

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

Planning (Listed Buildings and Conservation Areas) Act 1990

Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI 2000/1625)

LOCAL PLANNING AUTHORITY

FULL STATEMENT OF CASE

Sites at:	Sites at 14-16 Clegg Street, 13-15 Cinnamon Street, 125-129 Wapping High Street, London
Appeal by:	Rail for London and Wapping High Street Limited
PINS Reference:	APP/E5900/W/17/3167832
LPA Reference:	PA/15/03561

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1. Introduction

- 1.1. On 23rd December 2015 the Council of the London Borough of Tower Hamlets (“LBTH”) as local planning authority (“LPA”) received an application for planning permission (“the Application”) in respect of three parcels of land, known as 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London (referred to respectively within the Application as Sites C, B and A). The Application, reference PA/15/03561, sought permission for:

‘Partial demolition of the existing buildings and redevelopment of the site for residential use (class C3) and retail use (class A1); hard and soft landscaping, cycle parking and all other works shown on the submitted drawings.’

- 1.2. In July 2016 the Application was amended, as follows:

‘Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

Amendments consist of the enlargement of the footpath along the eastern edge of Clegg Street (Site C) to 1.50m wide; Marketing Assessment Comparables and Market Assessment for the application sites; closing the walls between Site B and neighbouring residential buildings, Ross and Tasman Houses; and detailed articulation in proposed brick work added to north west elevation of Site A.’

- 1.3. The Application (as amended) was considered by the LPA’s Development Committee (“the Committee”) on 28th September 2016. Officers recommended the Application be approved, subject to appropriate planning obligations and conditions. The Committee resolved to defer consideration of the Application to allow a Committee site visit.

- 1.4. Following the site visit the Application was considered by the Committee on 26th October 2016. Officers' recommendation was unchanged. The Committee unanimously resolved to refuse planning permission.
- 1.5. In accordance with the LPA's normal procedures, following the resolution to refuse, the Application was returned to the Committee on 23rd November 2016 in order for the reasons for refusal to be recorded. Officers' recommendation for approval was restated in the report submitted to the Committee, which report also set out officers' understanding of the Committee's objections to the Application and provided suggested reasons for refusal accordingly. The Committee confirmed the resolution to refuse permission and on 22nd December 2016 the LPA issued its decision notice refusing permission.
- 1.6. The three reasons for refusal set out in the decision notice are concerned with adverse impact upon the safety and capacity of the road network (Reason for Refusal 1), harm to the Wapping Wall Conservation Area (Reason for Refusal 2) and adverse impact on the amenity of neighbouring residential occupiers at Ross House and 10-12 Clave Street due to reduction in daylighting and sunlighting conditions (Reason for Refusal 3).
- 1.7. The Appellants have appealed the refusal of permission.
- 1.8. This is the LPA's full Statement of Case, in accordance with the Inquiries Procedure Rules (SI 2000/1625), in particular Rule 2, and having regard to the Inspectorate's 'Procedural guide: Planning appeals – England' (6 August 2016) ("the Procedural Guide"), in particular Annex J.
- 1.9. The LPA is mindful of J.3.4 within Annex J to the Procedural Guide and the advice that it's full Statement of Case should not normally exceed 3,000 words, and in any event should be concise. The LPA considers this Statement of Case concise, albeit it exceeds the 3,000 word guideline.

2. Site and Surroundings

- 2.1 The application site (“the Application Site”) comprising Sites A, B and C lies in the Wapping area, within the Ward of St Katharine’s and Wapping.
- 2.2 The Application Site as a whole covers a total area of approaching 0.25ha.
- 2.3 As Sites A, B and C involve three different site boundaries; these will be addressed, where relevant, as stand-alone sites.
- 2.4 Sites A and C lie within the Wapping Wall Conservation Area, and Site B lies immediately adjacent to the Wapping Wall Conservation Area. Wapping Pierhead Conservation Area is nearby to the west.
- 2.5 The LPA will describe the Application Site and the local context in detail in its evidence. What follows is a summary.

Site A – 125-129 Wapping High Street

- 2.6 Site A is the largest of the three sites, 0.17ha in area. It has its southern boundary on Wapping High Street, opposite built form that includes Wapping Station. Its western boundary is directly adjacent to Falconet Court. Its northern boundary is on Cinnamon Street, opposite Ross House and Site B. Its eastern boundary is split between a northern section on Clave Street, opposite nos.10-12 Clave Street, and a southern section directly adjacent to Baltic Court.
- 2.7 Site A is within the Wapping Wall Conservation Area towards its south-western boundary.
- 2.8 The buildings on Site A are relatively low scale (one to two storey) late 19th / early 20th century warehousing, marking a contrast with the corridor effect of higher buildings lining Wapping High Street east and west to either side. The buildings are mostly derelict, though some parts are intact. All are understood to be presently unoccupied. Vehicular access has historically been on-site via a Cinnamon Street entrance. The frontage onto Wapping High Street, formed of two gable end buildings, with a five bay wider section

comprising 4 arched windows and 1 arched door and a smaller two bay section with square windows, appears to be in a reasonable state of repair (and would be retained after restoration).

- 2.9 Site A is home to two emergency exits and the ventilation shaft/void for the London Overground line. Those structures are at the northern side of Site A and would be retained (as they must be for railway operational reasons).

Site B – 13-15 Cinnamon Street

- 2.10 Site B sits between Site A and Site C and measures 0.0511ha. It has a southern boundary on Cinnamon Street, opposite Site A. Its western boundary is abutted by Ross House. Its northern boundary is abutted by Tasman House. Its eastern boundary is on Clegg Street, opposite Site C and the Wapping Conservation Area boundary, which bisects Clegg Street.
- 2.11 Site B is not within the Wapping Wall Conservation Area (but is within its immediate setting, facing it across Clegg Street and Cinnamon Street).
- 2.12 Site B is occupied by a former warehouse or industrial building range, which turns the corner and fronts onto Clegg Street, known as 13-15 Cinnamon Street. The building range dates from the 1920s. The warehouse is abutted by Ross House to the west and by Tasman House to the north, which postdate it. Vehicular access has historically been on-site via entrances on both Cinnamon Street and Clegg Street.
- 2.13 The former warehouse or industrial building on Site B is arranged as three parallel hipped roofed ranges extending east to west, with an interruption at the south-west, where there is a three-bay, mono-pitched element of domestic two storey proportions, which would probably have been used as offices or other ancillary accommodation to the industrial/warehouse use.
- 2.14 The southern and central warehouse ranges are approximately two storeys in height, slightly lower than the former offices/ancillary element, corresponding roughly with the ground and first floor window heights of the adjacent Ross House. The northern range of the warehouse is narrower and comes to an angled end where the site borders Tasman House. A flat roofed, lower triangular structure fills the north-eastern part of the site. It is

a tall single storey in height, with the parapet level in between the heights of the ground and first floor windows of the adjacent Tasman House.

- 2.15 The office/ancillary building appears to be occupied, whilst the rest of the building range is vacant, with hoarding to the doors and broken window panes (some windows are internally hoarded-up).
- 2.16 At the time the Application was made, the Site B warehouse was in use as a garage.

Site C – 14-16 Clegg Street

- 2.17 Site C measures 0.024ha and is the smallest of Sites A, B and C. It has a southern boundary on Cinnamon Street. Its western boundary is on Clegg Street. Its northern boundary is with Hilliard's Court. Its eastern boundary abuts residential development at 18-34 Cinnamon Street.
- 2.18 Site C is within the Wapping Wall Conservation Area, at its northern boundary.
- 2.19 Site C is occupied by a red brick, hip roofed warehouse/industrial building that dates from 1907. It consists of a longer, single storey range towards the south, and a shorter two storey element of domestic proportions towards the north. It is understood that the building was last in use by a motor insurance firm with office use and on-site workshop, which firm vacated the premises approximately 2 years ago
- 2.20 Between Site C and the houses on Cinnamon Street is a party wall from the warehouse that formerly abutted Site C, in a dilapidated condition. That is shown as retained on the drawings of the proposed development.
- 2.21 Vehicular access is on-site via an entrance on Cinnamon Street, fitted with a roller shutter door and a timber sliding door.

Designations and local context

- 2.22 As noted, Sites A and C lie within the Wapping Wall Conservation Area and Site B is in its immediate setting.
- 2.23 Wapping Pierhead Conservation Area is nearby, to the west of the Application Site, commencing at Wapping Dock Street.
- 2.24 In terms of listed buildings, the Thames Tunnel (Grade II*) is below ground, albeit its presence is marked to an extent by the ventilation shaft/void on Site A and the tunnel entrance (Grade II) inside Wapping Station. Above ground, the nearest listed buildings are Prusom's Island (early to mid-19th century) (Grade II) to the east and Gun Wharves (c. late 1920s) and the E, F and G Warehouses (1910) (both Grade II) to the west, as well as Corbetts Wharf Warehouse (early 19th century) (Grade II, between Wapping Dock Street and Wapping Lane). The listed buildings to the west of the Application Site fall within the Wapping Pierhead Conservation Area.
- 2.25 The immediately surrounding uses are predominantly residential, with retail and office uses, and a number of local schools in the wider area.
- 2.26 *Around Site A:* Immediately flanking Site A, Baltic Court to the east is a converted former late 19th century warehouse, two storeys in height, similar in size to the Site B warehouse range. The southern part has a double piled gabled roof with a dormered, flat topped hipped roof to the north. Falconet Court to the west is a modern mainly residential development, four storeys in height running the depth of the block.
- 2.27 Further to the east Clave Street forms the eastern boundary of the block of which Site A forms the central part, and the residential buildings at 2-12 Clave Street are three storeys in height, with their front amenity areas giving onto the street. Their rear outdoor amenity areas are to the east, then a further area of landscaping before Prusom's Island steps up.
- 2.28 Further to the west, Wapping Dock Street forms the western boundary of the block of which Site A forms the central part. On the other side of Wapping Dock Street is the Grade II listed Corbetts Wharf Warehouse and

a modern building range to the south, of similar height to Falconet Court. Beyond that, Gun Wharves and the E, F and G Warehouses step up.

- 2.29 South of Site A, the building immediately opposite is five storeys with two additional storeys stepped back and Wapping Station to the south-west is two-three storeys, with a taller river-fronting block behind it. The buildings to either side of those elements fronting Wapping High Street step up.
- 2.30 North of Site A, on the other side of Cinnamon Street, is Ross House, five storeys in height.
- 2.31 *Around Site B:* Immediately flanking Site B, Ross House is to the west and Tasman House, a similar five storey residential building, is to the north.
- 2.32 Further to the west the built form steps down either side of Wapping Dock Street before stepping up. Further to the north are landscaped areas.
- 2.33 East and south of Site B are Clegg Street and Site C and Cinnamon Street and Site A respectively.
- 2.34 *Around Site C:* Immediately flanking Site C, 18-34 Cinnamon Street to the east is three storeys and to the north are a pedestrian walkway and the ground level recreation area for Hilliard's Court, extending to Prusom Street.
- 2.35 To the south is Cinnamon Street then the buildings at 2-12 Clave Street.
- 2.36 To the west are Clegg Street and then Site B.
- 2.37 With the exception of Wapping High Street, the roads surrounding the Application Site are markedly narrow, a characteristic feature of the area. Cobbled surfacing and granite kerbs survive on Clave Street, Clegg Street and Cinnamon Street.
- 2.38 The site has a Public Transport Accessibility Level of 5 for the majority of the site (in the ranges 1 to 6 where 1 is low and 6 is excellent). Wapping Station is approximately 15m from Site A. The area is served by a number of bus routes connecting to the rest of the borough.

- 2.39 The Application Site falls within a Flood Risk Zone and an Archaeological Priority Area. The Application Site may also be within a potential contamination risk area.

3 Planning History

- 3.1 The LPA notes the following relevant site planning history:

125-129 Wapping High Street

- 3.2 On 28th April 2006, full planning permission was granted for the land that is Site A, permitting a change of use of the warehouse to provide a secondary means of escape from Wapping Station, removal of roof of warehouse buildings, and creation of a raised pavement with bollards on Cinnamon Street. Ref. PA/06/00333.

- 3.3 On 11th April 2008, Full Planning Permission and Conservation Area Consent were granted for the land that is Site A, permitting the demolition of buildings and development to provide a secondary means of escape from Wapping Station. This application was as per the consent of 28th April 2006 with the removal of warehouse walls and installation of a new boundary wall on Cinnamon Street. Ref. PA/08/00197 and PA/08/00200.

13-15 Cinnamon Street

- 3.4 On 6th April 1988 full planning permission was granted for the redevelopment of the land that is Site B by the erection of (I) a four storey building with two storey section comprising 9 residential units and ground level parking, and (II) a two storey building comprising 2 residential units; together with a courtyard and additional parking. Planning reference ID/88/00172.

Other

- 3.5 On 4th August 2005 full planning permission was granted for change of use and alterations at Baltic Court, 131 Wapping High Street, to provide three

apartments and three town houses with five car parking spaces. Ref. PA/04/01069 (as amended by PA/05/00449 dated 17th August 2005).

Withdrawn applications

- 3.6 A number of applications for residential-led development of the Application Site have been made but then withdrawn: application references PA/07/03149 and PA/07/03150 for five houses, 58 flats and 170sqm retail floor space (withdrawn June 2008); application reference PA/14/03062 for 27 residential units and a retail unit on Site A, 11 residential units on Site B and 4 residential units (town houses, two storeys) on Site C (withdrawn June 2015); application reference PA/15/02440 for 27 residential units and a retail unit on Site A, 10 residential units on Site B and 4 residential units (town houses, three storeys) on Site C (withdrawn November 2015).

Pre-Application Advice

- 3.7 On 25th September 2014 a letter of pre-application advice was issued by the LPA in respect of the Application Site, ref. PF/14/00132.

4. Legislative and Planning Policy Context

Legislation

- 4.1 Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require applications for planning permission to be determined in accordance with the statutory development plan for the area unless material considerations indicate otherwise.
- 4.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) requires that, in the exercise, with respect to any buildings or other land in a conservation area, of planning functions, special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

The Development Plan

- 4.3 The statutory development plan for the London Borough of Tower Hamlets (“the Development Plan”) comprises:
- The London Plan – Consolidated with Alterations Since 2011 (2016)
 - Tower Hamlets Core Strategy (2010)
 - Tower Hamlets Managing Development Document (2013) with
 - Adopted Policies Map (2013)
- 4.4 The current version of the Mayor of London’s Spatial Development Strategy for Greater London (“the London Plan”) was adopted in July 2011. The London Plan has since been subject to modifications and now incorporates the Revised Early Minor Alterations to the London Plan (REMA), published in October 2013, together with the Further Alterations to the London Plan (FALP), published in March 2015. For consistency with the Mayor of London/GLA, the consolidated plan is now referred to the London Plan 2016 (with minor typographical changes made in January 2017).
- 4.5 The Tower Hamlets Core Strategy was adopted on 15th September 2010.

- 4.6 The Tower Hamlets Managing Development Document and associated Adopted Policies Map were adopted in April 2013.

National Policy and other material considerations

- 4.7 Reference will be made to the National Planning Policy Framework (NPPF) (2012), which sets out the Government's national objectives for planning and development management, together with the National Planning Practice Guidance (NPPG). Reference will also be made to other guidance documents, all as further detailed below in Section 5.

5. Development Plan Policies and Other Material Considerations

Development Plan

5.1 The LPA confirms the Development Plan policies identified in the Draft Statement of Common Ground as relevant to the proposed development the subject of this appeal. The following policies are of particular relevance to the Reasons for Refusal:

London Plan – Consolidated with Alterations Since 2011 (2016)
6.3 - Assessing Effects of Development on Transport Capacity 6.12 - Road Network Capacity 6.13 – Parking Addendum to Chapter 6 7.4 - Local Character 7.5 - Public Realm 7.6 - Architecture 7.8 - Heritage Assets and Archaeology 7.9 - Heritage-led Regeneration
Tower Hamlets Core Strategy (2010)
SP09 - Creating Attractive and Safe Streets and Spaces SP10 - Creating Distinct and Durable Places SP12 – Delivering Placemaking SP13 - Planning Obligations
Tower Hamlets Managing Development Document (2013)
DM20 - Supporting a Sustainable Transport Network DM24 - Place-sensitive Design DM25 - Amenity DM27 - Heritage and the Historic Environment

The National Planning Policy Framework (the NPPF)

5.2 The NPPF was published in March 2012 and constitutes guidance for local planning authorities and decision makers. It is a material consideration in determining applications for planning permission.

5.3 Of particular relevance to the Reasons for Refusal are Sections 4, 6, 7 and 12 of the NPPF, which are now briefly considered in turn.

- 5.4 Section 4 of the NPPF is concerned to promote sustainable travel. Paragraph 29 notes that 'transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives'.
- 5.5 Paragraph 32 explains that Transport Statements or Assessments should accompany all developments that generate a significant amount of movement. The paragraph states that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 5.6 Paragraph 35 states, amongst other things, that, where practical, development should be located and designed to accommodate the efficient delivery of goods and services.
- 5.7 Section 6 of the NPPF is concerned to achieve delivery of a wide choice of high quality homes. Much of Section 6 is concerned with housing supply, as regards which LBTH has a five year supply plus buffer. In relation to the 'high quality' element of Section 6, that is addressed through other parts of the NPPF, in particular Section 7.
- 5.8 Section 7 of the NPPF requires all development to reflect good design. The introductory paragraph 56 states that great importance is given to the design of the built environment, with good design a key aspect of sustainable development that should contribute positively to making places better for people.
- 5.9 Paragraph 58 details the targets that planning decision-making should aim to achieve. Of particular relevance are that development should function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of a site to accommodate development, respond to local character and history, reflect the identity of local surroundings and materials and be visually attractive through good architecture and landscaping.
- 5.10 Paragraph 60 explains that planning decision-making should not attempt to impose architectural styles or particular tastes, but underlines the point that it is proper to seek to promote or reinforce local distinctiveness.

- 5.11 In accordance with paragraph 64, permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.12 Paragraph 66 requires applicants for planning permission to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community, in which case proposals that can demonstrate this in the design of the new development should be looked on more favourably.
- 5.13 Section 12 of the NPPF deals with conserving and enhancing the historic environment. Conservation areas and listed buildings fall within the definition of 'designated heritage assets' for the purposes of the NPPF.
- 5.14 The NPPF places much emphasis on heritage "*significance*", which it defines in Annex 2. Annex 2 also provides a definition of the 'setting' of a heritage asset.
- 5.15 Paragraph 128 of the NPPF requires applicants to describe the significance of any heritage assets affected by a proposal, including the contribution of their setting, to a proportionate level of detail.
- 5.16 Paragraph 129 of the NPPF requires local planning authorities to identify and assess the "*particular significance*" of any heritage asset, against which the impacts of a proposal are to be assessed. Setting is again specifically mentioned. Authorities are to take these matters into account when considering the impact of a proposal and should seek to avoid or minimise conflict between a heritage asset's conservation and any aspect of a proposal.
- 5.17 Paragraph 131 explains that a number of considerations should be taken into account in determining planning applications, first of which is the desirability of sustaining and enhancing the significance of heritage assets, as well as putting them to viable uses consistent with their conservation.
- 5.18 Paragraph 132 applies specifically to designated heritage assets, such as listed buildings and conservation areas. The LPA highlights highlight two key points arising from paragraph 132:

- i. Great weight should be given to the conservation of designated heritage assets.
 - ii. Significance can be harmed or lost through development within the setting of a heritage asset.
- 5.19 Paragraphs 133 and 134 deal, respectively, with substantial harm to/total loss of, and with less than substantial harm to, the significance of a designated heritage asset. The LPA considers that only paragraph 134 is engaged here in relation to the Wapping Wall Conservation Area.
- 5.20 Paragraph 134 explains that less than substantial harm should be weighed against the public benefits of the proposal. The NPPG describes public benefits as “*anything that delivers economic, social or environmental progress*”, which may include heritage-specific benefits.
- 5.21 In relation to NPPF paragraph 134, the LPA notes that the statutory duty requires considerable weight to be given to harm to a conservation area in any event (whether the harm is “substantial” or “less than substantial”).
- 5.22 NPPF paragraph 137 asks that authorities look for opportunities for new development within conservation areas and their setting that will enhance or better reveal their significance, and advises that proposals that preserve ‘*those elements of the setting that make a positive contribution to or better reveal the significance of the asset*’ should be treated favourably.
- 5.23 NPPF paragraph 138 explains that the loss of a building (or other element) which makes a positive contribution to the significance of a conservation area should be treated either as substantial harm under paragraph 133, or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the conservation area as a whole.

Other

- 5.24 The LPA considers that the following documents are also material to the determination of the appeal:-

Tower Hamlets adopted Supplementary Planning Documents

- Wapping Wall Conservation Area Appraisal
- Wapping Pierhead Conservation Area Appraisal
- Planning Obligations Supplementary Planning Document, LBTH (2016)

London Plan Supplementary Planning Guidance

- Housing Supplementary Planning Guidance, GLA (2012):
- Draft Affordable Housing and Viability SPG 2016

Other Relevant Guidance

- Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment, English Heritage / Historic England (2008)
- Historic England Advice Note 1: Conservation Area Designation, Appraisal and Management (February 2016)
- Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets, Historic England (2015)
- Site Layout Planning for Daylight and Sunlight: A guide to good practice (second edition). BRE Press.

5.25 The LPA reserves the right to introduce any new material, government advice or matters of planning policy which are considered relevant to the determination of this planning appeal, and will endeavour to do so as soon as it becomes aware of such matters.

6. The LPA's Case

Reason for Refusal 1 – Delivery and Servicing

The existing narrow streets and lack of dedicated drop-off provision will result in a detrimental impact upon the safety and free-flow of traffic in the surrounding street network due to the servicing requirements and vehicle movements generated by the proposal, contrary to policies SP09 of the Core Strategy 2010 and DM20 of the Managing Development Document 2013 which seeks to ensure that new development does not have an adverse impact upon the safety and capacity of the road network.

- 6.1 The Application Site is located in an area of notable on-street parking stress characterised by narrow streets and tightly controlled on-street parking (see Appendix 1). The Application introduces a quantum of new residential-led development to a site that is characterised by light-industrial uses, with Sites B and C occupied until relatively recently. The Application Site has always historically had off-street vehicular access to all of Sites A, B and C. The linked issues of servicing and deliveries for the new development are a key issue.
- 6.2 The Core Strategy Policy SP09(3) objective is that new development have 'no adverse impact on the safety and capacity of the road network'. Policy SP09(1)(b) is concerned with protecting (and) enhancing secondary streets, including Wapping High Street, that function as important distribution routes for vehicles (including buses), cyclists and pedestrians. Managing Development Document Policy DM20 (2) requires that development 'demonstrate it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network or on any planned improvements and/or amendments to the transport network'. NPPF Section 4 has been discussed above. The LPA considers that the Development Plan sets the policy bar higher than the NPPF.
- 6.3 The Application includes no provision for on-site access for servicing, contrary to the historic position, nor are there loading bays that could be used. All servicing and deliveries will have to take place from the public highway via parking on single/double yellow lines or in parking spaces. The addition of 41 residential

units in a car-free development will inevitably bring delivery vehicles. This is in addition to local authority waste and recycling services and occasional removal services. The likely result of the introduction of the proposed development will be an increase in vehicles stopping in the street outside designated bays, the obstruction of traffic by waiting delivery and servicing vehicles, and an increase in vehicle manoeuvres in which drivers have restricted sight lines. The proposed development will cause a material deterioration of the capacity and free-flow of the immediately surrounding streets and an increased risk in respect of highway safety.

- 6.4 At the pre-application stage and during the life of the Application, LBTH Highways and Transportation Officers raised concerns regarding delivery and servicing. On 9th May 2016, the LBTH Highways and Transportation Officer commented as follows in response to the Application, and in particular the December 2015 Transport Statement:

'Clegg Street and Cinnamon Street are very narrow two way public highways. It is not possible to service any apartment from any of these roads without blocking the public highways. Transport and Highways do not support any proposal to block public highways to service an individual property. At pre-app stage Transport and Highways advised the applicant to provide servicing and delivery arrangement on-site. Transport and Highways cannot accept current proposal. This was our position on the previous application and the applicant has not addressed this issue in this application.'

- 6.5 Notwithstanding those comments, the Appellants persuaded LBTH Highways and Transportation Officers that the proposals were acceptable, and planning officers were similarly persuaded, hence their recommendation to the Committee. Amongst other items, the Appellants relied upon an 8th August 2016 Technical Note from AECOM, authors of the Application Transport Statement. The Technical Note stated that it was anticipated that the 41 residential dwellings would generate two vehicle deliveries per day between them, which would be likely to comprise 'daily courier deliveries, weekly supermarket/grocery deliveries or infrequent removal deliveries'. That figure was based on historic TRAVL data. Combined with estimated dwell times, it underpinned AECOM's conclusion that service and delivery vehicles could be safely accommodated on the surrounding highway network without obstructing traffic.

- 6.6 Although officers were persuaded, the LPA was not and is not.
- 6.7 A recent survey carried out between 13th and 17th June 2017 undertaken by LBTH indicates that the estimate of two vehicle deliveries generated per day by 41 residential units is unrealistic, as the Committee recognised (and as local residents attested in their objections). The results of this survey are attached at Appendix 2. This evidence illustrates the servicing and delivery trips pro rata for the development will be significantly higher than the appellant's assertion. The concerns about adverse impacts of servicing and delivery movements will be explored further and addressed as appropriate in the LPA's Proof of Evidence.
- 6.8 Site A would be the largest of the three sites with its residential entrance on the south side of Cinnamon Street. The north side of Cinnamon Street opposite Site A is lined with parking bays and yellow lines. The expected level of delivery and servicing movements associated with Site A can be expected to result in congestion and obstruction of this part of the Highway.
- 6.9 The retail unit on Wapping High Street will also have to be serviced. Its frontage would be on Wapping High Street, the key east-west route through Wapping and the most trafficked highway route through the Wapping area. The maintenance of the free flow of traffic on Wapping High Street is critical to the highway capacity in the area, but the Application Transport Assessment does not assess the impact of the retail unit because it dismisses it as 'negligible' due to its small size (Transport Statement, 8.1). Saving the unlikely scenario in which the retail unit is serviced by pedestrian means, it will have an impact and the absence of a loading bay for this unit presents the risk of obstruction of this part of Wapping High Street, of itself unacceptable in the context of Core Strategy (2010) SP09 and Managing Development Document (2013) policy DM20.
- 6.10 The arrangements for Sites B and C are also a cause for concern.
- 6.11 Site B would have its residential entrance on Cinnamon Street, close to the junction with Clegg Street, while Site C introduces new three-storey houses fronting Clegg Street. Clegg Street is narrow and has parking bays on its eastern side. Opposite, to the south, Clave Street is also a narrow street. The junction of these three roads is a key location for the immediately surrounding residential properties. The existing Application Site is considered to attract no vehicular

trips. It is considered the delivery and servicing movements for the proposed development would exert significant pressure on the capacity, free flow and safety of this part of the highway.

- 6.12 The Application as proposed, with no on-site vehicular access, will lead to a material quantity of unauthorised parking with adverse consequences for the highway network, increasing congestion and adversely affecting highway safety.
- 6.13 The Application would generate an entitlement to on-street parking for disabled occupants, in this case for 3 spaces. None of these are provided on the Application Site and instead would be provided on-street, on Cinnamon and Clegg Streets, at the cost of the Appellant. This would have the knock-on effect of increased on-street parking stress and reduced opportunities for servicing and delivery requirements. Similarly, whilst the Application is proposed as 'car-free' with no general off-street parking, social housing tenants currently occupying 3-bedroom properties will have the opportunity to transfer their parking permits to the Application Site, adding further to the parking stress in this location.
- 6.14 The Application fails the tests set by relevant Development Plan policy. NPPF paragraph 32 does not offer a definition of 'severe' residual cumulative impacts, but the LPA considers that the addition of the proposed development would likely result in a severe impact in terms of parking stress and obstruction of the public highway.

Reason for Refusal 2 – Heritage and Design

The proposed development, by way of the design, scale, height, and profile, compared to the buildings to be demolished, would appear as a visually incongruous (sic) to the local area and fails to respect the scale, proportions and architecture of the former buildings. As a result, the development would cause less than substantial harm to the character and appearance of the Wapping Wall Conservation Area and would fail to preserve the character of this heritage asset. The harm identified to the designated heritage asset is not outweighed by the public benefits of the scheme.

As a result the proposal is not considered to be sustainable development, contrary to paragraph 14 of the National Planning Policy

Framework (2012), and fails to meet the requirements of Policy SP10 of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Council's adopted Managing Development Document 2013) and government guidance set out in Section 12 of the National Planning Policy Framework (2012) as well as the Wapping Wall Conservation Area Appraisal and Management Guidelines (2009).

- 6.15 The courts have explained that the duty imposed by section 72 of the Listed Buildings Act means that planning decision-makers must give 'considerable importance and weight' to the desirability of preservation or enhancement, which in practice means that harm to a conservation area must be given considerable importance and weight (Glidewell LJ in the *Bath Society* case, re-affirmed in 2014 by the Court of Appeal (Sullivan LJ) in *East Northamptonshire District Council & Ors v SSCLG* (known as the *Barnwell Manor* case) (see Appendix 3 of this Full Statement of Case)
- 6.16 As most relevant to heritage, the Core Strategy Policy SP10(2) objective is that development 'Protect and enhance...' conservation areas and their settings and '... other buildings and areas that are identified through the Conservation Area Character Appraisals and Management Guidelines', whilst Policy SP10 (3) seeks to ensure the preserve or enhancement of the wider built heritage and historic environment of the borough by, inter alia, '(a) promoting and implementing place making across the borough to ensure that the locally distinctive character and context of each place is acknowledged and enhanced' and '(c) encouraging and supporting development that preserves and enhances the heritage value of the immediate and surrounding environment and the wider setting'. Policy SP10 (4) (d) and (e) are also relevant.
- 6.17 Core Strategy Policy SP12 (b) requires development to retain and respect the features that contribute to the heritage, character and local distinctiveness of each place.
- 6.18 Managing Development Document Policy DM24 (1) requires that development be designed to the highest quality standards, incorporating principles of good design, including, '(a) ensuring design is sensitive to and enhances the local character and setting of the development'.

- 6.19 Managing Development Document Policy DM27(1) requires that development 'protect and enhance the borough's heritage assets, their setting and their significance', and DM27(2) provides that applications for the alteration, extension, change of use, or development within a heritage asset will only be approved where, inter alia, '(a) it does not result in an adverse impact on the character, fabric or identity of the heritage asset or its setting; (b) it is appropriate in terms of design, scale, form, detailing and materials in its local context; (c) it enhances or better reveals the significance of the asset or its setting'.
- 6.20 London Plan Policy 7.8, for decision-taking, requires that development '(C) identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate' and that '(D) Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail'.
- 6.21 The Development Plan goes further than section 72 of the Listed Buildings Act, for example because it requires development to protect and enhance a conservation area and its setting. The NPPF (see the summary of Section 12 of the NPPF above) takes a similar approach.
- 6.22 As noted, Sites A and C of the Application Site form part of the Wapping Wall Conservation Area. Site B is located outside the Wapping Wall Conservation Area, but forms part of its immediate setting. Site A also lies in the immediate setting of Wapping Pierhead Conservation Area to the west (note the Wapping Pierhead Conservation Area map in the Application Heritage Appraisal is erroneous).
- 6.23 In respect of the Wapping Wall Conservation Area as a whole, the character appraisal explains that:
- 'This is an area of particular special architectural and historic interest, illustrated by its rich history and significant architecture, dating from the 18th century and earlier. The character and appearance of the area, as described in this appraisal, define its special qualities. There are a few gap sites and some minor inappropriate buildings in the Conservation Area, but overall these have little impact on the qualities that led to its designation.'* (p.9)

- 6.24 The significance of the Wapping Wall Conservation Area essentially embraces the area's unique docklands history and sense of place, with all that entails. Despite the regeneration of the area and the conversion of many of the buildings to residential in the 1980s and 1990s, the special character is still encapsulated and defined by the area's dockland history and former use, and the residual structures associated with the former industrial and supporting commercial uses, which still help to define the townscape and give the conservation area a unique character, identity and sense of place.
- 6.25 The Wapping Wall Conservation Area includes one of London's finest stretches of 19th century riverside wharf and warehouse developments. This takes in the riverside docklands features, but it also embraces the supporting townscape and urban framework behind the river frontage, including the street pattern and the industrial buildings and structures. The area evolved from the 18th century, throughout the 19th century and well into the 20th century, up to the closure of the docks in 1968. Where they survive, all of the structures and features of the whole of this rich history contribute to the distinctiveness, character and interest of the conservation area. Its local distinctiveness includes not only the former warehouses and wharves, but also the cobbled streets, passages, riverside stairs and jetties. The locks and the associated machinery and equipment, including bridges, cranes, pumps and rails, together with the now increasingly rare industrial buildings all contribute to the overall character, authenticity and illustrative historic value of the area.
- 6.26 It is not only the impressiveness of the large scale or architecturally imposing warehouses that makes up the character of the area, but also the modest and the smaller scaled warehouses, and the robustly detailed industrial buildings or structures, which have in the past tended to be overlooked (many have been lost through demolition/redevelopment in the 1980s and 1990s). These more modest structures play an important role in defining the character of the area; they provide a sense of authenticity and represent part of the developmental narrative of this part of the docklands. They stand as testimony to the area's unique industrial past. The organic development of the area is evident in the richness of the multi-layered river frontage, but also the variety of the supporting industrial townscape behind the river frontage. The Character Appraisal and Management Guidelines support the preservation of the surviving industrial buildings and historic building stock.

- 6.27 In respect of the Application Site in particular, the Character Appraisal says this of relevance:

'The western boundary of the Conservation Area is marked by Wapping Underground Station, on London's first under-river train link to the south bank. The tunnel's vent shaft and surrounding buildings contribute to the character of the area. Their relatively low scale provides visual relief from the corridor of buildings extending either side along Wapping High Street.' (p.8)

- 6.28 The existing relatively low-level scale of development on the Application Site is recorded on early 20th century oblique aerial photos. These illustrate that the built form in this area was historically low, long before the advent of the post-war redevelopment and the clearance of most of the buildings on Site A. The break or interruption in the height of the warehouses in the location of the Application Site is historically authentic and serves to illustrate a unique part of the character and development of the conservation area. As the Character Appraisal notes, the Application Site (Site A in particular) provides welcome relief from the 'corridor' of taller development further east and west on Wapping High Street.

- 6.29 Site C marks the start of the Wapping Wall Conservation Area from Clegg Street and Prusom Street and, together with Site B, effectively announces that transition through the pair of early 20th century industrial buildings on either side of the narrow, cobbled Clegg Street. The way in which the historic industrial buildings, flanking and defining the two sides of Clegg Street, are seen and experienced together in views along Clegg Street/Clave Street and Cinnamon Street clearly indicates a common experience and a sense of group value. Although Site B lies immediately outside the conservation area, the building on Site B is not experienced as separate from the building on Site C. They are experienced as part and parcel of the same street scenes, and together the two buildings define a residual pocket of industrial architecture. For this reason in particular, the building on Site B makes a positive contribution to the setting and significance of the conservation area.

- 6.30 All three Sites allow for an understanding of the industrial development of the area, as the history of the London Docklands continued well into the 20th century. This unique development is represented by all of the buildings that constitute its

rich history, including the increasingly rare early-mid 20th century buildings. The extant buildings on Site A and the buildings on Sites B and C all possess features of architectural interest and attributes of historic interest.

Demolition

- 6.31 In relation to the demolition proposed by the Application, the buildings on Sites B and C that are to be demolished clearly represent part of the history and development of the area. Despite being relatively modest by comparison with nearby buildings of similar age such as Gun Wharves or the E, F and G Warehouse, these are unique structures in the context of the Wapping Wall Conservation Area and have illustrative historic value that belies their simple forms and modest scale. Historic England's Conservation Principles explain how historical value derives from the ways in which past events, people, and aspects of life can be connected to the present through a building or place (paragraph 39) and the concept of illustrative value (paragraph 41) is relevant here to explain the contribution of the existing structures on Sites B and C to the significance of the conservation area.
- 6.32 In relation to Site B, the existing building range is constructed in yellow stock bricks on an engineering brick plinth, with the elevations in 'panel and pier' construction that is typical of late 19th and early 20th century warehouses and industrial buildings. The building displays sparse and robust detailing, illustrative of industrial architecture of the period. Some of the original steel framed Crittall windows, characteristic of the 1920s and 1930s, have survived, although those in the former office/ancillary building have been replaced. It contributes to the significance of the Wapping Wall Conservation Area and, together with Site C, forms a distinctive and informative 'gateway' to the Wapping Wall Conservation Area from Prusom Street and Clegg Street. There are examples nearby (such as Baltic Court) of successful conversions of this type of building.
- 6.33 In relation to Site C, although the existing building is more modest and plain than the Site B building, it reflects its age and type, as well as illustrating the historic development of the area. The building has been built with considered attention to detail, despite representing a robust industrial building type. This includes the arched window/door heads, the bull-nosed bricks to the corners, and the way in which the downpipe is recessed into the lower part of the west elevation (the

latter two must have been at least in part for protection/robustness and illustrate the tough industrial environment when the building was built). The now somewhat dilapidated timber sliding door on the south elevation is a typical and increasingly rare docklands feature. Together with Site B, the existing building on Site C forms a distinctive and informative 'gateway' to the Wapping Wall Conservation Area from Prusom Street and Clegg Street. It makes a positive contribution to the Conservation Area as part of its industrial legacy and as a unique and rare element that illustrates something of the modest development, in contrast with the typical larger scale and more imposing warehouses of the same broad date.

- 6.34 The positive contribution that the buildings on Sites B and C make to the Wapping Wall Conservation Area/its setting mean that as the Application proposes their wholesale removal, to be acceptable in heritage terms the development that replaces these buildings must overcome the harm to heritage caused by their demolition. The LPA considers that the Application proposals fail that test.

The proposed development

- 6.35 The proposed development represents a significant change to the character, appearance and setting of this part of the Wapping Wall Conservation Area, which will be harmful to the significance of the designated heritage asset.
- 6.36 In respect of Site A, the retention and modification of the gable end facades on Wapping High Street would not be harmful. However, the proposed five-storey element within Site A would be an incongruous addition that removes much of the 'relief' Site A presently brings to the corridor of built form either side to east and west. Although the photographic visualisations within the Application do not show it, this element will be clearly visible from the south side of Wapping High Street opposite, including for those leaving Wapping Station and waiting at the bus stop, and for some distance eastwards along Wapping High Street.
- 6.37 The five-storey element would rise an approximately two-storey equivalent height above Falconet Court to west, presently the tallest building within this urban block. To the east the existing development falls in height. The existing site frontage is two-storeys and Baltic Court on the corner of Clave Street is a three-storey building. The contrast in heights caused by the proposed five-storey

element mean that it will appear as an awkward and overly dominant addition when viewed from Wapping High Street, sitting above its immediate neighbours. It will also disrupt the gradual step up of the built form to the west.

- 6.38 To the rear of Site A, the high blank wall above the ventilation shaft/void has no functional purpose to explain it (the ventilation shaft/void requires no more than what is there at present). Despite the attempt to make this recessed area, addressed by three blank walls of two to three storeys in height, more palatable through the use of brick detailing, it is an unattractive and overbearing addition to the conservation area that would demonstrably detract from the character and appearance of the area, and the quality of the townscape. See the visualisation at p.67 of the Application Design and Access Statement. The four storey development on Cinnamon Street itself further removes the 'relief' that Site A presently brings to the corridor of built form either side to east and west, and it is in stark contrast with the historically lower warehouses in this location, the scars of which can still be seen on the western wall of the Application Site.
- 6.39 In relation to Site A, the acknowledged benefit to the Wapping Wall Conservation Area through the redevelopment of a site that is presently largely derelict and the restoration of the gabled facades on Wapping High Street is outweighed by the harm to the conservation area.
- 6.40 In relation to Site B, the existing building, which makes a positive contribution to the setting of the Conservation Area, will be replaced with an uncharacteristic stepped-back built form, which awkwardly eschews the corner and instead introduces an alien townscape response. This will cause harm.
- 6.41 Whilst the existing Site B building reveals and enhances the significance of the adjacent conservation area, the proposed building does neither. It presents a confused design, lacking a coherent design rationale, and bland elevational treatment that fails to respond appropriately to the special character of the immediately adjoining conservation area. It also fails to display the characteristics of regularity and rhythm in its design, detailing and appearance which characterise the surrounding buildings in the conservation area. The impact of this compromised approach to the design of the proposed building is also exacerbated by the change in scale of the proposal compared to lower scale development of the existing early 20th century building.

- 6.42 In so far as it responds to anything, the scale of the proposed building responds to the scale of the adjacent social housing blocks, which post-date the existing building and which replaced the warehouses that historically stood in this location. The social housing blocks have resulted in a loss of the historic docklands character of this part of the conservation area's setting, and the appeal scheme would serve to compound that loss by further removing any sense of a residual industrial setting in this location. There are no benefits, in heritage terms, in relation to the proposal for Site B that would counterweigh the harm caused through the loss of the existing building.
- 6.43 Although the elevational treatment of the replacement building on Site C is more coherent than that of Site B, the block has an awkward, stepped form that will be prominently displayed on the south elevation from within the conservation area in channelled views along Clave Street, and also from Prusom Street. This is not as readily visible in the submitted visualisations, although it can be seen at an angle on the view at p.53 of the submitted Townscape and Heritage Statement. The same view shows another blind brick wall to the rear of the block, on its eastern flank, which rises over two storeys in height above the retained party wall and above the height of the existing building on Site C, the overbearing effect of which is not negated or relieved by the use of brick detailing. There are unresolved and inappropriate aspects to the design of the replacement building, which does not in itself, enhance the character of the conservation area. There are no heritage benefits in relation to the proposal for Site C that would counterweigh the harm caused by the loss of the existing building.
- 6.44 The combined effect of the proposed buildings on Sites B and C will also fail to preserve and enhance the Wapping Wall Conservation Area by comparison with the industrial 'gateway' effect achieved by the existing buildings.
- 6.45 As with Reason for Refusal (1), officers voiced significant concerns regarding the Application proposals. This is reflected in the comments from the Place Shaping Team (Agnieszka Zimnicka), which certainly do not indicate an unequivocal endorsement of, or support for the scheme, or an uncritical acceptance of the proposed design. Again, although officers were eventually persuaded, the LPA was not and is not.

- 6.46 The Application is contrary to the Development Plan.
- 6.47 In addition, the Application is contrary to the NPPF, Section 12, in particular paragraph 134, in respect of which the LPA has given careful consideration to the balancing exercise. The Application proposals represent less than substantial harm to the Wapping Wall Conservation Area, albeit there is harm from a number of features of the proposals. In relation to the public benefits of the proposal, the LPA acknowledges that these include the redevelopment of the largely derelict Site A and restoration of the Site A gabled frontage on Wapping High Street (albeit this has already been allowed for when assessing the balance of heritage benefit/harm in relation to Site A above), and provision of additional residential units, including affordable housing. However, those benefits should not be overstated, and it must be recognised that elements of the proposed accommodation fall short of the Government's aspiration of 'high quality' homes and what the NPPF **and** the Development Plan seek to secure in terms of well-designed residential accommodation, in particular at Site A.
- 6.48 The proposed accommodation at Site A is focussed around a single courtyard space with duplex units over ground and first floor, and apartments above. 19 of the 24 units arranged around this courtyard are single aspect, a significant proportion of which would be north or north-east aspect. An assessment carried out by the LPA's daylight and sunlight expert (see Appendix 4) reveals of the 14 living/kitchen/diners around this courtyard, 13 would fail to achieve (and in many cases fail significantly) to achieve the recommended levels of 25% Annual Probable Sunlight Hours ("APSH") and 5% APSH in the winter months. The arrangement of the massing is such that the aspects of the dwellings would be directed at one another, with particularly close relationships between adjoining corner units. These problems would be most acute for the proposed ground/first floor units that surround the courtyard space. There would be 7 living/diners at ground floor, all single aspect, and all would fail to achieve the recommended sunlight levels by a significant degree. The outlook for each of these units is directly onto the shared courtyard, serving as both communal amenity and playspace, without the benefit of any meaningful defensible space. In addition, 2 of the living/diners to the east of the courtyard space would fail significantly to achieve the recommended Annual Daylight Factor ("ADF") level for living rooms. These matters reflect a pattern of development for Site A which relies on a

predominantly single aspect layout, generating a sense of enclosure and lack of privacy that represents a poor form of development.

- 6.49 The LPA considers that if even if the proposals were free of these problems, the harm to the designated heritage asset would still outweigh the public benefits. However, the fact of these problems further tips the balance against permission.
- 6.50 There is (rightly) no suggestion by the Appellants in their Statement of Case that the Application proposals represent the optimum viable use, or that the existing buildings on Sites B or C are incapable of retention and re-use.

Reason for Refusal 3 – Daylight and Sunlight Impacts

The proposed development will have unacceptable adverse impact on the amenity of occupiers of nearby properties due to a detrimental reduction in daylighting and sunlighting conditions of neighbouring residential properties located within Ross House and 10-12 Clave Street. The proposals are therefore contrary to Policy SP10(4) of the Council's adopted Core Strategy (2010) and Policy DM25 of the Council's adopted Managing Development Document (2013) require development to protect, and where possible improve, the amenity of existing and future residents and buildings occupants, together with the amenity of the surrounding public realm.

- 6.51 The Council's adopted Core Strategy (2010) Policy SP10 (4) (a) seeks to ensure that development 'protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight)'. This priority is reflected in the Council's Managing Development Document (2013) Policy DM25 (1)(d), which asks that development seek to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm by, amongst other things, not resulting in an unacceptable material deterioration of the sunlighting and daylighting conditions of surrounding development including habitable rooms of residential dwellings. The supporting text explains (at paragraph 25.5) that the impact of development is to be assessed following the

methodology of the Building Research Establishment (BRE) 'Site layout planning for daylight and sunlight: A good practice guide' ("the BRE Guide").

- 6.52 The impact on the daylight received by neighbouring properties at Ross House and 10-12 Clave Street is of particular concern.
- 6.53 The BRE Guide sets out two daylight tests for assessing the impact of new development upon existing neighbouring properties. The first is the vertical sky component ("VSC") test, which measures skylight potential at the centre of the affected window. The second is the daylight distribution test, where one assesses the penetration of light within the affected room. The BRE Guide confirms that both tests must produce favourable results if one is to conclude that 'daylighting is unlikely to be significantly affected'.
- 6.54 The proposed development would significantly affect daylighting at both Ross House and on Clave Street.
- 6.55 Ross House is a five-storey residential apartment building on the opposite side of Cinnamon Street to Site A. The building has living rooms and bedrooms with their aspect south over Cinnamon Street. The building line is set back from the pavement edge of Cinnamon Street by approximately 7m. The north frontage has bedrooms, kitchens and bathrooms, and the access to the apartments.
- 6.56 A number of southern aspect habitable rooms at Ross House would experience a material worsening of their daylight to a degree that would be significant for occupiers. A number of windows would experience a reduction in VSC below that which can reasonably offer adequate light. In terms of daylight distribution, a number of windows would experience material reductions in daylight. The daylight distribution failings generally correlate with VSC failings, so those windows with the greatest loss of VSC also suffer material reduction in daylight distribution, though the correlation is not exact.
- 6.57 In relation to 10-12 Clave Street, these are three-storey residential properties with a westerly aspect towards Site A.

- 6.58 The proposed development would significantly affect daylighting at 12 Clave Street, a three-storey end-of-terrace residential property located at the junction of Cinnamon and Clegg Streets. The property enjoys a large ground floor west facing habitable room that opens onto a private outside amenity. The proposals would lead to a material loss of daylight to the ground floor habitable room.
- 6.59 In relation to 10 Clave Street, the LPA has now established that whereas the Appellants' consultants, Point 2, assumed a habitable room at ground floor level, this is in fact a bathroom and staircase, so outside the BRE Guide. The LPA does not propose to pursue a daylighting objection in relation to 10 Clave Street.
- 6.60 In relation to sunlight impacts, the proposed development would cause a reduction in sunlight levels at both Ross House and 10-12 Clave Street. In the absence of the daylight impacts set out above, the LPA considers this would be insufficient to justify refusal. However, in the context of the daylight impacts set out above, the loss of sunlight is a compounding factor that causes further harm to existing residential amenity.
- 6.61 The Application is contrary to the Development Plan.
- 6.62 It is also the case that, assessed against the NPPF, the way the proposals have evolved falls some way below the standard necessary to benefit from the favourable consideration envisaged by NPPF paragraph 66.

Planning Balance

- 6.63 In assessing this Application, the LPA has had regard to both the Development Plan and other material considerations. The LPA has had particular regard to its statutory duty pursuant to section 72 of the Listed Buildings Act and to the presumption in favour of sustainable development that runs through all levels of planning policy, including the NPPF.
- 6.64 The proposals the subject of the Application include a number of benefits. The Application would make a contribution to the supply of housing in the Borough, including the provision of affordable housing. The delivery of the proposed development would also bring back into use a site (Site A) which is vacant/derelict following the London Overground works approved in 2008.

- 6.65 However, the Application achieves the recognised benefits through a development that would significantly change the scale, character and appearance of the existing Application Site and this part of the Wapping Wall Conservation Area and its setting, for the worst, that would likely exacerbate existing parking stress in surrounding streets and cause traffic obstruction, and that would adversely affecting existing levels of daylight and sunlight at neighbouring residential properties. In relation to the harm to the Wapping Wall Conservation Area and its setting, the LPA also considers that the Site B and C buildings (in particular the Site B building) could be successfully re-used rather than demolished.
- 6.66 In relation to the benefits, these should not be overstated, and the LPA does not ignore the fact that the Application would not deliver “high quality” accommodation across the 41 residential units, in particular due to problems within the design of Site A. These have been outlined above in the context of the balancing exercise required by NPPF paragraph 134, which comments are to be taken as repeated here.
- 6.67 The LPA does not challenge the principle of development and the principle of residential-led development across the Application Site is, of course, agreed. However, the LPA identifies key failings that cause unacceptable harm. The harm that has led the LPA to advance the three Reasons for Refusal is addressed above and is to be taken as repeated here.
- 6.68 In striking the planning balance between the benefits of the Application and the harm caused, the LPA considers that the benefits are comfortably outweighed by the harm. There is no suggestion that the proposed development is the only way in which the Application Site could be viably developed for residential-led mixed use development, and the LPA has no reason to believe that a more appropriate form of development could not be achieved. The LPA acknowledges that a change in the development proposals could result in a change in the supply of housing from the Application Site and a change to the level of affordable housing that can viably be supported, but neither are a reason for a grant of permission despite the harm.
- 6.69 It is (rightly) no part of the Appellants’ case that LBTH is failing in relation to the NPPF’s requirement for a five-year supply of housing plus buffer. The LPA will update the Inquiry in this regard and present evidence to demonstrate it

continues to meet that requirement. Further, in the event that LBTH is found unable to demonstrate such a supply, the recent *Hopkins Homes v Suffolk Coastal District Council* (see Appendix 3) litigation has made clear that even where the NPPF states that development plan policy is to be treated as 'out of date', the weight to be attached to policy and other material considerations remains a matter for the decision-maker, in light of the section 38(6) statutory test. As such, even if the LPA was unable to demonstrate a five year supply (plus buffer), it would still take the view that the benefits of the proposed development would be outweighed by the harm.

7. Response to Appellants' Statement of Case

- 7.1 The LPA's response to the Appellants' Full Statement of Case (in accordance with paragraph J.3.2 of the Procedural Guide) should be apparent from the Reasons for Refusal and its case as set out above.
- 7.2 Generally, the Appellants attach great, arguably overwhelming, importance to the fact that the Application had the support of officers. It is of course common ground that the decision to refuse planning permission was contrary to officer advice, but officers are not the LPA. The Committee had due regard to the officer advice, but it was for the Committee, acting for and as the LPA, to make the decision. It is a matter of record that the Application was considered at no fewer than three Committee meetings, including a dedicated site visit for the Committee, and that local Councillors with the benefit of considerable local experience raised cogent objection to the Application. Officers are not infallible and whilst the LPA has the greatest respect for their advice, in this case the officer advice was wrong.
- 7.3 The Appellants' Full Statement of Case proceeds on the basis that as the Application has the support of their own consultants and had the support of LBTH officers, it follows that permission should be granted. That is a false premise.
- 7.4 It is also the case that investigation of officers' dealings with the Application demonstrates that officers in fact had serious misgivings, at least initially, in relation to the same points that concerned the Committee. Officers were persuaded, but the LPA was not and is not.
- 7.5 In respect of Reason for Refusal (1), Servicing and Vehicle Movements, the Appellants rely upon the support of their own transport consultants, AECOM, and of LBTH officers, and state at paragraph 5.11 of their Full Statement of Case that this reason for refusal is 'invalid and lacking any technical justification'. As set out in Section 6 above, the area is notable for the importance of Wapping High Street as a transport artery, for the narrowness of the surrounding streets and for the levels of parking stress. The LPA does not accept a key tenet of the Appellants' 'technical' case, that a maximum of 2 delivery trips per day is an

appropriate figure for development of this scale and nature or that the impact of the Site A retail unit is so 'negligible' it does not require assessment. The LPA's case is set out above.

- 7.6 In respect of Reason for Refusal (2), the Appellants again rely upon complaint that the LPA's determination is inconsistent with the advice of the Appellants' specialist heritage advisers (Montagu Evans) and LBTH officers. At paragraph 5.18 the Appellants allege that Members of the Committee 'disregarded' the officer advice and 'failed to recognise the clear public benefit' of the proposed development. On the contrary, the LPA had due regard to officer advice and gave the Application anxious consideration through multiple Committee meetings and also a site visit. The LPA gave careful consideration to the benefits of the Application, mindful of its statutory duties, including its statutory duty pursuant to section 72 of the Listed Buildings Act. The LPA's case is set out above.
- 7.7 In respect of Reason for Refusal (3), the Appellants' Full Statement of Case disregards the tests set by the Development Plan, which make clear that losses to existing residential dwellings of the kind that would occur here may of themselves justify refusal. The LPA's case in this respect is set out above. The Appellants' Full Statement of Case also seeks to rely upon the 'urban historic setting characterised by a tight urban grain and a close existing relationship between buildings' (paragraph 5.27) as justifying the losses. However, the historic character of the Application Site is low-level, offering relief as noted in the Wapping Wall Conservation Area Character Appraisal, and it is misleading to suggest that historically the residential units impacted at Ross House and 10-12 Clave Street would have suffered the losses that the proposed development will cause. It is also noted that the Appellants' Full Statement of Case at paragraph 5.25 misrepresents the 'Council's review' carried out by BRE, which found that 'Overall the loss of daylight to Ross House is classified as moderate adverse' (paragraph 3.7.3), rather than 'minor adverse', as paragraph 5.25 of the Appellants' Full Statement of Case implies.

8 Conditions

- 8.1 The LPA will include a list of suggested conditions in the Statement of Common Ground, to the extent that is agreed. The LPA reserves the right in evidence to deal with the conditions in detail at the Inquiry as required. The LPA intends to seek advice and input from its expert witnesses in the drafting of such conditions.

9. Planning Obligations

- 9.1 The LPA intends to complete negotiations on a S106 legal agreement with the appellants in the case the Inspector is minded to allow the appeal. The Heads of Terms expected to contemplate the following:

- 9.2 Financial contributions:

- a) construction phase employment training
- b) end-user phase employment training
- c) carbon off-setting
- d) the cost of three disabled on street car parking spaces
- e) Monitoring fee

- 9.3 Non-financial contributions:

- a) Affordable Housing
- b) Access to employment
 - 20% local procurement
 - 20% local labour in construction
- c) Apprenticeships delivered during the construction phase
- d) Car Parking Permit Free
- e) Compliance with the Code of Construction Practice

10. Document List

- 10.1 The LPA will work with the Appellant to prepare a shared set of core documents that will be set out in full within the Statement of Common Ground. The set of drawings shall be set out in the Statement of Common Ground and should accord with the set on the LPA's Decision Notice.

- 10.2 The Appellant has prepared unilaterally a draft Statement of Common Ground. While it remains a work in progress the LPA are confident a shared set of core documents can be prepared. The LPA will also work with the Appellant to provide the core document in a shared hard copy format to aid time efficiency and ease of navigation through the documents at the Inquiry.
- 10.3 Reference will be made to the previous documents referred to in the LPA's Statement of Case and listed as drawings and Documentation on the Decision Notice Refusal. The LPA reserves the right to refer to adduce such other documents as are material.
- 10.4. The below documents are also attached within the Appendices of this Statement of Case. Documents that have already been included within the LPA's Appeal Questionnaire are not duplicated here.
- Appendix 1: LBTH Parking Stress Surveys 2014 and 2010.
 - Appendix 2: LBTH Delivery and Servicing Surveys and Project Brief, June 2017
 - Appendix 3: Bath Society v Secretary of State for the Environment & Ors [1991]; East Northamptonshire DC & Ors v SSCLG [2014]; Hopkins Homes v SSCLG [2015]; Hopkins Homes v SSCLG [2017].
 - Appendix 4: Daylight and Sunlight Assessment of Site A.