



Planning Sub-Committee – 08.05.2024

ADDRESS: 364 Mare Street, Hackney, London, E8 1HR	
WARD: Hackney Central	REPORT AUTHOR: Laurence Ackrill
APPLICATION NUMBER: 2021/1181 DRAWING NUMBERS: Design & Access Statement, Tree Survey and Protection Plan 20_5837_11_02, 492 000, 492 001, 492 002, 492 003, 492 004, 492 005, 492 010, 492 011, 492 020, 492 021, 492 022, 492 100, 492 101b, 492 102b, 492 103b, 492 104b, 492 105b, 492 107b, 492 110b, 492 111b, 492 112b, 492 113b, 492 114b, 492 115, 492 120c, 492 121c, 492 122b, 492 123b, 492 190b, 492 191b, 492 192b	VALID DATE: 20/05/2021
APPLICANT: Clockwork Pharmacy Group	AGENT: Mr Tristan Morse (Humphreys & Co.)
PROPOSAL: Demolition of infill extensions to create courtyard and mixed use redevelopment, constructing a part two and part four storey building to create 5 new retail units (Use Class E) on ground floor and 5no. residential units on upper floors. Alterations to 364 Mare Street including internal reconfiguration and relocation of access to existing residential units and construction of a mansard roof; reconfiguration includes amalgamation of the existing first floor flats and the extension of one of the existing second floor flats to become a two storey flat. Associated landscaping and creation of bike storage area.	
POST SUBMISSION REVISIONS: <ul style="list-style-type: none">• Amendments to the ground floor layout involving a re-distribution of retail units and bin / bike storage;• Removal of dedicated 'viewing point' to provide larger retail space, with green roof above;• Internal layouts of residential accommodation;• Alterations to the eastern elevation including fenestration details;• Increase in scale of third floor involving height of 20cm, width of 85cm, and overall depth of 90cm; and• Increase in height of 2nd floor parapet level of 20cm. <p>Giving regard to the Wheatcroft Principles, the substance of the application has not been substantially altered to the extent that determining the application on the basis of the amended plans would result in a fundamental change to the proposed development.</p> <p>In addition, the proposed amendments have been publicly re-consulted on, and therefore determining the application would not result in unlawful procedural unfairness to anyone who commented on the original proposals.</p>	



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RECOMMENDATION SUMMARY:

That the Committee resolve to GRANT planning permission subject to conditions and completion of a Section 106 legal agreement.

REASON FOR REFERRAL TO PLANNING SUB-COMMITTEE

Major application	No
Substantial level of objections received	Yes
Council's own planning application (in accordance with the Planning Sub-Committee Terms of Reference)	No
Other (in accordance with the Planning Sub-Committee Terms of Reference)	No

ANALYSIS INFORMATION

ZONING DESIGNATION:	(Yes)	(No)
CPZ	Yes (Zone D)	
Conservation Area	Yes - Clapton Square	
Listed Building (Statutory)	Within the setting of Grade I & II listed buildings	
Listed Building (Local)		No
Employment Designation		No
Central Activities Zone		No

LAND USE DETAILS:	Use Class	Use Description	Floorspace Sqm
Current	Class E	Retail units	806
	Class C3	4 x flats	161
Proposed	Class E	Retail units	324
	Class C3	8 x flats	721

PARKING DETAILS	Parking Spaces (General)	Parking Spaces (Disabled)	Bicycle storage
Existing	0	0	0
Proposed	0	0	38 no. cycle parking spaces. (22 residential, 8 commercial & 8 visitor spaces)

1.0 SITE CONTEXT AND PROPOSED DEVELOPMENT DETAILS

Site Context

- 1.1 The application site relates to a three storey former public house, located on the eastern side of the narrow way section of Mare Street. The application site includes the adjoining single storey retail unit to the north of the former public house and the part single, part two storey structures to the rear of the main building and the rear courtyard area.
- 1.2 The existing buildings on site are primarily accessed directly from Mare Street and comprises 2 x retail units at ground floor level with ancillary retail space at ground and first floor level to the rear. The upper floor levels within the former public house comprise 4 x 1 bed 1 person residential flats, with 2 on the first floor and 2 on the second floor.
- 1.3 The application site is located within the Clapton Square Conservation Area, Archaeological Priority Area, the Hackney Central Major Town Centre and Mare Street Primary Shopping Frontage. Approximately 50m due south of the site is the Old Tower of Former Church of St Augustine, which is a Grade I listed building.
- 1.4 The character and appearance of the area is heavily influenced by the historic environment. This includes the site's setting within the Clapton Square Conservation Area (the CSCA) and a number of historically / architecturally important buildings. Notable amongst these is the Old Tower of Former Church of St Augustine, listed at grade I (St Augustine's Tower).
- 1.5 Other historically important features in the vicinity of the site include the neoclassical Old Town Hall listed at grade II, an 18th-century house converted to a vestry hall in 1802 and redressed in stone as a town hall in 1900, which stands adjacent to St Augustine's Tower. St John's Church, dating from the 1790s with an 1820s tower, is listed at grade II*. The brick perimeter wall of St John's Churchyard is listed in its own right at Grade II in two parts.

Proposed Development

- 1.6 Planning permission is sought for construction of a part two and part four storey building to the rear of No.364 to create 4 new retail units to ground floor and 5 residential units above (UNIT MIX) following the demolition of infill and rear extensions. The redevelopment would also create a public courtyard to the rear accessed via a newly created passage to the north of 364 Mare Street. The proposals include alterations to 364 Mare Street Associated landscaping and creation of bike storage area.
- 1.7 The application also includes alterations to 364 Mare Street including internal reconfiguration and relocation of access to existing residential units and construction of a mansard roof; reconfiguration includes amalgamation of the existing first floor flats and the extension of one of the existing second floor flats to become a two storey flat. A commercial unit (Use Class E) would be retained on the ground floor level.
- 1.8 The proposal would result in the loss of a small single storey retail unit at ground floor level to facilitate access to the remodelled / reduced ancillary retail space to the rear of the site, which would now. The courtyard area would also facilitate access to the proposed commercial and residential units and would also provide space for separate residential and retail bin and bike stores.



Fig 2. Existing Street Frontage

2.0 PLANNING AND ENFORCEMENT HISTORY

2.1 The most recent and relevant planning history in relation to the site is as follows:

Planning History

- 2020/2363 - 364 Mare Street, Hackney, London, E8 1HR - Demolition of infill extensions to create courtyard and mixed use redevelopment, providing a part two and part five storey building to create 5 new retail units on ground floor and net 6 additional residential units on upper floors. Alterations to 364 Mare Street including internal reconfiguration and relocation of access to existing residential units and construction of a mansard roof. - Not determined - Appeal reference - APP/U5360/W/21/3270613 - Appeal Dismissed - 04/01/2024. On the ground that the proposal would cause less than substantial harm to the setting of the Grade I listed St Augustine Tower. Given this the Inspector did not go into detail on the Council's reasons for refusal with regard to lack of Section 106 Legal Agreement.
- 2007/1489 - 364 Mare Street, Hackney, London, E8 1HR - Conversion of existing residential unit at first and second floors to provide 3 x self-contained flats (comprising 1 x two bedroom and 2 x one bedroom flats); and rear extension at second floor level. - Granted - 05/09/2007.
- 2007/0091 - 364 Mare Street, Hackney, London, E8 1HR - Conversion of existing residential unit at first and second floors to provide 3 No. self contained flats (comprising 1 x three - bedroom flat and 2 x one- bedroom flats); and rear extension at second floor level. - Refuse - 05/06/2007.

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Enforcement History

- None relevant.

Pre-application Advice

- 2020/0586/PA - Demolition of infill extensions to create courtyard, construction of part three part four storey buildings utilising existing frames to create 8 new retail units on ground floor, and 8 new residential units on upper floors. Alteration to access to existing residential units in front of site and construction of a mansard roof addition - Acceptable in principle, amendments required. - Response issued 06/04/2020.

3.0 CONSULTATION

First Consultation

- 3.0.1 Date Statutory Consultation Period Started: 26 May 2021.
- 3.0.2 Date Statutory Consultation Period Ended: 27 June 2021.
- 3.0.3 Site Notices: Yes (26 May 2021)
- 3.0.4 Press Advert: Yes (04 June 2021)

Second Consultation

- 3.0.5 Date Statutory Consultation Period Started: 28 March 2024.
- 3.0.6 Date Statutory Consultation Period Ended: 26 April 2024.
- 3.0.7 Site Notices: Yes (05 April 2024)

3.1 STATUTORY/LOCAL GROUP RESPONSE

Statutory consultees

- Historic England - Archaeology (GLAAS) - No comments received.
- Historic England - Supports the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 193- 196.
- Natural England - No comment on this application with regards to statutory designated sites.
- TfL / Crossrail 2 Safeguarding - No comments to make on the application.

Internal consultees

- Pollution Land and Air - No objection subject to conditions relating to air quality and dust mitigation during construction works.
- Waste Management - No comments received.
- Traffic and Transportation - No objections subject to conditions and S106 Agreement restricting parking permits for future occupiers.

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- Pollution Noise - No comments received.
- Drainage - No objections subject to the inclusion of a condition regarding drainage layout.

External consultees

- Thames Water - No objections raised. Advise the inclusion of informatives.
- Crime Prevention Design Advisor - No objections raised subject to inclusion of a condition regarding secure by design accreditation.

Local groups

- Clapton CAAC - *We refer to our earlier comment but we consider the scene as whole to be an enhancement to the Narrow Way. We have some hesitation over the silver cladding on the upper storey: due attention should be paid to detailing. OUR EARLIER COMMENT: 2020/2363 Oct 20: The application has a lot to commend it and encompasses some fine details and context-appropriate design. The courtyard is particularly welcome. However, some of the CGIs expose a potential overdominating residential block to the east - which is probably a storey too high.*
- Hackney Society - *Overall the scheme offers a positive improvement to the current situation and over the previous scheme. We welcome the loss of a storey to the rear of the yard and the benefits of that to the churchyard views are clear in the drawings. The restyling of the scheme is more restrained - possibly a little duller and more commercial - than the previous application, but is also probably more realistic.*
- Hackney Swifts Group - welcome the proactive inclusion of green roofs and walls as shown on the drawings and we request that these are a biodiverse type in accordance with the Hackney Local Plan.

This building is in area where swifts (on the RSPB amber list due to rapidly declining numbers) are currently nesting and will potentially nest, so we therefore request that a significant number of integrated swift nestbox bricks, reflecting the relatively large size of the development in this location, are installed near roof level, which would provide an aesthetically acceptable and zero maintenance way to provide a long-term resource to protect this species and ensure a gain for local biodiversity, in line with Hackney Council's guidance on this issue (Biodiversity Action Plan), and NPPF 2019.

CIEEM provide best-practice advice on numbers of swift bricks (<https://cieem.net/resource/the-swift-a-bird-you-need-to-help/>).

Integrated bat boxes could further enhance biodiversity.

Manufacturer's instructions for the bricks/ boxes may be followed.

4.0 PUBLIC CONSULTATION RESPONSE

- 4.1 The application was first publicised by way of press & site notices displayed in the vicinity of the site and 153 letters. The number of representations received from neighbours, local groups, etc in response to notification and publicity of the application were as follows:

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No of individual responses: 15

Objecting: 15

Supporting: 0

- 4.2 Following the submission of amended drawings, a public re-consultation took place with residents who were initially consulted and also with those who originally commented on the application. The number of representations received from neighbours, local groups, etc in response to re-consultation notification and publicity of the application were as follows:

No of individual responses: 8 (from those objecting to the initial proposal)

Objecting: 8

Supporting: 0

- 4.3 The following issues were raised in representations that are material to the determination of the application and are addressed in the report:

- Overdevelopment of the site (see sections 6.29-6.33);
- Loss of daylight / sunlight (see sections 6.39-6.48 & 6.54-6.55);
- Overlooking and loss of privacy (see sections 6.49 & 6.55);
- Overbearing impact / loss of outlook (see sections 6.41-6.43);
- Impact on heritage assets (listed buildings / conservation area) (see sections 6.28-6.35);
- Archaeological impacts (see sections 6.36-6.37);
- Excessive height not in keeping with the character of the area (see sections 6.28-6.35);
- Loss of Class E use / replacement not fit for purpose (see sections 6.6-6.14);
- Poor and substandard form of accommodation / lack of amenity space (see sections 6.51-6.57);
- Construction issues / considerate constructor scheme (see sections 6.66);
- Impact on trees (see sections 6.67-6.68);
- Impact on bats (see sections 6.70-6.71).
- Security issues (*Officer Comment: The creation of residential use in this location would have minor material benefits to the security of the area including increasing activity in what is currently a largely disused backland plot, increased passive surveillance by future residents and the creation of a greater sense of ownership*).
- Lawfulness of existing flats (*Officer Comment: Whilst planning permission was only granted for 3 flats at the site (2007/0091), it appears as though 4 flats have been present at 364 Mare Street since 2010 (on the basis of VOA data) and there is no current enforcement investigation in relation to any unlawful residential units at the site*).
- The drawings are inaccurate (*Officer Comment: The drawings are considered sufficiently accurate in order to fully assess the proposed development. Clarification has been provided by the applicant regarding proposed building heights, including in relation to Wyles House via the submission of a section drawing between the two sites*).

5. POLICIES

- 5.1 National Planning Policy Framework (NPPF 2023)

- 5.2 London Plan 2021

GG1 – Building strong and inclusive communities

GG2 Making the best use of land
GG3 – Creating a healthy city
GG4 – Delivering homes for Londoners
GG5 – Growing a good economy
SD6 – Town centres and high streets
D1 – London’s form, character and capacity for growth
D3 – Optimising site capability through design led approach
D4 – Delivering good design
D5 – Inclusive design
D6 – Housing quality and standards
D7 – Accessible housing
D8 - Public Realm
D11 – Safety, security and resilience to emergency
D12 – Fire safety
D13 – Agent of Change
D14 – Noise
H1 – Increasing housing supply
H2 – Small site
H4 – Delivering affordable housing
H10 – Housing size mix
E1 - Offices
E9 - Retail, markets and hot food takeaways
HC1 – Heritage conservation and growth
G1 – Green infrastructure
G4 – Open Space
G5 – Urban greening
G6 – Biodiversity and access to nature
G7 – Trees and woodlands
SI 1 - Improving air quality
SI 2 – Minimising greenhouse gas emissions
SI 4 - Managing heat risk
SI 5 – Water infrastructure
SI 12 – Flood risk management
SI 13 – Sustainable drainage
T1 – Strategic approach to transport
T4 – Assessing and mitigating transport impacts
T5 – Cycling
T6 – Car parking
T7 – Deliveries, servicing and construction

5.3 Local Plan LP33

PP1 - Public Realm
PP3 - Hackney Central and Surrounds
LP1 - Design Quality and Local Character
LP2 - Development and Amenity
LP3 - Designated Heritage Asset
LP6 - Archaeology
LP8 - Social and Community Infrastructure
LP9 - Health and Wellbeing
LP12 - Meeting Housing Needs and Locations for New Homes
LP13 - Affordable Housing

- LP14 - Dwelling Size Mix
- LP17 - Housing Design
- LP26 - Employment Land and Floorspace
- LP32 - Town Centres
- LP33 - Hackney Central and Dalston
- LP37 - Small and Independent Shops
- LP41 - Liveable Neighbourhoods
- LP42 - Walking and Cycling
- LP43 - Transport and Development
- LP45 - Parking and Car Free Development
- LP46 - Protection and Enhancement of Green Infrastructure
- LP47 - Biodiversity and Sites of Importance of Nature Conservation
- LP48 - New Open Space
- LP49 - Green Chains and Green Corridors
- LP51 - Tree Management and Landscaping
- LP53 - Water and Flooding
- LP54 - Overheating and Adapting Climate Change
- LP55 - Mitigating Climate Change
- LP57 - Waste
- LP58 - Improving the Environment- Pollution

5.4 Supplementary Planning Guidance / Documents

- Refuse and recycling storage guidance (2021)
- S106 Planning Contributions SPD (2020)
- Sustainable Design & Construction SPD (2016)
- Technical Housing Standards – Nationally Described Space Standard (2015)
- Residential Extensions and Alterations (REA) SPD (2009)
- Clapton Square Conservation Area Appraisal (2007)

6.0 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning considerations raised by the proposed development are:

1. Background
2. Principle of development and land use;
3. Design and heritage impacts;
4. Impact on residential amenity;
5. Standard of accommodation;
6. Transport considerations;
7. Trees and biodiversity;
8. Sustainability;
9. Waste management;
- 10 Air quality; and
11. Flood risk.

Background

- 6.2 This application follows on from a previous application for the demolition of infill extensions to create courtyard and mixed use redevelopment, providing a part two and part five storey

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building to create 5 new retail units on ground floor and net 6 additional residential units on upper floors. Alterations to 364 Mare Street including internal reconfiguration and relocation of access to existing residential units and construction of a mansard roof. This application was appealed on the grounds of non-determination, but would have been refused permission for the following grounds, as highlighted to the Planning Inspectorate:

- 1. The proposed development, by reason of its bulk, massing, scale, position and visual prominence would result in an incongruous and incompatible form of development which adversely disrupts the established hierarchies of scale of the area and would consequently fail to preserve or enhance the area within which the site is located, to the detriment of the Clapton Square Conservation Area and Grade-I listed St Augustine's Tower. As such the proposed development is contrary to policies D3 (Optimising Site Capacity Through the Design-Led Approach), D4 (Delivering Good Design) and (Heritage conservation and growth) of the London Plan (2021), policies LP1 (Design Quality and Local Character) and LP3 (Designated Heritage Assets) of the Local Plan 2033 (2020) and the guidance contained within Hackney Residential Extensions and Alterations SPD (2009).*
- 2. The proposed works to the roof of the existing former pub building, by reason of inappropriate detailed design, form and massing, would fail to respect the original historic roof form to the detriment of the visual appearance of the host building, wider streetscene and Clapton Square Conservation Area. As such the proposed development is contrary to policies D3 (Optimising Site Capacity Through the Design-Led Approach), D4 (Delivering Good Design) and HC1 (Heritage conservation and growth) of the London Plan (2021), policy LP1 (Design Quality and Local Character) LP3 of the Local Plan 2033 (2020) and the guidance contained within Hackney Residential Extensions and Alterations SPD (2009).*
- 3. The proposed shopfront, by reason of inappropriate design, would fail to preserve or enhance the character and appearance of the Clapton Square Conservation Area to the detriment of the visual amenity of the host buildings and wider streetscene. As such the proposal is contrary to policies D4 (Delivering good design) and HC1 (Heritage conservation and growth) of the London Plan (2021), policies LP1 (Design Quality and Local Character) and LP3 (Designated Heritage Assets) of the Hackney Local Plan (2020) and the recommendations of the Hackney Shopfront Design Guide.*
- 4. The proposed development, by reason of its inappropriate height, scale and mass, would result in an adverse loss of light and overshadowing to 360, 362, 366 & 370 Mare Street and the Augustine Block, including appearing as an overbearing form of development, contrary to policy LP2 (Development and Amenity) of Hackney Local Plan (2020).*
- 5. The proposed development, by reason of the failure to provide contributions towards the provision of affordable housing, and in the absence of a Financial Viability Appraisal demonstrating the maximum reasonable amount of affordable housing has been provided, would fail to make adequate contribution to the provision of affordable housing in the borough. As such the proposal is contrary to policy LP13 (Affordable Housing) of the Hackney Local Plan (2020) and the Supplementary Planning Document: S106 Planning Contributions (2020).*
- 6. The proposed new residential units, by reason of poor natural light provision and layout, would result in an unacceptable standard of residential accommodation, to the detriment of the living conditions of future occupiers. As such, the development is contrary to D6 (Housing quality and standards) of the London Plan (2021); and policies LP1 (Design Quality and Local Character) and LP17 (Housing Design) of the Hackney Local Plan (2020).*

7. *In the absence of any documents outlining carbon reduction measures implemented within the development, the proposal is not considered to meet zero carbon targets, BREAM or sustainability objectives, therefore this proposal is considered contrary to policies SI 1 (Improving air quality), SI 2 (Minising greenhouse gas emissions) and SI 4 (Management heat risk) and policies LP54 (Overheating and Adapting to Climate Change) and LP55 (Mitigating Climate Change) of the Hackney Local Plan (2020).*
8. *The proposed development, in the absence of a legal agreement to secure car-free development, would be likely to promote the use of non-sustainable modes of transport and contribute to air pollution and congestion in the surrounding area, contrary to policy LP45 (Parking and Car Free Development) of the Hackney Local Plan (2020).*
- 6.3 The proposal was subsequently determined at appeal and dismissed, with the appeal Inspector upholding the first reason for refusal, concluding that *“the appeal development would cause less than substantial harm to the significance of the CSCA and of the grade I listed Old Tower of Former Church of St Augustine.”* And that the collective benefits of the proposal would *“not collectively sufficient to outbalance the identified less than substantial harm.”* (Appendix 1)
- 6.4 The appeal Planning Inspector also had “misgivings” over the fifth, seventh and eighth reasons for refusal due to the lack of an up to date viability assessment and the lack of a signed S106 agreement securing the proposal as ‘car free’ and carbon off-set / mitigation measures. However, did not pursue these matters any further given the issue regarding the harm caused to the grade I listed building.
- 6.5 In order to overcome the concerns in respect of this dismissed appeal scheme, the scale of the proposed development has been reduced, removing a storey from the rear of the building to provide a part two, part four storey building with 5 residential units, rather than a part two, part 5 storey building with 6 residential units as previously proposed. The roof extension design to the former public house building at No. 364 has also been reduced, comprising a rear roof terrace rather than an enclosed ‘roof garden.’ As such, the current proposal is materially different to the previous scheme and seeks to overcome the previous reasons the Council would have used to refuse the application.

Principle of development and land use

Loss of retail floorspace

- 6.6 London Plan Policy SD6 states that the vitality and viability of London’s varied town centres should be promoted and enhanced by encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meet the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses. Local Plan Policy LP32 & LP33 generally resist the loss of retail floorspace and changes of use will not be permitted unless it can be demonstrated that there is no suitable premises available in the designated centres and that there would be no harm to the vitality and viability of these centres. Moreover, policy LP37 of the Local Plan states that the provision of small A1 shop units suitable for small and independent retailers will be supported. Any proposal involving sub-division of an A1 retail unit or partial loss of A1 retail floorspace must demonstrate that the function of the unit will not be materially altered and the future viability of the unit and the centre will not be harmed.

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- 6.7 The proposal would result in the loss of a small single storey retail unit at ground floor level to facilitate access to the remodelled / reduced retail space to the rear of the site, which would now provide 4 additional retail units within a 'public' courtyard (Mermaid Yard). Whilst there would be a loss of a retail unit facing Mare Street, this unit is particularly small and therefore provides a limited contribution in terms of an active frontage along the primary shopping parade.
- 6.8 There would also be a relatively minor loss of overall retail floorspace at the site (482sqm). However, this relates largely to ancillary 'back storage' space to the 2 existing retail units at the site. The remodelling of the retail elements at the site would effectively provide for improved retail space for more independent units. As such, the proposed relatively small loss of retail floorspace to facilitate an overall improved element of retail space is considered acceptable in this instance and in accordance with the aforementioned policies. A legal agreement would be required to ensure that it is the responsibility of the owner/occupiers of the site to maintain 'Mermaid Yard' and to ensure public access is retained.
- 6.9 The piecemeal way the site has been developed and its declining condition presents an inefficient use of the land, it is considered that the development represents an opportunity to provide a distinct and high-quality development that would optimise its potential and deliver a sustainable form of development within this strategic location within the town centre.

Class E use

- 6.10 "Class E" was brought about by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the 2020 Regulations). These amended The Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) and came into force on the 1st of September 2020.
- 6.11 Amongst other things, the 2020 Regulations revoked Class A (Shops) of the Schedule to the Use Classes Order and inserted a new Schedule providing for new classes including Class E (Commercial, business and service). Class E subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1 (Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafés) and Class B1 (Office). Given the changes to permitted development legislation, what was previously Class A1 (Shops) is now treated under use Class E.
- 6.12 The Use Classes Order specifies classes for the purposes of section 55(2)(f) of the 1990 Act. Section 55(2)(f) provides that a change of use of a building or other land does not involve development for the purposes of the Act if the new use and the former use are both within the same specified class.
- 6.13 The proposed commercial units would range from 20m² - 71m², including toilet facilities. Separate waste storage facilities would be provided. The use specified for the commercial units is as 'retail' on the floor plans, however, this would fall within Class E where there would be the opportunity to provide a range of different services. The variety in the sizes of space provided for the commercial units would allow for a multi-disciplinary collection of workspaces for businesses of varying sizes. Given the town centre location, all of the potential uses within Class E would be considered acceptable. Regard also needs to be given to the fact that the existing buildings on the site could be used for any purpose falling within Use Class E and would therefore have a similar impact on the locality in terms of vitality and viability of the town centre to that of the existing site circumstances. Moreover, the appeal Planning Inspector considered that the previous scheme, of a similar layout and

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overall level of commercial floorspace provision, would provide an ‘*enhanced retail floor space.*’

- 6.14 Given the above, the proposal would result in an enhanced provision of commercial floorspace that would contribute towards the vitality and viability of the major town centre and primary shopping frontage, in accordance with the aforementioned policies.

Housing delivery

- 6.15 The 2023 National Planning Policy Framework (NPPF) establishes the overarching principles of the planning system, so that sustainable development is pursued in a positive way through the local development plan process. It advocates policy that seeks to significantly boost the supply of housing and requires local planning authorities to ensure their Local Plan meets the full, objectively assessed housing needs for market and affordable housing.
- 6.16 Paragraph 70 notes that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. To promote the development of a good mix of sites local planning authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes.
- 6.17 The addition of 4 residential units would contribute to meet the housing target as set out in London Plan Policy H1 (2021). Moreover, the residential units, when added to the flexible commercial units, would be consistent with the aspirations set out in London Plan Policy SD6 (2021), which seeks to strengthen the vitality and viability of town centres by introducing mixed-use or housing-led intensification schemes that optimise residential growth potential.
- 6.18 Local Plan Policy LP12 which states that ‘the Council will support the development of small sites to meet the housing need. Infill housing development and innovative approaches to housing delivery on small sites will be supported subject to meeting other development plan policies. The proposal would involve the creation of additional residential units in a sustainable location and therefore supported in principle in that regard, subject to meeting other development plan policies.

Housing mix

- 6.19 Hackney LP33 policy LP14 (Dwelling Size Mix) sets out that the preferred dwelling mix for a market housing development is at least 33% of 3 or more bed units and a higher proportion of 2-bed units than 1-bed units. The proposed development would provide 1 x 1 bedroom unit (12.5%), 4 x 2 bedroom units (50%) and 3 x 3+ bedroom units (37.5%). The proposed mix of units would comply with the aforementioned policy.

Affordable housing

- 6.20 Policy LP13 (Affordable Housing) of LP33 requires schemes which fall below the 10 unit threshold to provide on-site provision or payments in lieu up to the equivalent of 50% of housing delivered as affordable housing subject to viability. Ideally the provision would be onsite however, the policy allows for payments in lieu to be secured via a legal agreement, rather than the provision on site. This payment is calculated based on the affordable housing requirements. The newly adopted S106 Planning Contributions SPD requires a

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payment of £50,000 per unit. As such, the contribution for this development would be £200,000 given the proposed uplift of 4 residential units on the site.

- 6.21 The applicants have submitted a viability appraisal which indicates that the development would not make a profit, and therefore a financial contribution cannot be made. The submitted details have been reviewed by the Council's viability consultant who does not agree with this position. Following further discussions with the applicant, it has been agreed that an offsite contribution of £120,000 is to be provided. This would also include the provision of a late-stage review mechanism of the development's viability to ensure that any further affordable housing contributions to bring the total figure up to the policy compliant £200,000 can be provided and would be secured via a s106 legal agreement in the event that the development becomes more profitable.

Design and heritage impacts

- 6.22 Good design is central to the objectives of both National and Local planning policies. The NPPF requires policies to plan positively for the achievement of high quality and inclusive design for the wider area and development schemes. Section 12 of the NPPF highlights that the Government attaches great importance to the design of the built development, adding at Paragraph 131 'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.'
- 6.23 Policies D1, D3 and D4 of the London Plan are relevant and relate to the context of the surrounding area. Policy HC1 states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
- 6.24 Policy LP1 of the LP33 seeks to ensure developments provide good and optimum arrangement of the site in terms of form, mass and scale as well as identify with and respect the architectural quality and character of the surrounding environment.
- 6.25 Policy LP3 states that development that leads to substantial harm to or total loss of significance of a designated heritage asset will not be permitted unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 6.26 As the site is located within the Clapton Square Conservation Area, a designated heritage asset, and within the setting of grade I and grade II listed buildings, there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and setting of listed buildings.
- 6.27 Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority in considering whether to grant planning permission for development which affects a listed building or its setting, to 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 or, fails to preserve or enhance the character and appearance of the Conservation Area.



Fig 3. Designated and Non-designated Heritage Assets

Demolition

- 6.28 The structures to the rear of the former public house building and the adjacent single storey retail unit to the north of the aforementioned building are late 20th century additions, are unsympathetic additions and possess very little historical or architectural significance. As such, the removal of these elements is not objected to.

Rear courtyard building

- 6.29 As per the previous application proposal, the proposals would remove poor-quality piecemeal infill development and reintegrate the lost Mermaid Yard into the Mare Street townscape as a public space, emulating the form of historic galleried coaching inns of the sort that the Mermaid Inn may have been. The overall footprint of the built form would be reduced from that currently on the site.
- 6.30 The proposal as part of the previously dismissed appeal comprised 5 storeys in height, exceeding the height of the principal historic thoroughfare on Mare Street. The appeal Planning Inspector as part of the dismissed appeal considered that this “*would disrupt the hierarchy of the townscape, incongruous to this backland location.*” The appeal Inspector also agreed with Historic England’s assessment of the proposal in that “*due to its siting and mass compared to the existing development also create a greater sense of enclosure to the north of St Augustine’s Tower.*” And “*would erode the character of the churchyard, disrupt the legibility of the townscape transition from Mare Street to backland, and change the low-key visual character of the backland site as the backdrop to the tower in views from the south.*”

- 6.31 The current proposal has been amended to reduce the scale of the courtyard building by one storey, so that it is now 4 storeys in height, rather than 5. The upper most storey of the proposed courtyard building has increased in footprint. However, this level would still be set in from the outer edges of the floors below, appearing as a roof top to the building. This approach would be in keeping both in terms of scale and design to similar blocks of flats within the locality, including Spiller, Blackburn and Wyles Houses that form around Prodigal Square to the rear of the site.
- 6.32 Moreover, Historic England, who objected to the previous scheme, consider the current proposal to be *“legible as backland development to Mare Street by merit of its reduced height and its articulation, and is appropriate to the context”*. The proposal *“would not intrude uncharacteristically in the historic townscape group of listed buildings nor their contribution to the conservation area. At its lower height the proposed development is unlikely to visually compete with or detract from appreciation of the Tower of St Augustine within its setting.”* In addition to this, the Council’s Design and Conservation Officers also support the proposal, subject to the inclusion of conditions relating to the submission of materials and detailed drawings regarding windows and recesses.
- 6.33 As noted by the previous appeal Planning Inspector, the proposed development would create *“the provision of good quality publicly accessible space and enhancements to the built environment, the opening of new public views, including to St Augustine’s Tower, and improvements to the character and appearance of the area that would be brought about by the removal of unsympathetic existing development that has a detrimental effect on the character and appearance of the CSCA and the setting of St Augustine’s Tower.”* Whilst the previously proposed ‘viewing point’ has been removed as part of the current scheme, the gap between the built form on the southern boundary of the site would still facilitate new public views of the Tower.



Fig 4. Visualisation of St Augustine’s Tower from ‘Mermaid Yard’

Mansard roof extension

- 6.34 Similarly to the above, the appeal Planning Inspector noted that *“the proposed roof form would not alter the setting of the surrounding listed buildings, primarily due to intervening*

buildings, both existing and as proposed as part of this development. Although the rear alterations would be reasonably substantial and result in marked change, they would be very much in character with the immediate contemporary context, both existing and proposed.” And that “subject to the use of sympathetic materials, the proposed roof extension would not have a detrimental effect on the character and appearance of the area and host building.” This element has been amended slightly to reduce the overall bulk of the roof extension to the rear, incorporating a rear roof terrace. The design and scale of the roof extension when viewed from Mare Street would appear similar to that of the previous scheme and therefore there are no further objections raised in relation to this element of the proposal.

Shop front alterations

- 6.35 It is noted that the appeal Planning Inspector as part of the previously dismissed scheme considered that *“the proposed shopfront would be a small improvement on the existing arrangement, primarily due to the use of a timber frame to Mare Street. Accordingly, this aspect of the appeal scheme would have a positive effect on the character and appearance of the area and host building, thus enhancing the CSCA’s character and appearance, albeit in a small way.”* The appeal inspector noted that the shopfront could be improved upon by including a ‘stallriser’ and this element has now been included as part of the current design, further improving this element of the scheme. As such, this element would represent an improvement to the current site circumstances.

Archaeological impacts

- 6.36 NPPF Chapter 16 and London Plan Policy HC1 recognise the positive contribution of heritage assets of all kinds and make the conservation of archaeological interest a material planning consideration. NPPF paragraph 200 says applicants should provide an archaeological assessment if their development could affect a heritage asset of archaeological interest.
- 6.37 Whilst the proposal would not involve significant levels of excavation, it is located within an Archaeological Priority Area. The Greater London Archaeological Advisory Service (GLAAS) have not provided any comments as part of this application. Nevertheless, it is noted that comments were provided by that organisation as part of the previous application at the site and considered that it would be appropriate to include a condition relation to the submission of a stage 1 Written Scheme of Investigation (WSI) and if heritage assets of archaeological interest are identified, a stage 2 WSI shall be submitted. Given the similarities between the previous and current applications, it is also considered appropriate to include a condition in relation to this aspect.
- 6.38 Given the above, the proposed development would have an acceptable impact upon the character and appearance of the host property, the surrounding conservation area and the adjacent grade I listed St Augustine and would not result in harm to these designated heritage assets. The proposal would therefore overcome the previous reason for refusal in relation to this matter and would be in accordance with Policies D1, D3, D4 & HC1 of The London Plan, Policy LP1 & LP3 of the Hackney Local Plan 2033 and the Council’s Shopfront Design Guide SPD.

Impact on residential amenity

- 6.39 London Plan Policy D6 outlines that design must not be detrimental to the amenity of surrounding housing, in specific stating that proposals should provide sufficient daylight and

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sunlight to surrounding housing that is appropriate for its context, while also minimising overshadowing. London Plan Policy D14 requires development proposals to reduce, manage and mitigate noise impacts.

- 6.40 LP33 policy LP2 states that all new developments should not result in any significant adverse impacts to the amenity of neighbouring occupiers. Amenity considerations include the impact of the development on; visual privacy and overlooking; overshadowing and outlook; and sunlight and daylight levels.
- 6.41 It is noted that concerns were raised by the Local Authority as part of the previous scheme in relation to the proposals impact upon neighbouring residential occupiers (Nos. 360, 362, 366 & 370 Mare Street and the Augustine Block) by way of loss of daylight, overshadowing and overbearing impact. However, this concern was not upheld by the Planning Inspector as part of subsequent appeal decision.
- 6.42 The appeal Planning Inspector noted that the submitted details indicated that *“the proposed development would not fully comply with Building Research Establishment (BRE) recommendations, including in respect to sunlight and to outdoor amenity space, areas of non-compliance would be limited and not unusual in an urban location such as this. The BRE guidance is also clear that its numerical guidelines should be interpreted flexibly, given that natural light is only one of many factors in site layout design.”* And that a number of the rooms in question as part of the Daylight and Sunlight Report *“were rooms that are also served by a further window, such that the rooms concerned would continue to be served by acceptable light levels.”* Therefore, *“any effects of the proposed development on light and sense of ‘overbearing’ would be limited.”*
- 6.43 Given that the proposal as part of the current application has been reduced in height by an entire storey and that the roof extension to the former public house building at 364 has also been reduced in bulk, the overall scale of the proposed built form has been significantly reduced. The proposed building would be located approximately 9.35m from the closest point of Wyles House, due east of the application site. As such, the proposal would have less of an overbearing impact than that considered acceptable by the previous appeal Planning Inspector.
- 6.44 In terms of daylight / sunlight and overshadowing impacts, a Daylight and Sunlight Report has been submitted as part of the application, in accordance the Building Research Establishment (BRE) guide ‘Site Layout Planning for Daylight and Sunlight: a guide to good practice, 2nd Edition’ by P J Littlefair 2011. The BRE guide Diffuse daylight may be adversely affected if after a development the Vertical Sky Component is both less than 27% and less than 0.8 times its former value.
- 6.45 The submitted assessment demonstrates that there would be some impact in terms of daylight / sunlight to neighbouring residential properties, to 13 habitable room windows, including within 360, 362, 366 & 370 Mare Street and Wyles House with regards Vertical Sky Component. Nevertheless, the resulting impact of the proposal would be less than that of the previous application, where the appeal Planning Inspector considered the proposal to have an acceptable impact.
- 6.46 Moreover, in terms of daylight distribution, all rooms with a requirement for daylight pass the Daylight Distribution test, with the exception of windows 4 and 41, which serve bedrooms within 362 Mare Street and Wyles House respectively. Again, it can be understood from the details provided within the updated Daylight & Sunlight Report that the losses in daylight distribution to neighbouring residential windows would be less than that proposed as part of

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the previous application, where the appeal Planning Inspector considered this impact to be acceptable.

- 6.47 With regards to overshadowing, the results of the assessment show that at least 76% of amenity spaces would receive at least 2 hours of sunlight on the 21st of March, with the exception of parts of gardens serving Nos. 368 and 370 Mare Street. The current proposal would have less of an impact than the previous application (75%) where the appeal Planning Inspector considered the proposal to have an acceptable impact.
- 6.48 Overall, in terms of the impact of the proposal on daylight / sunlight and overshadowing, whilst there would be some impacts that would not strictly comply with the BRE guidelines, there would be insufficient grounds to warrant refusal of the application in this regard, taking into account the reduced scale of the current proposal and the appeal Planning Inspectors comments as part of the previous application at the site.
- 6.49 In terms of overlooking and loss of privacy, the upper floor windows within the development facing east towards Wyles House would be angled and positioned so that they would not facilitate direct views towards habitable room windows or private amenity areas of occupiers within that building. The proposed roof terrace to the top storey of the new building to the rear would face internally within the new courtyard area. Similarly, the proposed roof terrace to No. 364 and the windows facing west would face into the proposed courtyard area and would be at angles / positions so as not to unduly overlook existing neighbouring habitable room windows or amenity areas.
- 6.50 Overall, the proposed development would not have a significant effect on the living conditions of neighbouring occupants. Accordingly, in that regard, the proposed scheme would not conflict with Policy LP2 (Development and Amenity) of the Hackney Local Plan.

Standard of accommodation

- 6.51 London Plan Policy D6 requires housing developments to be of high quality design, providing comfortable and functional layouts, benefiting from sufficient daylight and sunlight, maximising the provision of dual aspect units and providing adequate and easily accessible storage space as well as outdoor amenity space. Table 3.1 sets out the internal minimum space standards for new developments, while Table 3.2 of the London Plan provides qualitative design aspects that should be addressed in housing developments.
- 6.52 For any residential development, proposals need to provide adequate and reasonable standards of accommodation to the occupants of the units. The Technical Housing Standards, GLA's Housing SPG, London Plan Policy D6 and Hackney Local Plan Policy LP2 contain various guidance and requirements that the unit would be required to ensure this is achieved.
- 6.53 In assessing the proposal against minimum space standards the scheme meets such requirements for the majority of the proposed units, with the unit sizes set out below. The minimum standards prescribed for individual rooms, as per the London Housing Design Guide, also conform to standards. Whilst Flat 3 would not meet the requirement, this relates to an existing flat and the proposal would provide a better standard of accommodation than the existing site circumstances for those occupiers in terms of overall floorspace provision.

No.364

Flat 1. (renovated) 65m² for 2 bedroom, 3 person unit (61m² required)

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Flat 2. (replacement) 43m² for 1 bedroom, 1 person unit (37m² required)
Flat 3. (replacement) 84m² for 3 bedroom, 5 person unit (93m² required)

New Build to rear of No.364

Flat 4. 121m² for 5 bedroom, 7 person unit (112m² required)
Flat 5. 66m² for 2 bedroom, 3 person unit (61m² required)
Flat 6. 81m² for 3 bedroom, 4 person unit (74m² required)
Flat 7. 66m² for 2 bedroom, 3 person unit (61m² required)
Flat 8. 84m² for 2 bedroom, 4 person unit (70m² required)

- 6.54 It is noted that the appeal Planning Inspector as part of the previous application at the site accepted that the submitted *“the Daylight and Sunlight Report (Within Development) indicated that all proposed habitable rooms would comply with the minimum Average Daylight Factor Targets and thus satisfy the BRE daylight standard in that regard. The report indicated that while most of the proposed living rooms would comply with the sunlight hours test, three would not. Of these three proposed units, only one would have only north facing windows. Bearing in mind the BRE guidance referred to in the evidence, particularly the example layout where 1 out of 5 apartments have only north facing windows, the proposed arrangement appears to be reasonable in terms of offering acceptable natural light. The overall internal and external layout does not appear to be unreasonable or inappropriate in a dense urban context such as this, in terms of providing acceptable living conditions for occupants of the development.”*
- 6.55 The proposed development has not changed significantly in terms of the overall layout of the residential units. The reduction in the scale of the development would ultimately improve the levels of daylight / sunlight received to each residential unit. The proposed units would largely be dual aspect and would therefore benefit from sufficient levels of outlook and daylight and also designed to provide adequate floor to ceiling heights. An internal Daylight / Sunlight Assessment has been submitted, which states that all rooms meet or surpass the BRE Average Daylight Factor targets, whilst only 11% of living rooms are served with only north facing windows. There would be a level of mutual overlooking within the development, however, this would be limited to a small number of units and would not warrant refusal of the application.
- 6.56 Only two out of the eight residential units would have private amenity space; Flats 3 and 8. This would not comply with the GLA Housing SPG states that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings and an extra 1m² should be provided for each additional occupant. Whilst the courtyard would afford a degree of amenity space, as this is public space it would not mitigate the lack of private space. Despite this, given the constraints of the site, its location, and its proximity to areas of Local Open Space, including St Johns Square, Clapton Square and Hackney Downs and that there are already 4 residential units on the site without any existing areas of amenity space, the shortfall is considered acceptable in this instance.
- 6.57 Given that the proposal is not a major application, providing less than 10 residential units there would be no policy grounds to reasonably require an open space contribution. It is also noted that the Planning Inspector as part of the previous application at the site did not raise any concerns in terms of a similar provision of private amenity space.

Inclusive access

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- 6.58 London Plan Policy D5 requires all new development to achieve the highest standard of accessible and inclusive design, seeking to ensure new development can be used easily and with dignity by all. London Plan Policy D7 requires that 10% of new housing is wheelchair accessible and that the remaining 90% is easily adaptable for residents who are wheelchair users. As set out in Approved Document M of the Building Regulations, Volume 1: Dwellings, to comply with requirements M4(2) or M4(3), step-free access into the dwelling must be provided.
- 6.59 The proposed residential units within the block to the rear of the site would incorporate a lift and therefore would be provided with step-free access. The residential units within the former public house would not be provided with step free access. However, it is noted that the existing units within that building do not currently benefit from step free access. Given the overall level of floorspace that building provides, it would be unreasonable to insist on the inclusion of a lift within that building and therefore acceptable in this regard.
- 6.60 Overall, the proposed development would provide acceptable living conditions for its occupants, having particular regard to outlook, daylight, privacy and amenity. Consequently, in that regard, the proposed scheme would not conflict with Policy D6 (Housing quality and standards) of the London Plan 2021 and Policies LP1 and LP17 (Housing Design) of the HLP.

Transport considerations

- 6.61 The site is situated on a pedestrianised section of Mare Street, which is referred to as the Narrowway. The pedestrian and cycle zone provides access to a number of commercial properties. There are active frontages on both sides of the highway. The Narrowway is approximately 220m on a north to south alignment between the junction with Bohemia Place and the A107 Lower Clapton Road. The Public Transport Accessibility Level (PTAL) of the site is rated as 6b (on a scale of 1-6b, where 6b is the most accessible). Hackney Central overground station is situated approximately 250m to the south of the proposed development. The site is located within close vicinity of a number of bus services with a number of bus stops situated on A107 Amhurst Road. The proposed development would be accessed either directly from Mare Street or via a new paved pedestrian route between Nos. 364 and 366. There would be no parking on the site and no vehicle access into the internal courtyard.

Car Free

- 6.62 The development is proposed to be car-free, so that future occupants will not be eligible for Controlled Parking Zone parking permits, ensuring that the development will not result in additional parking pressure on the surrounding highway network but will rely on more sustainable modes of transport. This is in line with LP45 (Parking and Car-Free Development) of LP33 and the London Plan. Were permission to be granted, a car-free development would be secured via a S106 Agreement.

Servicing

- 6.63 The applicant has submitted a Transport Statement (TS) as part of the application which has been reviewed by the Council's Transport Officers. As the TS states, all access for vehicles is restricted and monitored by enforcement cameras. Loading and servicing is permitted along Mare Street between Monday – Sunday, except between 10am - 6pm.

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- 6.64 The TS states that the anticipated trip generation for the proposed development will be inherently sustainable given the nature of the development and its location. The application does not provide a detailed description or breakdown of the predicted trip generation. Given the reduction in commercial floorspace at the site, it is likely that the potential trip generation created by the proposal would be similar, if not less than what the existing site circumstances could produce. As such, the proposal would be acceptable in this regard.

Cycle Parking

- 6.65 Hackney Policies LP41, LP42 and LP43 in LP33 highlight the importance of new developments making sufficient provisions to facilitate and encourage movements by sustainable transport means. Local Plan 2033 policy LP42 requires that cycle parking shall be secure, accessible, convenient, and weatherproof and will include an adequate level of parking suitable for accessible cycles, tricycles and cargo bikes. The proposed cycle parking provision is based on the current London Plan 2021 Cycle Parking Standards. Cycle parking would also be provided in line with Hackney's Sustainable Transport SPD. This would include 38 no. cycle parking spaces in total, with 22 dedicated towards the residential element, 8 for the commercial & 8 visitor spaces. A condition is to be attached to ensure that the cycle parking / storage provision is retained in compliance with the aforementioned SPD.

Construction Management

- 6.66 Given the nature of the site and proposed development a detailed construction management plan (CMP) which includes measures to mitigate negative impacts on the surrounding highway network is required and would be attached via condition to any permission granted. To ensure this can be adequately monitored by the Council's highways team a monitoring contribution would be secured via S106 legal agreement in the event that planning permission is granted. This would also include the requirement for the developer to register with the Considerate Constructors Scheme.

Trees, landscaping and biodiversity

Trees

- 6.67 London Plan Policy G7 requires existing trees of value to be retained, and any removal to be compensated by adequate replacement. This policy further sets out that planting of new trees, especially those with large canopies, should be included within development proposals.
- 6.68 It is noted that there are a number of trees due south of the site. These are all mature, category B trees. No trees are proposed to be removed as part of the proposed development and the root protection areas of aforementioned trees would be located outside of the site. Tree protective fencing would be installed to ensure that the trees would be unaffected during construction works and is to be secured by way of condition.

Landscaping

- 6.69 Policy G5 of the London Plan and LP46 of Local Plan 33 requires that all development should enhance the network of green infrastructure and seek to improve access to open space. The existing development site is heavily built upon, with no existing areas of open space or trees. Therefore, the proposal would not result in the loss of any open space. The proposal would comprise green roofs and green walls. Given the nature and scale of the

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proposal and acknowledging that the development would not result in a net loss of biodiversity, the level of landscaping maintained within the surrounding area is considered acceptable in this instance.

Biodiversity

- 6.70 Policy G6 of the London Plan states that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. Policy LP47 of LP33 reinforces this policy, stating that all development should protect and where possible enhance biodiversity leading to a net gain. In order to help preserve endangered urban biodiversity and result in protection of biodiversity values, given that the eaves height of the development will be greater than 5m, it is considered that swift and bat boxes should be provided. This will be required as a condition of permit in the event that planning permission is granted.
- 6.71 It is noted that concerns have been raised as part of the public consultation in relation to the impact of the proposal on bats. However, a preliminary roost assessment survey has been submitted as part of the application which concludes that the existing buildings on the site have a negligible habitat value for roosting bats and bats are very unlikely to be roosting within the buildings. As such, there are not anticipated to be any impacts on bats as a result of the proposed works.
- 6.72 The application was submitted prior to the adoption of mandatory biodiversity net gain (BNG) requirements for small sites. However, given the extensions would take place above 5 metres in height, a condition is to be attached requiring the installation of a bee brick and bird nesting box.

Sustainability

- 6.73 LP55 (Mitigating Climate Change) of LP33 requires all new residential developments meet a zero carbon emissions target emission rate in line with the London Plan energy hierarchy and Sustainability and the Built Environment SPD. In reducing carbon emissions, residential development should aim to achieve 10% through energy efficiency measures alone.' In the event that zero carbon emissions are not met, a payment to offset the shortfall is required. This is calculated based on the per tonne of carbon to be offset, with a value of £2,850 per tonne of carbon to be offset.
- 6.74 A development of this scale would be expected to comply with building regulations to ensure the statutory requirements to reduce pollution, energy and carbon emissions are met. The development would be required to demonstrate that it incorporates efficiency measures. The proposal would include the provision of photovoltaic (PV) panels.
- 6.75 An Energy and Sustainability Strategy has not been submitted as part of the application. As such, in the event of planning permission being granted, a carbon offset would be secured via S106 Agreement being £1,000 per the creation of each additional new unit, totalling £5,000.

Waste management

- 6.76 Locations for refuse/recycling storage for both the commercial and residential elements of the development have been shown on the submitted plans and details of the proposed arrangement provided. These elements would be located separately.

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- 6.77 The residential element of the proposal would require an overall capacity of 1,600 litres. This could be accommodated through the provision of 3 x 1,100 litre eurobin containers or 7 x 240 litre wheeled bins, both of which could be accommodated within the dedicated space shown on the floor plans.
- 6.78 The commercial element of the proposal would be required to provide 5,000 litres per 1,000m² of floorspace. This would equate to approximately 1,000 litres for the proposed retail space. Again, this could be adequately accommodated within the designated waste storage space as shown on the proposed floor plans.
- 6.79 The refuse storage area would be located at ground floor level and would be no further than 30 metres from each residential unit and would be within the maximum drag distance of 15m between the refuse storage area and the servicing location on Mare Street. It is also noted that no concerns were raised in relation to the location of refuse as part of the previous application by the Planning Inspector as part of the dismissed appeal. As such, it is considered that adequate information has been provided to confirm that adequate storage of waste could be accommodated, in accordance with the Hackney Refuse and recycling storage guidance.

Air quality

- 6.80 It is a relevant policy consideration to protect local air quality and human health. The production of air pollutants shall be kept to a minimum during the course of building works and during the lifetime of the development.
- 6.81 It is recommended that a standard condition be imposed on any permission granted requiring all non-Combined Heat and Power (CHP) space and hot water fossil fuel boilers to achieve dry NO_x emission levels equivalent to, or less than, 40 mg/kWh. A condition requiring compliance with this requirement prior to occupation should be imposed if granted. Compliance would ensure that the development achieves required air quality levels.
- 6.82 The Council's Environmental Health Team have been consulted as part of the application and consider that the submitted air quality assessment (AQA) is satisfactory. If planning is approved then an air quality and dust mitigation and management section must be included within the construction management plan based upon the construction dust assessment outcomes in the AQA and in line with relevant guidance. This is to be attached by way of condition.

Flood risk

- 6.83 The site is located within Flood Zone 1 which has a low probability of flooding from rivers and the sea and is not located within a Critical Drainage Area. The site is also shown to have a low risk of surface water flooding. The proposal would not involve significant levels of excavation and would reduce the overall level of built form in terms of footprint. There would be no change in the existing use of the site/flood risk vulnerability classification. As such, it is not anticipated that the risk of flooding will increase on or offsite as a result of the proposed works.
- 6.84 However, policy LP53 (Water and Flooding) of LP33 requires all development to have regard to reducing flood risk, both to, and from the site, over its expected lifetime and should achieve greenfield runoff rates by attenuating rainwater on site, utilising SuDS and in accordance with the London Plan drainage hierarchy.

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- 6.85 The Council's Drainage Officers have been consulted as part of the application and have raised no objections to the proposed development, subject to the imposition of a condition relating to the submission of detailed specification and a drainage layout of sustainable drainage systems.

Planning balance and conclusion

- 6.86 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations. The determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.87 In respect to addressing the benefits of the proposed development, the comments raised by the Planning Inspector as part of the dismissed appeal in relation to the site are a material consideration. The Inspector considered that *“the proposed development would bring a number of public benefits. These include the provision of new housing and enhanced retail floor space in a sustainable location, the benefits associated with the construction process and additional residents, biodiversity and planting benefits, the provision of good quality publicly accessible space and enhancements to the built environment, the opening of new public views, including to St Augustine's Tower, and improvements to the character and appearance of the area that would be brought about by the removal of unsympathetic existing development that has a detrimental effect on the character and appearance of the CSCA and the setting of St Augustine's Tower.”*
- 6.88 The same public benefits would largely be realised with the current proposal, albeit there would be a small reduction in the number of residential units proposed from that of the previous application. The proposal would no longer include a dedicated 'viewing point', but would still open new public views of the Tower. Moreover, the proposal is no longer considered to result in harm to the setting of St Augustine Tower and would therefore overcome the one reason for refusal that was upheld at appeal by the Planning Inspector. The current proposal has not introduced any new elements that were not considered as part of the previously dismissed scheme. In addition, the proposal would now include an off-site affordable housing contribution of £120,000, which would also represent a significant public benefit and carries significant weight in favour of the proposal.
- 6.89 The proposed development involving the retention of the retail use, although with a reduced floor space, would result in a more usable retail offering and is considered acceptable. It would provide an active frontage and being of a size and quality to support a range of potential different types of uses within Class E, contributing to the vitality and viability of the Major Town Centre and Mare Street Primary Shopping Frontage.
- 6.90 The design of the proposed buildings, extensions and alterations are considered to be acceptable in the context of the existing site, as such collectively serving to broadly have a neutral effect on the character and appearance to this part of the conservation area, ensuring it is preserved; with certain individual elements serving to improve the appearance of the site, such as the proposed new shop front. The proposal would also preserve the setting of the nearby grade I listed building of the Old Tower of Former Church of St Augustine.
- 6.91 The siting, volume and design of the buildings and extensions as well as the separation distances to neighbouring properties are considered to be satisfactory to protect the amenities of the neighbouring occupiers.

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- 6.92 The scheme would provide additional housing units of an acceptable quality of residential accommodation for future occupiers, including family sized units in a sustainable and accessible location. The proposal would also provide an off-site affordable housing contribution.
- 6.93 The development would have an acceptable impact upon on-street parking and highway safety. The development would make for appropriate reductions in carbon emissions, through the payment of carbon off-set contributions.
- 6.94 The proposed development, on balance, complies with the with relevant policies in the Hackney Local Plan (2033), the London Plan (2021) and the NPPF (2023), and is recommended for approval subject to conditions and the completion of a Legal Agreement. All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above.

Heads of Terms

The following heads of terms would be secured in the event of an approval via the Legal Agreement:

- Affordable Housing Contribution: £120,000
- Late Stage Financial Viability Review: Up to £200,000
- Carbon Offset Contribution: £5,000
- Construction & Logistics Management Plan Monitoring fee: £8,750
- Car Free
- Considerate Contractors
- Maintain Mermaid Yard and retain Public access to Mermaid Yard (during trading hours only)
- Payment of monitoring of the S106 legal agreement : £7,770
- Payment of Council's legal fees

7.0 Community Infrastructure Levy

- 7.1 Given that the proposal creates nine new units, the application is liable for the Mayor of London's Community Infrastructure Levy and Hackney's CIL. The amount of the CIL is calculated on the basis of the amount of net additional internal floor space.
- 7.2 The London Mayoral CIL has a rate of £60.00 per square metre of floor space. The site is located within Zone A under the Hackney CIL, which has a rate of £190.00 per square metre of floor space for residential uses. Based on the increase in residential floor space of 560sqm, the London Mayoral CIL is £33,600 and the Hackney CIL is £95,950 (combined CIL of £126,250).
- 7.3 Please note this is an estimate only and these amounts are subject to indexation. Any liability notice will reflect rates applicable at the time a planning decision is made.

8. RECOMMENDATION A

- 8.1 That planning permission is GRANTED, subject to conditions and completion of s106 Agreement.

9. Planning Conditions and Informatives

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Conditions

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: In order to comply with the provisions of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.

REASON: To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved.

3. Notwithstanding the approved drawings and documents, detailed drawings and full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The development shall not be carried out otherwise than in accordance with the details thus approved:

a) Details of all new and replacement windows in the form of a 1:20 scale elevation drawing of each window type showing the glazing pattern and 1:5 scale vertical and horizontal cross section drawings showing the upper and lower stiles, the meeting rails, the dimensions of the glazing, the profile and dimensions of the glazing bars, spacers and recesses (if any).

A 1:5 elevation drawing shall be provided of any window details, particularly window horns (if any);

b) Details of the new shopfront to Mare Street in the form of a 1:20 elevation drawing showing the glazing pattern together with a 1:20 section drawing from ground to first floor showing the construction of the shopfront, stallriser, cill, transoms and mullions, transom lights, cornice, fascia and any console brackets;

c) Details of the new shopfronts to the courtyard in the form of a manufacturer's specification and illustration or similar showing the material and dimensions of the frames;

d) Details of all new and replacement doors in the form of a 1:20 scale elevation drawing of each door type showing the glazing (if any) and panel pattern;

e) Details of the proposed dormer windows to the front and rear of the new mansard extension in the form of a 1:20 vertical and horizontal section showing the location of windows within the dormer and the build-up materials and dimensions of the dormer cheeks;

f) Details of all materials, including brick bonds and pointing style to both new and existing buildings;

g) Details of the party wall buildup including the brick bond;

h) Details of the planting and maintenance schemes for the planted elements in the new buildings;

i) Details of the proposed artwork in the form of an image and details of material and execution.

REASON: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building

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4. No soil stacks, soil vent pipes, plumbing, pipes, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.

REASON: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building

5. No new grilles, satellite dishes, aerials, metre boxes, security alarms, lighting, security or other cameras or other fixtures or plant shall be mounted on the external faces or roof of the building other than those shown on the drawings hereby approved

REASON: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building

6. All new and replacement external rainwater and soil pipes shall be of traditional design, formed in cast iron and painted black.

REASON: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building

7. All new, rebuilt and reinstated brickwork shall be bedded, pointed and rendered using a lime based mortar consisting of 1 part lime to 3 parts sand. Cementitious mortars shall not be used. Pointing shall be in a slightly (2/3mm) recessed style and not flush, bucket handle, ribbon, weather struck or raised pointing.

REASON: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building.

8. No development shall take place until a detailed Demolition and Construction Management Plan covering the matters set out below has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the details and measures approved as part of the demolition and construction management plan, which shall be maintained throughout the entire construction period.

a) Details of noise control measures and measures to preserve air quality (including a risk assessment of the demolition and construction phase) and details of air quality and dust mitigation measures during site clearance and construction works (including any works of demolition of existing buildings or breaking out or crushing of concrete);

b) A demolition and construction traffic management plan to include the following:

- the construction programme/ timescales;
- the number/ frequency and size of construction vehicles;
- construction traffic route;
- location of deliveries;
- pedestrian and vehicular access arrangements;
- any temporary road/ footway closures during the construction period;

c) A demolition and construction waste management plan setting out how resources will be managed and waste controlled at all stages during the construction project;

REASON: To avoid hazard and obstruction being caused to users of the public highway and in the interest of public safety and amenity.

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9. Prior to first occupation of each phase the development of a Delivery Service Plan (DSP) shall be submitted for approval to the Local Planning Authority for that phase and the measures outlined within the DSP shall be implemented thereafter.

REASON: To ensure that the development can be adequately serviced without detriment to the amenity and highway safety of the surrounding area.

10. At least 10% of all dwellings across all tenure types within the development hereby approved shall be completed in compliance with Building Regulations Optional Requirement Part M4 (3) 'wheelchair user dwellings' (or any subsequent replacement) prior to first occupation and shall be retained as such thereafter.

REASON: To ensure that the development is adequately accessible for future occupiers.

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

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

A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. Where appropriate, details of a programme for delivering related positive public benefits.

C. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

REASON: To protect any subsurface archaeological remains within this Archaeological Priority Area.

12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 7 days to the Local Planning Authority and development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements of the site investigation, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of the approved remediation scheme. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with the implementation of the remediation scheme.

REASON: To protect the end user(s) of the development, any adjacent land user(s) and the environment from contamination.

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13. Before occupation/use of the development a post-development verification report will be produced to the satisfaction of and approved in writing by the Local Planning Authority. The verification report must fully set out any restrictions on the future use of a development and demonstrate that arrangements have been made to inform future site users of the restrictions. Work shall be completed and reporting produced by a competent person/company in line with current best practice guidance, including the Council's contaminated land planning guidance. The Contaminated Land Officer must receive written notification at least five days before development and remedial works commence. Subject to written approval by the Local Planning Authority, this condition may be varied, or discharged in agreed phases. Any additional, or unforeseen contamination encountered during the course of development shall be immediately notified to the Local Planning Authority and Contaminated Land Officer and all development shall cease in the affected area. Any additional or unforeseen contamination shall be dealt with as agreed with the Local Planning Authority, where development has ceased in the affected area, it shall recommence upon written notification of the Local Planning Authority.

REASON: To protect the end user(s) of the development, any adjacent land user(s) and the environment from contamination.

14. Details of refuse and recycling enclosures, showing the design, external appearance and location thereof, shall be submitted to and approved by the Local Planning Authority, in writing, before construction commences. The development shall not be carried out otherwise than in accordance with the details thus approved.

REASON: To ensure sufficient provision of waste and recycling facilities on site.

15. Prior to occupation/use of the development hereby approved a policy compliant cycle parking plan is required, which shows details of layout, foundation, stand type and spacing of cycle parking.

The storage spaces and stands must be provided prior to the occupation of the dwelling and kept in good working condition, in accordance with the above details, in perpetuity.

REASON: To ensure adequate provision for the safe and secure storage of bicycles, to promote sustainable modes of transport and in the interest of safeguarding highway safety.

16. The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

REASON: To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of noise nuisance.

17. Prior to occupation of the relevant part of the development, a detailed Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out measures to mitigate any noise, disturbance and wider impacts, arising from the uses and areas of the following parts of the development:

- The commercial units
- Open public realm courtyard

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The operation of the approved uses and the use of the public realm shall only be carried out in accordance with the details thus approved, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of general disturbance.

18. Prior to the commencement of any phase of development, the tree protection measures as detailed within the submitted Arboricultural Impact Assessment 20_5837_11_02, including the methodology to protect retained trees during demolition and construction, shall be implemented and shall be maintained throughout the entire construction period. The development shall not be carried out other than in accordance with the details thus approved, unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure that any risk of damage to trees during construction is minimised.

19. Prior to the commencement of the relevant part of the work, the applicant shall submit, and have approved in writing by the Local Planning Authority, a detailed layout, cross sections (scale 1:20), full specifications and a detailed management and maintenance plan of the biodiverse roof with a minimum substrate depth of 80mm, not including the vegetative mat. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be fully implemented before the premises are first occupied.

REASON: To enhance the character and ecology of the development, to provide undisturbed refuges for wildlife, to promote sustainable urban drainage, to enhance the performance and efficiency of the proposed building and assists in the meeting the Local Development Framework Core Strategy objective of reducing carbon emissions.

20. Prior to superstructure works, detailed specification and a drainage layout of at least one suitable sustainable drainage systems (i.e. water butt with overflow, raingarden, bioretention planter box, living roof (substrate depth of 80-150mm excluding the vegetative mat), permeable paving, etc.) shall be submitted to, and approved by the LPA, in consultation with the LLFA. If soakaways i.e. plastic modules and soakaway rings are used, an infiltration test must be carried out to ensure that the capacity of the soil is suitable for infiltration. It must be demonstrated that there will be no increase in surface water flow being discharged offsite and an overall reduction in peak flow rate and volume.

REASON: To ensure that the development will provide a sustainable drainage system. The condition is required to be discharged prior to the commencement of development to ensure that sustainable drainage is incorporated into the design of the development.

21. All non-Combined Heat and Power (CHP) space and hot water fossil fuel (or equivalent hydrocarbon based fuel) boilers installed as part of the development hereby approved shall achieve dry NO_x emission levels equivalent to or less than 40 mg/kWh.

REASON: To protect air quality and people's health by ensuring that the production of air pollutants, such as nitrogen dioxide and particulate matter, are kept to a minimum as a result of the development and to contribute towards the maintenance or to prevent further exceedances of National Air Quality Objectives.

22. The flat roofs of the development hereby approved shall not be used as a terrace, balcony or similar amenity area.

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REASON: In the interests of neighbours amenity.

23. The development hereby approved shall provide two bee bricks and two swift boxes close to the eaves prior to first occupation and shall be retained as such in perpetuity.

REASON: In the interest of biodiversity.

24. The development hereby approved shall provide a minimum of two bat boxes positioned 3-5m above ground level facing in a south or south-westerly direction with a clear flight path to and from the entrance, prior to first occupation and shall be retained as such in perpetuity.

REASON: In the interest of biodiversity.

25. Prior to the first occupation of each building or part of a building or use, a 'Secured by Design' accreditation shall be obtained for such building or part of such building or use and thereafter all features are to be permanently retained.

REASON: To ensure the safety and security of the development.

RECOMMENDATION B

That the above recommendation be subject to the landowners and their mortgagees enter into a Legal Agreement by means of a legal deed in order to secure the following matters to the satisfaction of the Director of Legal Democratic and Electoral Services:

- Affordable Housing Contribution: £120,000
- Late Stage Financial Viability Review: Up to £200,000
- Carbon Offset Contribution: £5,000
- Construction & Logistics Management Plan Monitoring fee: £8,750
- Car Free
- Considerate Contractors
- Retain Mermaid Yard and to retain Public access to Mermaid Yard (during trading hours only)
- Payment of monitoring of the S106 legal agreement : £7,770
- Payment of Council's legal fees

RECOMMENDATION C

That the Sub-Committee grants delegated authority to the Director, Environment and Climate Change and Assistant Director Planning & Building Control (or in their absence either the Growth Team Manager or Development Management & Enforcement Manager) to make any minor alterations, additions or deletions to the recommended conditions or legal agreement as set out in this report provided this authority shall be exercised after consultation with the Chair (or in their absence the Vice-Chair) of the Sub-Committee (who may request that such alterations, additions or deletions be first approved by the Sub-Committee).

Informatives

The following standard informatives should be attached to the decision notice:

- SI.1 Building Control
- SI.2 Work Affecting Public Highway
- SI.3 Sanitary, Ventilation and Drainage Arrangements



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- SI.6 Control of Pollution (Clean Air, Noise, etc.)
- SI.7 Hours of Building Works
- SI.18 Tree Preservation Orders
- SI.25 Disabled Person's Provisions
- SI.28 Refuse Storage and Disposal Arrangements
- SI.32 Consultation with Thames Water RE: Waste and water management
- SI.33 Removal of Asbestos
- SI.34 Landscaping
- SI.40 Application for Advertisement Consent
- SI.45 The Construction (Design & Management) Regulations 1994
- SI.48 Soundproofing
- SI.50 Section 106 Agreement

Signed..... **Date**.....

Natalie Broughton
Assistant Director of Planning & Building Control

NO.	BACKGROUND PAPERS	NAME/DESIGNATION AND TELEPHONE EXTENSION OF ORIGINAL COPY	LOCATION CONTACT OFFICER
1.	<p>Application documents and LBH policies/guidance referred to in this report are available for inspection on the Council's website.</p> <p>Policy/guidance from other authorities/bodies referred to in this report are available for inspection on the website of the relevant authorities/bodies.</p> <p>Other background papers referred to in this report are available for inspection upon request to the officer named in this section.</p> <p>All documents that are material to the preparation of this report are referenced in the report.</p>	Laurence Ackrill +2297	2 Hillman Street, London E8 1FB