movement to connect to existing north-south routes to achieve any onward connections. The new routes would only be open to pedestrians, without provision for cyclists.

616 The proposed Transport for London scheme for Shoreditch Triangle nevertheless is an opportunity to improve pedestrian and cycle links to the area though it is designed to meet a range of transport objectives though it is accepted that this scheme does not cover all the links that serve the site. The scheme includes a large part of the local Transport for London Road Network. The developer access strategy for the site is reasonable and comprehensive.

617 The railway line remains a barrier to pedestrian movement between Braithwaite Street and Brick Lane and the developer has not found a way to overcome this constraint by bridging over the

rail line, which could be beneficial for wider movement through the area. This would allow for provision of the additional links required by the BGY IPG and the Tower Hamlets MDD Site Allocation. Given the cost of decking this area however, and the likely impact that would have on scheme viability, the current approach is considered acceptable provided that the pedestrian links that are proposed between Braithwaite Street and Brick Lane are of high quality and integrate well with into Tower Hamlets Council's plans for Brick Lane.

618 It is considered that the proposals that the scheme is broadly in accordance with London Plan Policies 6.9 and 6.10. There is an opportunity for Transport for London to work with the applicant on each element of the proposed public realm and highways works in order to help ensure they represent an integrated whole. GLA officers are supportive of the public realm steering group proposed by Hackney Council to help guide this process.

619 The applicant proposes that the new pedestrian routes through the site would be accessible 24 hours a day 'as far as practicable'. The section 106 agreement will oblige the developer to ensure that the routes will be open 24 hours a day unless it is deemed necessary to close them for necessary essential maintenance or issues such as public safety. Furthermore such a decision could only be made in consultation with Tower Hamlets or Hackney Councils. The park will be accessible between every day from 0700 until 1900 and also secured as such through the section 106 agreement.

620 It has also been noted by Tower Hamlets Council that the delivery of Block K would result in the narrowing of Quaker Street, including its junction with Commercial Street. Adequate footway width on the northern side of Quaker Street should be maintained to accommodate increased footfall generated by the development. If the Mayor grants planning permission and the development proceeds then this should be subject to a section 278 Highways agreement with Tower Hamlets Council, along with other essential works to the public highways around the site where Tower Hamlets are the highways authority.

621 The proposals broadly accord with aim of the City Fringe OAPF and the BGY IPG to improve conditions for walking and cycling in the area. The absence of new cycling routes through the site is disappointing but understandable given that the proposals aim to avoid conflict between cyclists and pedestrians in what would likely be an often crowded pedestrian environment.

622 The absence of a secondary east-west route to the north of the Braithwaite Viaduct, as set out in the BGY IPG, is considered an important omission by Tower Hamlets Council. The omission of this route is, however, considered reasonable given the relatively minor benefit of this route, the significant constraints of the site and the need to provide adequate basement accommodation for the residential uses and servicing and access to the proposed retail units. It is also noted that an additional route would potentially compete with London Road, Sclater Street and Quakers Street leading to fewer people and lower levels of activation along each route. This is considered undesirable with regards to public safety, particularly late at night. As such the application is considered reasonably compliant to the BGY IPG and the site allocation in this respect.

Cycle parking

623 Applicant has committed to providing 2,059 cycle parking spaces for residents and 970 spaces for the retail and business uses. In addition to this 277 cycle parking spaces will be provided for visitors. The quantum accords with London Plan policy and is therefore supported.

624 Cycle parking for residents, visitors to the residential units and staff is to be provided in secure and covered locations associated with the relevant use. These locations are a mixture of ground floor and basement areas. Cycle parking for visitors to the office and retail uses is to be integrated within the landscaping proposals and generally located in close proximity to the main

access routes. All provision will have the option of step-free access and all public cycle parking will be at grade, with none proposed at park level. This is supported as the park does not form part of a cycle route and it will help avoid pedestrian/ cyclist conflict within the park, as well with disabled users for use of the lifts. Changing and showering facilities are to be provided for staff of the retail and office uses.

625 Any detailed design submitted as reserved matters stage will need to show that all cycle parking is designed to a high standard and includes cycle routes to the proposed cycle parking provision.

Cycle hire

626 There are three cycle hire docking stations within a walking distance of the site: Commercial Street, Bethnal Green Road and Brick Lane. The developer has offered to fund an expansion of this provision to cater for increased demand from the development. This funding will be £600,000 towards the Mayor's Cycle Hire Scheme in three tranches of £200,000. TfL aims to deliver additional cycle hire capacity to match needs of the development. TfL has identified that the scheme would need to provide three new docking stations, each providing 30 docking points located on land owned by the applicant. The applicant has identified potential sites adjacent to the scheme within the local highway and a further docking station up to 300 metres from the site. The proposed intensive development of the site will further stress the network operationally. The demand on the closest stations is predicted to increase over the coming years based on the modal shift towards cycling over the last 4 years, hence the need for more docking station capacity. . This area has also been identified as a hotspot area for Cycle Hire redistribution and there is a strategic focus on increasing docking points in the area. The contribution would help facilitate the cycle hire scheme in line with Policy 6.9.

London Underground Infrastructure

627 London Underground's Central line tunnels extend under the site. The design and construction of this development must not increase or decrease the loadings on the tunnels nor compromise the integrity of London Underground's operations in accordance with London Plan policy 6.2 'Providing Public Transport Capacity and Safeguarding Land for Transport'. Transport for London's engineers will therefore need to be involved with any planning, design and development to take place on this site to ensure the safety of the railway. Should the detailed design of the scheme progress the applicant should liaise directly with Transport for London throughout the design process and at reserved matters stage. This will be ensured through planning conditions associated with the various development plots.

London Overground Infrastructure

628 The development must also safeguard the Overground infrastructure. In particular, TfL must be able to undertake yearly visual inspections of the viaduct columns, bearings and for other infrastructure; six yearly physical inspections. TfL must also be able to undertake maintenance and as necessary renewal works without incurring any increased costs over the current situation on site. For example, TfL cannot be responsible for demounting any fittings or any consequential costs of temporarily closing retail units during such a period.

629 In addition to inspection, maintenance and renewal of its assets, it is vital that the station and any services remain compliant in terms of passenger safety, access, egress, fire and smoke regulations etc. To achieve this TfL is already aware of the need to install further equipment including impulse fans or other additional means of ventilation and extraction to cope with the impact of the proposed development on the current station venting. Should the Mayor resolve to

approve planning permission, conditions should be imposed to ensure that any design is only approved in consultation with TfL to ensure that they take account of these requirements.

Eight tracking safeguarding

630 The development must also ensure passive provision for two additional railway tracks entering Liverpool Street station from the east. These are in addition to the existing six tracks and are known as the “eight track” reserve. Although not designated by a specific safeguarding direction, the space for the additional tracks has been identified by Network Rail and they, as land owners, have secured a commitment from the applicant to ensure that the development will not prejudice the potential for delivery of this infrastructure through development on the Bishopsgate Goodsyards site. It is understood that Network Rail secured a similar arrangement on the Principle Place development, currently under construction to the west, across Norton Folgate.

631 Although not a commitment to be secured through condition or planning obligation, the applicant has provided details showing how it is proposed deliver the buildings, particularly Plots F and G, whilst reserving space for the eight-tracking. The foundations for Plots F and G would run either side of the reserved space leaving it free. The space would be filled in during construction, and this could be excavated at any point in the future without effecting the operation of the buildings above, should the space be required to deliver the additional tracks.

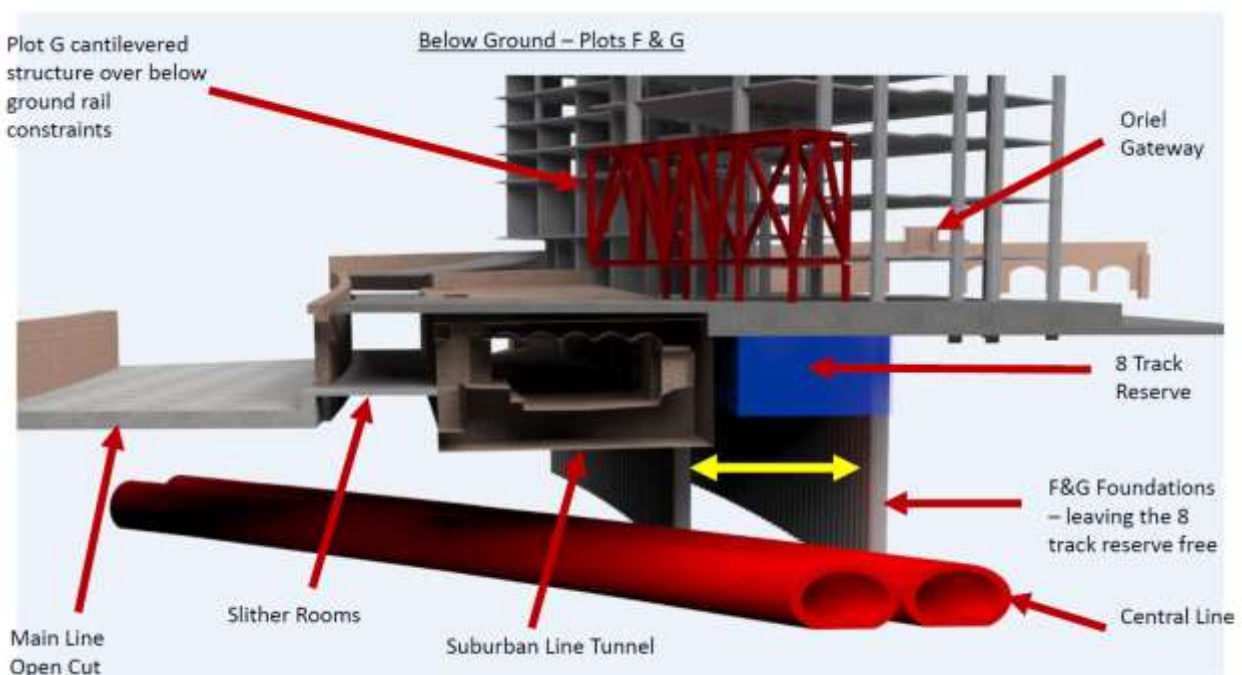


Figure 5: Diagram showing how the foundations of the scheme would be delivered around existing subterranean transport infrastructure and safeguarding the Eight-track reserve

Crossrail SPG

632 Crossrail is programmed to commence services in 2018 with nearby stations at Liverpool Street and Whitechapel. As stated above, the site is within the Central London Charging Area where section 106 contributions for Crossrail will be sought in accordance with London Plan policy 6.5 and the associated Supplementary Planning Guidance (SPG) ‘Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy’ (April 2013). In paragraph 4.20 of the SPG, it can be seen that in these situations, the Mayor’s CIL charge, referred to above, (but not the Council’s) will be treated as a credit towards the section 106 liability. The practical

effect of this will be that only the larger of the two amounts will normally be sought. As the CIL charge will not be confirmed until development is about to commence, the section 106 agreement will need to be worded so that if the section 106 contribution based on the assumed CIL proves incorrect the contribution is adjusted accordingly (assuming it is still more than the CIL). Other contributions towards the mitigation of transport impacts may also be sought in accordance with London Plan policy and with relevant legislation as already outline above. For development in the Central London Charging area, a contribution of £140 per square metre GIA for offices, £90 per square metre for retail and £61 per square metre for hotels is expected. Based on the information submitted in the application form, the proposals provide an uplift of 65,859 sqm of office and 17,499 sqm of retail. This necessitates a Crossrail contribution of £10,805,170 that will be specified in any section 106 agreement.

Tower Hamlets and Hackney's Transport Comments and Mitigation

633 Tower Hamlets Council resolved that the Mayor should refuse the application on 10th December 2015. They also advised that should the Mayor decide to grant planning permission that he should secure transport related planning obligations as follows:

- £250,000 contribution to the London Borough of Tower Hamlets for improvements to pedestrian crossing along Bethnal Green Road in vicinity of the development;
- £150,000 contribution to the London Borough of Tower for a safety review & improvements at the Bethnal Green Rd / Brick Lane junction;
- £250,000 contribution to the London Borough of Tower Hamlets to fund cycle route improvements along Bethnal Green Road including upgrading facilities between St. Matthews Row & Chilton Street;
- £300,000 contribution to the London Borough of Tower Hamlets for cycle route improvements and pedestrian linkages in the vicinity of the development including southwards in Quaker Street, Wheler Street, Braithwaite Street;
- Permit free arrangements to ensure that all future residents of the development (except for registered Blue Badge holders and those that qualify under the Tower Hamlets Permit Transfer Scheme) are exempt from purchasing on street parking permits from the London Borough of Tower Hamlets.
- To provide in perpetuity the Braithwaite Park (including access ways and stairs) and other public open spaces within the development;
- To provide in perpetuity the pedestrian routes running east–west to Shoreditch High Street (via the Oriol Gateway in LBH) and from Brick Lane to Braithwaite Street (south of the Braithwaite Viaduct along the existing London Road) and north–south from Sclater Street via the new routes Farthing Lane and Cygnet Lane;
- To ensure the Braithwaite Park, other public open spaces, pedestrian routes and stairs within the development are maintained, cleansed and lit and made available for public access 24 hours a day except in emergency or at times to be agreed;
- To ensure that the Braithwaite Park and access to the Park is delivered within Phase 1 of the development and the other public open spaces and access routes are delivered within phases corresponding to the development of the individual plots.

634 Hackney Council on 10th December 2015 also recommend the Mayor refuse the application and identified obligations should the Mayor approve the application as follows:

- Car-free development – removal of entitlement of future residents to residents parking permits.
- Approval and implementation of commercial and residential travel plans.
- A contribution of £4,000 towards annual monitoring of the approved Travel Plans.

- Enter in a s278 agreement with LBH for reinstatement works on Bethnal Green Road to be completed in conjunction with the development to ensure that the required standards and appearance of the site is maintained – these works include but are not limited to damage to or relocation of street furniture, removal of redundant crossovers, paving, lighting and street trees etc.;
- Secure sufficient funding to enable the Shoreditch Triangle Scheme (currently estimated at £6.2million);
- Establishment of a public realm steering group to inform the design of public realm improvements funded by the development including the Shoreditch Triangle Scheme;

Conclusion

635 The transport impacts of the scheme can be overcome through a s106 mitigation package and conditions proposed in this report. Whilst, broadly supportive of Tower Hamlet’s proposals in relation to planning obligations for additional highways improvements, it is not considered that these are directly related to the impact of the development itself. GLA officers would encourage the Tower Hamlets Council to develop an integrated package of measures for local pedestrian and cycle links. Furthermore, GLA officers would welcome the opportunity to work with Transport for London and Tower Hamlets Council officers on the development of these measures.

636 Transport for London has secured funding for off-site Cycle Hire Docking Stations in the current draft s106 agreement. Should the Mayor resolve to grant planning permission, these proposals need further work with Hackney and Tower Hamlets Council officers and in relation to the wider Shoreditch Triangle scheme.

637 The development is supported in line with London Plan policies 6.1 and 6.3 as it seeks to maximise density where public transport levels are excellent and are being improved through Crossrail, and more locally through Transport for London’s Cycle Hire Scheme and Shoreditch Triangle scheme. The proposals also accord with London Plan policy 6.13 on car parking through low provision on site, Car Parking Management Plan and support for offsite parking control, as well as meeting minimum standards for cycling parking, provision of Cycle Maintenance Facilities and by safeguarding future improvements to Shoreditch High Street station.

638 The application is considered acceptable in terms of development plan transport requirements. This is conditional upon securing necessary planning obligations through s106 legal agreement. This is covered in the planning obligations section of this report.

Mitigating the impact of development through planning obligations

National policy

639 The NPPF states that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”*

Regional and local policy

640 London Plan Policy 8.2 sets out the Mayor’s priorities for planning obligations, and states: *“Affordable housing; supporting the funding of Crossrail where this is appropriate (see Policy 6.5); and other public transport improvements should be given the highest importance.”*

641 Tower Hamlets Core Strategy Policy SP13, Hackney DMLP Policy DM4 and Policy BG29 of the BGY IPG seek to negotiate planning obligations through their delivery as part of the

development, or through financial contributions. In addition, the Tower Hamlets Planning Obligations SPD and the Hackney Planning Contributions Supplementary Planning Document (2015) set out each Council's priorities for planning obligations and the types of development for which obligations may be sought. The SPDs provide charging mechanisms in some cases, but also allows a degree of flexibility in negotiating obligations to take account of development viability, the particular circumstances of the case, and any benefits that may be provided in kind.

Community Infrastructure Levy

642 Both Tower Hamlets and Hackney Councils have adopted CIL charging schedules. For the purposes of the CIL both parts of the site have been considered by a planning inspector, having regard to considerations such as local policy requirements, viability and the aspirations of the BGY IPG. The area within Tower Hamlets is designated as a "large allocated site" and all uses are nil rated whereas the Hackney side does attract CIL at the rate set out for 'Zone A/ City Fringe'. The rates set out by Hackney Council for 'Zone A/ City Fringe' are £190 per sq.m. for residential, £50 per sq.m. for offices and £64 sq.m. for retail.

643 In Hackney Council Draft CIL Charging Schedule, Examiners Report December (2014) the inspector notes that there has been much joint working between the Councils such that there is a clear understanding of the totality of the site and the viability/ policy implications on both sides of the borough boundary. The inspector goes on to note a number of documents prepared for the Tower Hamlets CIL examination relating to the site which deal with the impact of CIL on the provision of affordable housing, current use values, hotel yields and further hotel appraisals, the differentiation between types of retail, and student housing on the Tower Hamlets side.

644 The inspector acknowledged the desire for both Councils to consider the site as one, but in considering the potential impact of CIL on the delivery of policy objectives through planning obligations, the inspector considered that the relevant Charging Authority for each area should set its own levels of CIL for its part of development sites which straddle the Borough boundary. This should be done in the light of the conditions, policies and viability evidence in its area.

645 In considering the implications for the Hackney part of the site, the inspector observed that Hackney Council's policies are worded as such that they allow for the modification of s106 obligations in order to respond to viability issues. As such it was concluded that the Bishopsgate Goodsyrd site should be treated no differently from other development schemes within the Hackney Zone A/City Fringe.

646 As this was highlighted in the inspectors report, it can be assumed that Hackney Council have anticipated the impact of the proposed CIL rate and the likelihood that it would lower the potential level of affordable housing in order to support scheme viability. Conversely, by being nil rated, it is reasonable to expect that the Tower Hamlets part of the site could provide a higher level of affordable housing, with the trade-off being that no financial contribution would be generated towards the delivery of borough-wide community infrastructure. It is in this context that s106 planning obligations have been considered. GLA officers seek to maintain a 'whole-site' approach whilst being as equitable as possible to both Councils in view of the overall level of financial contributions (CIL and s106) secured.

647 In line with this approach and pursuant to the detailed discussion within the previous sections of this report, GLA officers propose to secure a number of planning obligations required to appropriately mitigate the impact of this development. Where appropriate, additional commentary is provided below to inform the drafting of a detailed s106 agreement. It should be noted that due regard is had to the financial planning obligations suggested by Tower Hamlets and Hackney Council's following their planning committee meetings of 10 December 2015.

Draft agreement

648 Over the past few months, GLA officers have been involved in detailed negotiations with the Applicant as to the nature and quantum of planning obligations required to mitigate the impact of the development. As part of this negotiation, GLA officers and the Applicant have been progressing a draft s106 agreement which, whilst not agreed at the date of writing in a number of material respects, is fairly well advanced.

649 GLA officers have invited the Councils to participate in negotiations throughout the past few months and have provided the Councils with various iterations of the heads of terms and drafts of the agreement. The Councils have been invited to participate in various meetings with GLA officers and the Applicant but, with some limited exceptions, both have chosen largely not to engage in the process.

650 Should the Mayor resolve to grant planning permission, GLA officers' preference is for the Councils to sign the s106 agreement. However, in the event that one or both of the Councils refuse to sign the s106 agreement, GLA officers are of the view that the agreement should be entered into by the GLA irrespective of that fact. Such an agreement would make provision for any Council which is not a signatory to sign up to the agreement at a later date, if it decides it would be appropriate to do so.

Approval panel arrangements

651 Should the Mayor resolve to grant planning permission, the s106 agreement will provide that the Councils will establish an Approval Panel (including representatives from both Councils) to deal with approval requests from the Applicant related to those planning obligations which relate to the site as a whole or which otherwise affect a particular part of the development which straddles the boundary between Tower Hamlets and Hackney (for example, Plots B and G). This reflects GLA officers' 'whole site' approach to this application and is intended to ensure that the Applicant is only required to secure a single approval for matters which affect both Tower Hamlets and Hackney and to mitigate against the possibility of the two Councils taking inconsistent approaches to such requests.

652 In the event that the Applicant cannot obtain a response from the Approval Panel (or the Councils fail to establish the Approval Panel) within a reasonable timeframe, a request can instead be made the GLA to deal with the relevant approval requests. Similarly, if the Councils refuse to sign the s106 agreement, it is anticipated that such requests will be made directly to the GLA, until such time as the Councils decide they wish to sign up to the agreement. As the GLA does not generally deal with such approval requests on other s106 agreements to which it is party, the Applicant would be required to meet the GLA's costs in considering any approval requests.

Affordable housing

653 As outlined above, the Applicant's offer of the on-site provision of 25% affordable housing by habitable room within Tower Hamlets (comprising 48 intermediate units and 93 social rented units) and a payment in lieu of on-site affordable housing of £21.825m (which equates to 15% affordable housing by dwelling) is considered the maximum reasonable offer the development can currently afford. This will be secured by the s106 agreement which will also include details of affordable housing definitions, fit-out requirements, transfer/lease to a Registered Provider, the income thresholds for the intermediate units and the retention of the affordable units at specified rent levels in perpetuity.

654 The s106 agreement will also include a robust review mechanism which will seek to review periodically the viability of the development and consider whether additional affordable housing can be provided.

Site phasing

655 The package of planning obligations which has been negotiated with the Applicant is largely based and dependent upon the proposed phasing of the development. Consequently, the s106 agreement will provide that the Applicant will require approval from the Councils (and, in certain instances, Transport for London) in order to amend the phasing. This will enable proper consideration of the impact of the change in phasing on the overall package of obligations and provide an opportunity to amend any obligations which are directly affected by the change in phasing.

Affordable workspace

656 The applicant agrees to make no less than 10% of the total office floorspace across the scheme available as affordable workspace. It is proposed that this floorspace will be made available at 20% discount from open market rent (inclusive of service charge), for the lifetime of the development.

657 The majority of the proposed office space, and therefore affordable workspace, is proposed for buildings currently submitted in outline. It is therefore not possible, at this stage, to deliberate over the suitability of specific locations within the scheme for affordable workspace. Therefore, prior to commencement of any plot that contains office floorspace, the Applicant will submit for approval a detailed Affordable Workspace Strategy, which will set out in detail how the Applicant intends to provide affordable workspace within that plot. This should include a commitment to ensure that the affordable workspace is provided to the same standard as the market floorspace, unless otherwise required by an affordable workspace provider. The applicant will also be required to submit a framework affordable workspace lease for approval.

Employment skills and training

658 The proposed development would create new jobs in the office, retail and related services sectors. Employment skills and training, enterprise and securing benefits for local residents are key priorities for both Tower Hamlets and Hackney Councils.

659 The provision of 150 apprenticeships is proposed during the construction phase of the development. The number of apprenticeships provided is lower than the one per £2m construction spend recommended in Hackney Council's Planning Contributions SPD, however, the Applicant commits to ensuring that all apprentices are paid the London Living Wage. Furthermore, given that the construction phase is estimated to generate 494 construction jobs, GLA officers consider that 150 apprenticeships is a reasonable scale of provision. This commitment is therefore welcomed and considered preferable to more apprenticeships paid at minimum wage. The applicant will also use reasonable endeavours to ensure the provision of as many apprenticeships as possible during the end-user phase. The target packages/ trades are to be agreed with the Councils' Ways into work/ Skills match teams.

660 The applicant has agreed to submit for approval an Employment and Skills strategy. This will set out the arrangements showing how they will work in partnership with Tower Hamlets and Hackney Councils as well as any local employment or training agencies to ensure that local people benefit from the employment opportunities offered by the development. The applicant and the local councils will jointly set up an Employment and Skills steering group which will oversee the delivery of the strategy.

661 The applicant will use reasonable endeavours to ensure that 25% of the labour associated with the construction and end-user phases of the development are local residents. The applicant will also use reasonable endeavours to ensure that 20% of the value of contracts during the construction period go to local contractors and suppliers.

662 In addition to these non-financial obligations Tower Hamlets and Hackney Councils are seeking £1,162,497 and £2,813,041 respectively, towards employment, skills and training initiatives. This is to support recruitment, training, mentoring and other support needed to help local people access the employment opportunities generated by the scheme in line with the relevant policies. The applicant contends that this is unreasonable and excessive in view of the commitment to non-financial obligations. This point remains unresolved. The Councils and the Applicant have each provided a number of precedents to support their position which GLA officers are in the process of considering. Should the Mayor resolve to grant planning permission it is suggested that this point be addressed by GLA officers in consultation with the Applicant and the Councils before any final s106 agreement is signed.

Retail floorspace

663 The provision of a Retail Management Strategy is proposed. This is to be monitored annually so that the Approval Panel can specify amendments that may be necessary during the ongoing operation of the development. The obligations include provision that no Class A4 use is to be included in the development, and:

- No more than 30% of the proposed retail floorspace can be occupied by Class A3 and/or Class A5 use;
- No more than 12.5% of the proposed retail floorspace be occupied by Class A5 use.

664 This is considered appropriate for the site's location in line with the land-use mix aspirations of the BGY IPG, and in view of the site constraints and necessity to ensure a reasonable level of active frontage overlooking the public routes through the site beyond normal A1 retail opening hours.

Community facilities

665 The BGY IPG states that a number of community benefits could be provided by development on the site, including a health centre and Idea Store. GLA officers note that Hackney's Regulation 123 list includes the provision of a number of community benefits (including health facilities and libraries) and therefore it is not considered appropriate for the s106 agreement to require such community benefits to be provided on the Hackney part of the development or to mitigate the Hackney part of the development as this is properly the role of CIL. However, as noted above, the Tower Hamlets part of the development is nil rated for CIL and Tower Hamlets' Regulation 123 list specifically excludes infrastructure required by the Council's MDD for the site. Therefore, it is considered appropriate for community benefits to be secured in respect of the Tower Hamlets part of the site.

666 It is noted that the BGY IPG and the Councils' SPDs seek contributions towards community facilities on major developments, which may be in the form of on-site provision of space, or a financial contribution towards upgrading of an existing facility or provision of a new facility in the vicinity. Such contributions in this regard are intended to be negotiated on a case by case basis, although it is noted that the Tower Hamlets MDD site allocation includes provision of an Idea Store and the BGY IPG says that such benefits could include a health centre.

667 In this case the Applicant has agreed to provide a new Idea Store and GPs surgery within the Tower Hamlets part of the development. Discussions are ongoing between the Applicant and Tower Hamlets but it is currently proposed that the s106 agreement will include provision of a specified unit for an Idea Store, which will be provided to Tower Hamlets Council at peppercorn rent for a period of 30 years. Should Tower Hamlets Council consider that it does not want an Idea Store to be provided as part of the development, the Applicant has agreed to pay a financial contribution towards the provision of an Idea Store off-site. The details of this are still to be agreed.

668 The applicant has agreed to provide a unit for use as a GP Surgery within the Tower Hamlets part of the development, to mitigate the impact of the development proposals on healthcare facilities in the area. This is to be made available at a discounted rate for a period of not less than 30 years.

Public toilets

669 The draft agreement includes securing provision of public toilets within Phase 4 of the build programme. This is welcomed as it will not only be necessary to mitigate the impact of the development but also ensure provision in an area currently lacking such provision.

Public realm

670 The applicant is directly delivering significant new public realm as part of the application proposals. This includes the new park above the Braithwaite Arches, the new public squares known as Braithwaite Square, Brick Lane Square, Farthing Yard, Cygnet Yard and Oriol Gateway and the routes linking them and passing through the site namely Shoreditch Place, London Road, Cygnet Lane, Farthing Lane, Phoenix Street, Braithwaite Street and the High Walk. These will be secured as part of the s106 agreement and are to be provided for public use as early as is reasonably practicable. The park and all publicly accessible areas and pedestrian routes would be subject to an Estate Management strategy.

671 Publicly accessible areas and pedestrian routes, other than the new park, would be required to remain open to the public at all times except in limited specified circumstances agreed in advance by the relevant Council. Such circumstances could, for example, include maintenance or essential access to operational transport assets or utilities infrastructure.

672 Public access to the new park is to be provided free of charge and in perpetuity every day from 0700 until 1900. These times may only be varied with agreement in writing from the Councils. Similarly, temporary closure or restricted access to the park may be permitted where it is necessary in the interest of public safety (such as to prevent anti-social behaviour) or is required for essential maintenance, repair or access to operational railway assets, subject to prior written approval of the Councils.

673 In addition, the Applicant has agreed to provide public art as part of the development, comprising displays setting out the history of the Bishopsgate Goodsynd.

Climate change

674 As discussed in the Energy and climate change section of the report, a commitment to ensure that the scheme can connect to a future district heating network from each of the three energy centres would be secured. The applicant will submit an updated energy assessment as part of any application for reserved matters approval made in respect of each outline plot.

675 Following assessment of any updated ES, a carbon-offset payment will be required to address any shortfall in the reduction of carbon dioxide emissions required by policy. It should be

noted that Tower Hamlets Council has a carbon dioxide savings target of 45%, whereas the London Plan target is 35%. The Councils disagree with the GLA on this point and believe that the Tower Hamlets carbon dioxide target should be applied to the whole site. Whilst the Tower Hamlets Policy is more recent than that in the London Plan, the carbon dioxide reduction targets have been devised to apply to all new development across the borough. The developers of the current proposals would be dealing with significant infrastructure constraints as well as having to build around existing structures associated with operational railway assets and heritage assets which are being brought back into use. As such the scheme cannot be considered as having the 'normal' site conditions, and therefore the same opportunity, that most new development in Tower Hamlets would have to meet the 45% reduction target. Furthermore, the Tower Hamlets target did not consider development in Hackney borough, whereas the London Plan target was considered on a London-wide basis. In this context, and in line with the GLA's 'whole-site' approach, it is considered more appropriate to apply the London Plan target of 35%.

676 A commitment to pay any carbon offset contribution due under London Plan policy should be secured as part of any final s106 agreement.

Transport

677 As discussed in the transport section of this report, the draft s106 agreement secures the following obligations:

- Passive provision for a second entrance to Shoreditch High Street station
- Section 106 Crossrail payment of £10,805,170.
- Payment of £5,900,000 towards Transport for London's Shoreditch Triangle highway improvement scheme, paid at either commencement of Phase 2 or 1st July 2020 (whichever is the earlier). In the event that Transport for London elects not to bring forward the Shoreditch Triangle scheme, the Applicant will be required to carry out such highway improvement works as are necessary to mitigate the impact of the development.
- A payment of £250,000 to Tower Hamlets to be used by Tower Hamlets towards the improvement of pedestrian crossings on Bethnal Green Road in the vicinity of the site.
- Highway Reinstatement works on Hackney's, Tower Hamlets' and TfL's highway in accordance with Transport for London's Streets Toolkit or other relevant guidance promoted by each authority.
- £600,000 towards Transport for London Cycle Hire Docking stations within the vicinity of the site.
- Car Parking Management Plan including provisions related to permit free housing, accessible spaces and requiring provision of Electric Vehicle Charging Points (EVCP).
- Travel Plan and the requirement for onsite facilities to encourage cycling such Cycle Maintenance Facilities, showers and lockers.
- Provision of a maximum of 3,306 cycle parking spaces (assuming the maximum quantum of development is brought forward).
- Delivery and servicing management plan including promoting best practice aimed at both businesses and residents.

- Construction Logistics Plans to minimise impact of construction on the TLRN, bus services and local highway with specific attention to cycle and pedestrian safety.
- London Underground and London Overground infrastructure and assets in and around the site must be safeguarded during and after construction through specific planning conditions that Transport for London have specified.

Development viability

678 The applicant has offered a package of planning obligations which comprises financial contributions in the region of £38m together with various non-financial obligations. The applicant will also be required to pay CIL in the region of £25m To support the planning obligations package the Applicant has prepared a development viability appraisal. This has been independently assessed by the Council's appointed consultants and the findings of the assessment have been made available to the GLA. Accordingly it is noted that the independent review concludes that the overall offer for planning obligations is reasonable, and represents the maximum that the scheme can afford.

679 The planning obligations discussed above will be secured by a section 106 legal agreement. Summarised heads of terms to the agreement, including non-financial commitments, are set out within the recommendation section of this report.

Guarantor

680 In light of the significant package of financial and non-financial planning obligations and the fact that GLA officers understand that the Applicant is a special purpose vehicle with no significant assets other than contractual rights to acquire the site from Network Rail, GLA officers consider that it is reasonable and appropriate to require a guarantor to sign the s106 agreement. The guarantor will need to be of sufficient financial standing to guarantee the performance of the planning obligations in the event that the Applicant fails to properly discharge them. It is proposed that the guarantor be Ballymore Properties Limited and Hammerson UK Properties Plc. Officers are of the view that subject to a view of the financial status of both companies, this would be a satisfactory guarantor.

Mitigating the impact of development through planning obligations – conclusion

681 The planning obligations proposed are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Human Rights & Equalities Implications

682 The Mayor should take account of the provisions of the Human Rights Act 1998 as they relate to the application and the conflicting interests of the Applicants and any third party opposing the application in reaching their decisions. The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report. In particular, Article 6 (1), of the European Convention on Human Rights in relation civil rights and a fair hearing; Article 8 of the ECHR in relation to the right to respect for private and family life and Article 1 Protocol 1 of the ECHR in relation to the protection of property have all been taken into account.

683 In addition the Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, pregnancy and maternity, race, religion, or beliefs and sex and sexual orientation. It places the Local Planning

Authority under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and Members must be mindful of this duty inter alia when determining all planning applications. In particular Members must pay due regard to the need to: Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;

684 Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and;

685 Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

686 Officers are satisfied that the application material and Officers' assessment has taken into account these issues. Particular matters of consideration have included provision of accessible housing and parking bays, as well as the provision of affordable and family housing.

Legal considerations

687 Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Mayor is acting as the Local Planning Authority (LPA) for the purposes of determining the planning applications 2014/2425 & PA/14/02011 and the connected applications for listed building consent 2014/2427 & PA/14/02096.

Conclusion

688 As detailed above Section 38(6) of the Planning and Compensation Act 2004 requires the decision to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

689 When assessing the planning application the Mayor is required to give full consideration to the provisions of the Development Plan and all other material considerations. He is also required to consider the likely significant environmental effects of the development and be satisfied that the importance of the predicted effects and the scope for reducing them, are perfectly understood.

690 In preparing this report, officers have taken into account the likely environmental impacts and effects of the development and identified appropriate mitigation action to be taken to reduce any adverse effects. In particular, careful consideration has been given to the proposed conditions and planning obligations which will have the effect of mitigating the impact of the development.

691 This report has considered the material planning issues associated with the proposed development in conjunction with the development plan, all relevant national, regional and local planning policy and guidance, and material considerations.

The planning balance

692 The Mayor strongly supports the principle of redeveloping the Bishopsgate Goodsyards site and recognises the potential strategic and local benefits of a well-designed scheme which seeks to optimise densities in this Central London location. Such a proposal would not, however, be acceptable if the potential benefits were outweighed by unacceptable, and avoidable impacts.

693 As detailed within this report, the proposals potentially offer significant public benefits, summarised as follows:

- Up to 1,356 new homes
- Equivalent of 15.8% affordable housing by unit
- employment and retail space for an estimated 6,095 new jobs
- 150 apprentices over the construction programme
- Listed and non-listed heritage assets restored and opened up to the public
- A new park on top of the Braithwaite Viaduct comprising an area of 0.97 Ha
- A generally high quality of architecture
- Ground level public realm making up the proposed public squares and new routes comprising 1.28 Ha providing considerably enhanced east-west permeability across the site
- New community facilities in the form of an Ideas Store and GP Surgery
- A comprehensive planning obligations package which would satisfactorily mitigate the impact of the development.

694 It has also been assessed, however, that these proposals as currently designed are to be delivered in a way that would result in some very significant negative impacts on neighbouring amenity and heritage. These are summarised in the following paragraphs.

695 The proposed development does not accord with the development plan in terms of neighbourhood amenity impacts, specifically daylight/ sunlight. This indicates that the density, height, massing and layout of the scheme are not appropriate for this site as these factors result in the development along Sclater Street that drives the majority of the unacceptable impacts.

696 There remains a design concern regarding the proposed Phoenix Place. This could be improved considerably as set out in the main body of the report.

697 The heritage section of this report assessed that the proposals were found to cause harm to some heritage assets and conservation area settings including substantial harm. The decision maker is required to give these impacts significant weight when balancing them against the public benefits of the scheme. The negative heritage impacts can be summarised as follows. The development causes:

- Substantial harm to the Grade II Listed Oriel gateway (by demolition of the listed wall)
- Minor harm to the setting of Tower of London
- Minor harm to the setting of Redchurch Street Conservation Area
- Minor harm to the setting of Brick Lane & Fornier Street Conservation Areas
- Harm to the setting of Elder Street Conservation Area
- Minor harm to the setting of the Grade I listed Geffrye Museum

698 The issue regarding the listed status of the wall to the south of the oriel and the substantial harm that would be caused by the demolition of the wall remains outstanding. Whilst a case may be

able to be made for the demolition of the wall, the applicant has not justified this as part of their current listed building application. As such, the Mayor is recommended to refuse listed building consent application 2014/2427.

699 The cumulative harm to heritage assets could outweigh the potential public benefits of the scheme.

700 However, the proposals seek to deliver the public benefit outlined above in a way that causes unacceptable and avoidable harm in respect of daylight/ sunlight impacts and it is not accepted that these impacts are an inevitable consequence of developing the site. By seeking to optimise, rather than maximise development, it is considered that a revised scheme could reduce the impacts to an acceptable level and still deliver significant public benefits. In order to address the daylight/ sunlight impacts identified in this report, such a scheme would have to have significantly less height and massing along the north-western edge of the site in particular. This, in turn, would be likely to have the additional benefit of lessening many of the heritage impacts identified. The balance of harm to heritage assets and public benefit would also be likely to change in a positive way.

701 The applicant has suggested some broad alternatives to the massing strategy in an attempt to explore ways of making changes within the context of the current planning application, including minimum parameter plans. These changes are still likely to result in an unacceptable level of impacts as they are only slight variations on the current proposals. Furthermore it has not been possible to properly assess these alternatives independently, and they are lacking in sufficient supporting detail to enable proper consideration. Officers are of the view that a more comprehensive scheme redesign is required.

702 Accordingly, the Mayor is recommended to refuse planning permission for planning applications 2014/2425 & PA/14/02011 and listed building consent applications 2014/2427 and PA/14/02096, and to bring to the attention of the applicant those areas which could result in remedies to overcome the concerns raised in this report through any future revised schemes.

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