



## Appeal Decision

Inquiry opened on 1 March 2022

Site visit made on 21 February 2022

**by Paul Jackson B Arch (Hons) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

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### Appeal Ref: APP/M9584/W/21/3283799

### Land at the east of Hancock Road and west of the River Lea Navigation, Hancock Road, Bromley by Bow E3 3DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Southern Housing Group Limited against the decision of the London Legacy Development Corporation.
  - The application Ref 19/00477/FUL, dated 17 October 2019, was refused by notice dated 13 April 2021.
  - The development proposed is the third phase of development within Bow River Village, including three buildings ranging in height from 2 to 26 storeys plus a basement; to provide 435 residential dwellings comprising a mix of 1, 2 and 3 bedrooms, 2,750 sqm (GIA) flexible commercial floorspace (Use Class B1), 901 sqm (GIA) flexible commercial/community floorspace (Use Class B1, D1) and 106 sqm (GIA) flexible retail (A1/A3). Landscaped public realm, play provision access, servicing, car parking and cycle parking were part of the proposed development, as well as provision for the landing of a pedestrian and cycle bridge connecting to Sugar House Island.
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### Preliminary matters

1. The above description is not the same as that on the application form but is that agreed later by the Corporation and as recorded in the minutes of the Planning Decisions Committee. I have considered the appeal accordingly.
2. The Inquiry sat for 8 days, adjourning on 11 March. Closing submissions were heard on 20 April 2022.

### Decision

3. The appeal is dismissed.

### Main Issues

4. The main issues are as follows:
  - The effect of the proposed development on the character and appearance of the area;
  - Whether the proposed dwelling mix and mix of affordable housing would be acceptable;

- The effect on the heritage significance of the Three Mills Conservation Area and the setting of listed buildings within it; and the effect on the setting of the How Memorial Gateway, which is listed Grade II;
- The effect on the living conditions of local occupiers in terms of outlook, privacy and natural light;
- Whether the quality of private and public amenity space would be acceptable;
- Whether the proportion of green space would be in accordance with development plan policy; and
- Whether the servicing, access, waste storage and collection arrangements would be adequate, taking into account the adjacent operational wharf.

## **Reasons**

### *Policy background*

5. The development plan for the area comprises the London Plan (LonP) of 2021 and the London Legacy Development Corporation (LLDC) Local Plan 2020-2036 (LP) adopted in July 2020. The site lies within a LonP Opportunity Area. The LP sets out the Corporation's vision and strategy for the sustainable development of its area as a whole, including the general amount, type and location of new development it considers could take place and the policies to which applications for planning permission should conform in order to meet the objectives of the LP, which are to promote and deliver physical, social, economic and environmental regeneration of the Olympic Park and its surrounding area. At the time of the publication of the LP, the emerging LonP had completed its Examination in Public and the Mayor had made available the 'Intend to Publish' version. Relevant policies of the LP referred to are agreed to be consistent with the LonP.
6. The vision of the Corporation is set out in the LP in a number of bullet points. The most relevant include establishing and maintaining locally distinctive neighbourhoods which meet housing needs, while providing excellent and easily accessible social infrastructure; creating a high-quality built and natural environment that integrates new development with waterways, green space and the historic environment; and delivering a smart, sustainable and healthy place to live and work.
7. LP policy BN.1 advises that development proposals will be considered acceptable if they respond to place in accordance with certain principles, including respecting existing development typologies, including those of heritage value, and drawing design cues from the form of the area in terms of its layout (urban structure and grain) and scale (height and massing); enhancing the architectural and historic setting; considering how proposed uses integrate with, and relate to, both public and private space; and minimising impact within proposed and upon existing development, by preventing overshadowing, mitigating noise and air pollution and an unacceptable provision/loss of sunlight, daylight or privacy.
8. The overall vision for sub-area 4, comprising Bromley-by-Bow, Pudding Mill, Sugar House Lane and Mill Meads, is that this will become an area of new business and residential communities that find a focus at a new District Centre at Bromley-by-Bow and a new Local Centre at Pudding Mill. The Bromley-by-

Bow District Centre (as envisaged in Annex 1 of the LonP) is clearly designated in various LP documents<sup>1</sup> near the existing Bromley-by-Bow underground station which is to be improved. The two Centres are intended to provide a focus for local shops, services and community activities, surrounded by new family and affordable homes, to create a network of distinctive and mixed urban districts.

9. The guidance includes advice on prevailing building heights and generally expected heights. Where development is proposed above those heights, then policy on tall buildings BN.5 will apply. This says that outside of the Centre boundaries, unless a location for tall buildings is identified within a site allocation, more than minor exceedance of the prevailing or generally expected height identified in tables 10, 11, 12 and 13 will need to demonstrate that, in addition to meeting the criteria in BN.5 and policies BN.1 and BN.4 which relate to context and quality, the proposal would achieve significant additional public benefit. Subject to these considerations, tall buildings will be considered acceptable where they exhibit exceptionally good design, demonstrating this through independent design review undertaken by a panel appointed by the Corporation. The policy also sets out specific criteria that such tall buildings must meet. In concert with BN.5, policy D9 of the LonP advises that tall buildings should only be developed in locations that are identified as suitable in development plans. It identifies further potential visual and functional impacts that tall buildings need to address.
10. The Bromley-by-Bow Supplementary Planning Document (SPD) adopted in 2017 sets out the means by which the Corporation intends to transform the area extending from the A11/A12 interchange in a southerly direction to the Bromley-by-Bow underground station, including the new District Centre. The SPD includes the expectation that planning applications for development within the SPD area comply with the policy requirements set out in the LP and follow the guidance and framework set by the SPD. It goes on to say that any variation in approach taken by individual planning applications to the framework will need to be justified by demonstrating that this does not compromise delivery of the development and infrastructure components that the site allocation and SPD identify for the Bromley-by-Bow South part of the site allocation as a whole. Bromley-by-Bow South comprises the key southern part of the allocation where the District Centre is envisaged. The advice in the SPD follows careful analysis and consultation and attracts substantial weight.

#### *Character and appearance*

11. The site of just over 1 hectare forms the northernmost part of LP Site Allocation SA4.1 *Bromley-by-Bow* and comprises a roughly triangular plot between the A12 Blackwall Tunnel northern approach dual carriageway which passes immediately to the south west and the River Lea Navigation to the north east. Immediately to the north west, at the point of the triangle, there is a major 3-level transport interchange between the A12 (6 lanes overall at this point) and the A11 Stratford High Street, a dual carriageway leading from London towards Romford and beyond. Bow Free Wharf on the River Lea forms the north eastern boundary to the site. The towpath is a popular recreational route for pedestrians and cyclists and the wharf is used for commercial purposes including boat maintenance, boat launching and removal, removal of

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<sup>1</sup> LP Fig 3 p19, Fig 4 p31, Fig 11 p80, Maps 5 and 8 in the SPD

rubbish and regular weed removal by the Canal and River Trust (CRT). The site is split by Global Approach, a sloping road providing access to the wharf which is owned by Tower Hamlets Borough Council (THBC). The portion of the site north west of Global Approach immediately next to the roundabout is acknowledged to be undevelopable by virtue of high voltage underground cables. On the opposite side of the river is the new neighbourhood of Sugar House Lane, currently being built out with a mixture of mainly mid-rise mixed development.

12. Drawing from the Legacy Corporation Characterisation Study (CS) of April 2019, the character of the area is essentially mixed and derives from historical use of the river for industry, development along major roads and railways, and large areas of associated housing, all subject to enemy action in World War II and subsequent regeneration. The prevailing low to mid-rise nature of a great deal of largely older housing development to the west of the site in the LBTH around Bromley High Street and Bruce Road is evident seen from the A12 and A11. Development immediately west opposite the site at Alton House is 5 storeys, other nearby housing is mainly 2 storeys high. Trees on public land and on what remains of the former St Leonard's Priory and in domestic gardens, add visual interest.
13. The highway network in the form of the A12 separates Tower Hamlets from the LLDC area in administrative terms but also separates older industrial development on the banks of the river from areas of mainly housing. The A12 is a particularly highly trafficked and hostile environment, not helped by being difficult and inconvenient for pedestrians to cross. The A11 Stratford High Street dual carriageway similarly separates the Pudding Mill site allocation SA4.3 from Sugar House Lane SA4.2 on the opposite side of the Lea. Stratford High Street is notable for fairly regularly spaced much taller buildings leading from the 34 storey Sky View Tower at the interchange towards the Stratford Metropolitan Centre. Allocations SA4.1, SA4.2 and SA4.3 have different characteristics, as set out in the LP, with different generally expected heights for new development set out in table 13 (page 247).
14. Future development under construction opposite the site in the Sugar House Lane scheme comprises buildings of generally 5-8 storeys high. Accent or marker buildings of 12 and 16 storeys to assist with legibility are to be located at future river crossing points in accordance with the SPD.
15. The proposed development would represent the final, phase 3 of 'Bow River Village' (BRV) by the same developer. The first 2 phases comprise residential and flexible business space of up to 9 storeys<sup>2</sup> facing the A12 and adjoining the appeal site on its southeastern edge. The wide and busy A12 and nearby interchange, in contrast to the relatively quiet river Lea frontage, mean that the site is at a point of transition in townscape character. However, the proposed development, the main elements of which would be three brick faced towers of 26 storeys, to all intents and purposes identical, would be a formidably prominent feature. The combination of mass and height, reinforced by additional built form of up to 7 storeys between the blocks and a commercial plinth, with unreflective brick facing materials, and proximity to the A12 and the river, would appear as unusually assertive built form contrasting markedly with its surroundings. There are no other nearby concentrations of

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<sup>2</sup> 9 storeys along Hancock Road (A12). Other blocks towards the river have predominantly 6/7 storeys with higher levels set back

- tall blocks except at Bromley-by-Bow, where there is greater variety of height, form and materials.
16. Development of the Bromley-by-Bow District Centre has progressed significantly, with prominent buildings up to 23-26 storeys clustered around the station, some just outside the Corporation boundary. The SPD envisages retail floor space here of up to 50,000 square metres (sqm). The cluster is a noticeable and prominent feature in the townscape, commensurate with its designation as a transport, retail and community focus in accordance with the LP and SPD. In contrast, there would be no similar facilities on or even near near the appeal site that would make the site worthy of drawing a comparably dramatic degree of attention in terms of built form. The bulk of the proposal would compete with the District Centre yet would have no community facilities or any other value as a destination.
  17. The appellant draws attention to the adjacent interchange and breadth and extent of the road network as justification for a much higher density of development, but the interchange is simply a roundabout with an underpass and flyover, very unsympathetic to pedestrians and cyclists. It is not a place where people normally congregate or pause to enjoy the view. Whilst undeniably important in transport terms, it is not especially conspicuous in the townscape seen from the river, the towpath, from Bow Church, the flyover or the A12 underpass. Moreover, the proposed towers would not be close to the interchange in the way that the Sky View Tower is, being separated from it by the undevelopable triangular part of the site beyond Global Approach. Moreover, to my mind, the 26 storey west tower and south tower, which would be closer to the A12 than the existing 9 storey BRV2 scheme, would only serve to enclose and reinforce an already hostile urban environment. This would be very different from other situations discussed at the Inquiry where tall towers are set in parkland or, for instance, in tree-lined residential streets.
  18. From most viewpoints, it is difficult to appreciate that the site is triangular in plan. It follows that the idea that it needs to be reinforced in the townscape by emphasising a 'prow' or 'arrowhead' are misplaced. In any event, if this was the intention, the scheme falls short: the northernmost block WC1 would not be any different in height or plan form to the other 2 blocks. In views from the south, block SC1 would appear more prominent.
  19. Table 13 of the SPD indicates a generally expected height for development in sub-area SA4.1 of 18m (a height already exceeded at BRV1 and 2). The proposed 3 towers of around 99 metres (m) high on this site would, in principle, conflict with the aims of LP policy and advice in SPD. They would form a conspicuous mass, out of character with the emerging grain of sub-area 4, in which higher development is intended to be restricted, in general, to district and local centres, with certain defined exceptions, none of which apply to the appeal site.
  20. The A12/A11 junction is in any case well marked by the adjacent Sky View Tower in long and medium views and this is linked visually with a row of taller towers along the Stratford High Street frontage with the Bow back river behind. In conjunction with this 'march of towers', the southern edge of Stratford High Street is envisaged as a cluster of commercial, retail and hotel uses as part of the Sugar House Island scheme. In the context of this strong townscape concept along the High Street and the Bow District Centre to the south, the

- height and bulk of the proposed 3 towers would appear inconsistent and out of place, disturbing the perception of a logical hierarchy of places and functions.
21. The Corporation points out that the proposed scheme would hide the Sky View Tower for motorists approaching from the south at a critical point where they would need to make a decision to remain on the central dual carriageway or move to the off ramp. I accept that whether by design or accident, for at least 0.5 of a kilometre on the A12 the Sky View Tower performs a valuable waymarking function for northbound drivers. I do not doubt that in time, the appeal scheme would become familiar to drivers too but it would interfere with views of the taller Sky View Tower which currently is a conspicuous feature very much on its own in these views. Certainly the appeal scheme is unnecessary as a waymarking aid. More fundamentally, the LP sets out the plan for the area which does not include such unusually dense and high built form where there is no associated district or local centre. That is not to say that a tall building on the site could never be justified on this site in principle and indeed the LP does not exclude tall buildings, if they meet the criteria set out.
  22. The three towers would be located as far as possible near the corners of the roughly triangular site to maximise views and daylight. Despite that, they would coalesce in several views including from the A12 to the north and south and from much of the proposed new key bridge across the River Lea linking the site with Sugar House Lane. Whilst a passer-by would be aware that there are gaps between the buildings because of their disposition, the overall effect would be to block out a significant part of the sky and overwhelm this part of the river, some of the Sugar House Lane area and the adjacent BRV2 development. I conclude that the scheme would not reinforce the spatial hierarchy of the local and wider context or aid legibility and wayfinding. In short, the towers would be oppressive, too tall and close together for the setting, despite the relative width of the river and the A12.
  23. In terms of design concept in response to the brief as set out by the architects, the scheme demonstrates thoughtful design in terms of siting, articulation of the facades on plan and the overall quality of internal spaces. I agree that given the constraints of the space remaining between the blocks, the landscaping would be innovative in the way it would be multi-functional, but this is a virtue borne of a necessity that has arisen from the sheer quantity of accommodation. However, the overall impression would be of a large expanse of rather dull brickwork with only subtle variations in colour, coupled with largely unrelieved bulk and height which would overwhelm any perception of delight or beauty in the detail at ground level. Although the brick façade treatment would acknowledge the height of adjacent buildings in Hancock Road, and the tops of the towers would be slightly more permeable, these would be no more than gestures that would do little to relieve a sense of poverty in the expression of repetitive and identical massing in the main blocks. This is frequently the consequence of over-dense development but is combined here with deliberate decisions on height and materials that reinforce the appearance of a type of scheme reminiscent of post-war architecture and I understand third party objectors on this point, in massing and form at least. I acknowledge the beneficial effect of relatively large balconies on the corners but these do not sufficiently mitigate for the impact of repetition at scale. Whilst appreciating the designers' undoubtedly professional approach, it is hard to find any sense in which the towers would collectively be regarded as an attractive group that would be admired in the long term. As well as lacking

much visual interest, they would be overbearing with a negative impact on the townscape and especially the riverside. The scheme would fall short of the policy requirement for tall buildings that they should be of an exceptionally good standard of design, and this would have consequences for the quality of life of those who live there as well as occupants of nearby buildings. As such the development would fall short of the corresponding aims of development plan policy set out in LonP policy D9 and LP policy BN.5.

24. The appellants' Townscape and Visual Impact Study (TVIA) finds no harm in any aspect. However I note that the appellant reaches this conclusion having interpreted the SPD on the basis that guidance on height parameters does not apply expressly to the appeal site and that the 18m 'generally expected' height is an arbitrary figure. Map 8 sets out the generally expected height of 18m across most of SA4.1 including the appeal site and this is what was subject to consultation. The guidance refers to a 2012 outline permission for flexible business space and residential on the appeal site, noting that that scheme already follows a masterplan approach. It does not therefore follow that not including design guidance for the northern site on parameter plans 9-16 means that the generally expected 18m height advice is arbitrary. At the same time, that does not mean that higher buildings would be rejected in principle. The advice specifically draws attention to Sugar House Lane as an excellent example of how a varied human scale can be supplemented by well-proportioned 'accents', in this case of up to 16 storeys. There is little about the location of the appeal site that would justify a very different approach to that adopted at Sugar House Lane or at BRV2. Moreover, the SPD specifically requires development to come forward in a coherent and complimentary way. The overwhelming opinion of existing occupiers of BRV1 and 2 and the consistently expressed view of members of the Quality Review Panel, was that the scheme fails in this respect. The appellants were unable at the Inquiry to convincingly explain why the 99m identical height of the towers on this site was the right solution, having simply, it seems to me, considered but then disagreed in principle on this point, at every stage of design development.
25. In conclusion on townscape and visual effects, the proposal would not contribute positively to the townscape in which it is situated. The height and bulk of the development would overwhelm adjacent low and medium rise developments and those emerging on the other side of the river, and would be a conspicuous and discordant element, the impact on the skyline accentuated by the identical height of the towers becoming more obvious, the further away they are viewed. The design of the top of the buildings would be somewhat austere, detail differences between the towers being subtle. The towers would not make a noticeably positive or uplifting contribution to the skyline. They would not aid wayfinding or legibility to the townscape and would conflict with the clear strategy for Bromley-by-Bow District centre and Stratford High Street developed by the Corporation. The detrimental effect on the character and appearance of the area and the conflict with the masterplan approach required in site allocation SA4.1 attracts very significant weight. It has not been demonstrated that the visual criteria for tall buildings set out in LonP policy D9 or LP policy BN.5 or the general advice in LLDC's Design Quality Policy, that might justify a building taller than envisaged in the development plan, have been satisfied.

### *Heritage impact*

26. Three Mills Conservation Area lies 250m to the south of the site. The Conservation Area Appraisal and Management Guidelines of 2021 insofar as the appeal is concerned, its heritage significance derives from the group of listed buildings at its core on Three Mills Island. The Grade I listed 1776 Tide Mill (or House Mill) building is the most prominent of these, sited over the Three Mills River Weir. It is experienced together with the Clock Mill, the offices (Customs House) and the former distillery complex 3 Mills Studios, all accessed along the distinctive pattern of the historic cobbled street. These latter are all Grade II listed, and are a remnant of the former industrial activities in this area. The bifurcated and channelled river is the most obvious and important element in the setting as it provided the energy and resource for the mills.
27. The group is experienced by visitors in the context of a dramatically changed and changing surrounding built environment of mainly contemporary development including tall buildings at the Bromley-by-Bow District centre, about 200m to the west. A modern residential block, Island House, has been built a short distance to the north, but this is sympathetic in massing and materials, stepping up away from the listed buildings. Approaching the Tide Mill across the Three Mill Lane bridge, existing tall buildings to the north along Stratford High Street terminate views in that direction but do not impose upon their setting unduly or prevent appreciation of the heritage interest of the group. From within the group, which is largely self-contained, no modern structures overwhelm or distract from the architectural interest of the buildings or their settings. The proposed towers would be clearly visible on re-crossing the river but would be seen in the context of existing and proposed tall buildings to the north including yet to be built blocks on the Sugar House Island site<sup>3</sup>. Whilst the three new 26 storey towers would be nearer than any other comparable tall buildings visible to the north and would disrupt the existing pattern of development to a degree, causing a degree of harm to its setting and distinct sense of place, the magnitude of harm would be 'less than substantial'<sup>4</sup>, and at a low level.
28. The Grade II listed 1894 How Memorial Gateway lies on the eastern corner of the junction to Bromley High Street and St Leonard's Street, about 100m to the west of the appeal site. It is the last obvious and significant built feature associated with the Parish Church of St Mary with St Leonard, which was destroyed in 1941. Following construction of the A12 in 1969, the How Memorial<sup>5</sup> and part of the graveyard, now covered in trees, remain. Its heritage significance derives from its architectural and historic interest associated with an ancient London parish. Inscriptions within the archway testify to the Rev George Augustus Mayo How, who was a Prebendary of St Pauls.
29. The setting of the Memorial Gateway is presently dominated by traffic on the A12 immediately adjacent. However, the proposed towers would have a significantly more dominating effect in spatial terms, overwhelming not just the graveyard, the A12 and surrounding 3-5 storey development, but also appearing much higher relative to the appellant's 8/9 storey development at BRV1/2 in Hancock Road. The scheme would be close enough and bulky enough to intrude into appreciation of the asset's setting both nearby and in

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<sup>3</sup> Behind blocks MU5, R2, R3, R4

<sup>4</sup> In the terms used in the National Planning Policy Framework



longer views along Bromley High Street. The harm would be 'less than substantial' and low-medium in magnitude.

30. I have taken into account other heritage assets in the area but do not find that there would be any harm caused to their settings or heritage significance. I conclude on this issue that there would be less than substantial harm caused to the settings of Three Mills Conservation Area and the listed buildings within it, and the How Memorial Gateway, conflicting with the heritage conservation objectives of policies HC1 of the LonP and BN.17 of the LP.

#### *Housing mix and affordable housing*

31. The appellant acknowledges that the proposed mix of units would not comply with the needs set out in the 2018 Strategic Housing Market Assessment (SHMA) for 25% 3 bed units with some 4 bed units. However the LonP indicates in policy H10 that a higher proportion of 1 and 2 bed units may be generally more appropriate in areas with a higher Public Transport Accessibility Level (PTAL) which in this case is 5, anticipated to rise to 6a in 2031. The site is close to bus services in Bow Road. It is proposed that 57% have 2 or more bedrooms, which is higher than the 50% aspired to by LP policy H.1. Moreover, the 2017 site allocation for Bromley-by-Bow recognises that family units should be located towards the east of the area and that air quality and noise need to be addressed, with particular reference to the A12. The appeal site is a relatively narrow triangle on plan and directly borders the A12 along its entire south west boundary.
32. Overall, taking all the circumstances into account, I do not find that the balance towards 1 and 2 bed homes, with 178 homes out of 435 accommodating 4 persons or more and another 105 able to accommodate 3 persons, to be an inappropriate mix for the site. The space standards of the units would exceed the requirements of LP policy BN.4. The scheme would not conflict with the relevant aims of LonP policy H10 or LP policy H.1.
33. Turning to affordable housing, 50% of the units would be affordable with a mix of 44% low cost rented and 56% intermediate, or 51%/49% in terms of habitable rooms. The affordable housing mix would fall short of the target mix sought by LP policy H.2 of 60%/40%, but it is the agreed position that as it stands, the project is unviable<sup>6</sup>. There is no appraisal, but I do not doubt that providing a larger number of 3 and 4 bed units would not improve that situation. More family units would require more play space (considered later in this decision) which is in any case a significant constraint on this site. As it is, all the 30 No. 3 bed units and 35 of the 2 bed units would be affordable rent. In conclusion on this point, the appellant's position relies upon making the most efficient use of land, exceeding the minimum guidelines for new housing and going beyond the density guidelines that were in place in the previous version of the LonP<sup>7</sup>. LP policy SP.2 specifically aims to maximise affordable housing delivery with a full range of accommodation and tenure requirements, including family housing in all tenures. Despite not complying precisely with the mix aspirations of LonP policy H6 and LP policies H.2 and SP.2, the quantity of affordable housing proposed must attract significant weight and this needs to be carried forward into the overall balance.

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<sup>6</sup> A position on which the appellant, as a social housing provider, has taken a commercial view

<sup>7</sup> As suggested in the Mayor's Housing SPG of 2016

### *The effect on living conditions*

#### *Future occupiers*

34. The design of the units together with the articulation and siting of the main blocks would mean that 74% of the dwellings would be meaningfully dual aspect. In cases where one part of such a dwelling such as a bedroom may have restricted outlook, for instance, other parts of the dwelling would have an acceptable aspect, often a long distance view. Balconies (enclosed with glazing at lower levels) would most often be on the corners of the blocks.
35. There would be no single aspect north facing dwellings. In a few instances, distances between units would be well below the guideline range of 18-21m that is considered a yardstick for privacy in the Mayor's Housing Supplementary Planning Guidance (SPG). The SPG indicates that adhering rigidly to the yardstick can limit the variety of urban spaces and housing types in the city and can sometimes unnecessarily restrict density. However, in this case, the proximity of dwellings should also be understood in the context of tall towers with many windows which would appear overbearing from the balconies of some flats, thus in addition to having compromised privacy, creating an additional perception of overlooking. In addition, some individual balconies would actually be overlooked not just by other occupiers on balconies immediately opposite but also on the floors above.
36. Generally, where dwellings would face each other within a relatively short distance, it would not be towards a parallel wall and there would be an alternative view to the side. However, the bedrooms of some Type 07 2 bed units in block WC2 would be less than 9m from and directly opposite the living room balconies of Type 01 1B2P single aspect units on floors 2-6 of block WC1. The balconies of those flats would also be just over 12m from the balconies of other Type 06 2 bed units in block WC1. Notwithstanding that the balconies at this level would be glazed, the relationships between these dwellings would be unusually close and far removed from any 'tolerance' that might be considered acceptable in interpreting the guidance. The effect in my view would be intimidating and unacceptable for most in terms of outlook and/or privacy, especially at certain times of year such as hot evenings when people would be clearly seen and heard on balconies, and bedrooms may be in use by children. A similar situation would exist between Type 16 and Type 17 3 bed units on 2<sup>nd</sup> to 8<sup>th</sup> floor in blocks SC1 and SC2 where balconies would be about 10.3m apart.

#### *Existing occupiers*

37. With respect to the effect on the living conditions of existing occupiers of neighbouring schemes and phases 1 and 2 of the preceding Bow River Village developments, it is appreciated that the proposed towers represent a very substantial change from that which was envisaged when they moved in to their homes. Specifically, the approved masterplan for development of BRV1, 2 and 3 indicated an open space at the rear of block R6 of BRV2. However the form of future development on the site was not assured and I have to consider the proposal on its merits.
38. The Environmental Statement (ES) demonstrates that a significant number of windows to dwellings in blocks R1, R6 and R7 would suffer major adverse reductions (in the terms used in the BRE guidance) in daylight, comprising

- lower levels in the visible sky component (VSC)<sup>8</sup> and in Average Daylight Factor (ADF)<sup>9</sup>. It is accepted that in many affected rooms, this would be noticeable.
39. Guidance in the BRE Report 'Site layout planning for daylight and sunlight: a guide to good practice' indicates that bedrooms have a reduced need for daylight and sunlight. Most of the affected windows would be bedrooms and although the increased use of dwellings for home working is accepted, it has not been shown that the anticipated reduction in VSC or ADF would make these rooms unsuitable or unacceptably compromised for the occupants. It has not been shown that the resulting level of daylight in these rooms, taking into account their use and location, would be unacceptable. They would not be very different from daylight levels at other similar developments in the area that the Corporation has found acceptable and which would not be unusual in urban locations.
40. Occupiers of dwellings on the north west side of BRV block R6 off Anderson Square would be most severely affected by the proximity of block EC1 in terms of outlook. There are mitigating factors, the main one being that almost all the dwellings with windows on the north side are dual aspect with an unobstructed view from their main living areas to the central square to the south east. Two exceptions concern dwellings in block R6 where living areas face north east towards the site. However these units would not directly face block EC1 and would retain a view towards the river.
41. There would be no unacceptable effects on sunlight or daylight to Nicholson Square in Phase 1 of BRV or on any other nearby dwellings referred to by the Corporation.
42. In terms of privacy and overlooking, there would be no unacceptable impacts on any occupants of flats in BRV 2 block R6. Whilst a significant change, I consider that on balance, the width of the bridge access way between R6 and EC1 of between 14 and 15m with intervening tree planting would be sufficient to avoid the appeal scheme being perceived as unacceptably overbearing seen from the bedrooms of these units in R6 or from the windows of the units opposite in block EC1.
43. The NPPF indicates at paragraph 123 that '*when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)*'. The Mayor's Housing SPG similarly says that an appropriate degree of flexibility needs to be applied when using BRE guidelines. I do not find that given the urban location of the proposed scheme, the proposal would not unacceptably compromise the living conditions of any existing residential occupiers. It would however conflict with the amenity protection aims of LonP policies D6 and D9 and LP policies BN.1(7), BN.4(5) and BN.5(8) in respect of the effect on privacy and outlook of some occupiers of blocks WC1, WC2, SC1 and SC2.

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<sup>8</sup> Briefly, VSC is a measure of the amount of sky visible from a centre point of a window. A window that achieves 27% or more is considered to provide good levels of light, but if with the development in place the figure is both less than 27% and would be reduced by 20% or more, the loss would be noticeable.

<sup>9</sup> The ADF can be expressed as the average indoor illuminance (from daylight) on the working plane within a room. This is expressed as a percentage of the simultaneous outdoor illuminance on a horizontal plane under an unobstructed Standard Overcast Sky

*Private and public amenity space*

44. The proposed functional hierarchy of the external space includes character areas intended to cater a wide range of different users including future occupiers of the scheme as well as those passing through. Different typologies of play space occupy the largest open areas and smaller more intimate corners on the routes through. The scheme would allow an easy walking and cycling route from the BRV1 and 2 developments via Bolinder Way and Hancock Road to the River Lea towpath along the Courtyard passage and the bridge approach. The difference in levels and the need to avoid railings on the resulting sloping route in Courtyard passage has led to a complex series of 1:21 shared surface ramps with changes of direction together with informal seating and micro-play areas articulated with planting. The detail design of the public areas as shown in the Design and Access Statement and in the architect's proof of evidence illustrates a skillful mix of quality materials.
45. The Corporation's reason for refusal concerning this matter starts by referring to inadequate levels of sunlight and it is this which in my opinion is likely to largely affect people's level of enjoyment of the external amenity and play space. More detailed analyses of daylight and sunlight levels were made available for the Inquiry by the appellant. These confirm that the density and height of the development would mean that at ground level, there would be areas of persistent and significant shade around the main blocks for much of the year and where direct sunlight would be experienced, it would not last long. Whilst the roof terrace play area and the triangle park would be more open and pleasant with more than 6 hours of sunlight on 21 June, many other smaller informal doorstep play spaces, including those along the Courtyard passage, would fall well below this figure and would also fail to meet the BRE recommendation of 2 hours sunlight on the ground on 21 March. The Bridge approach play area would marginally fail this standard too and would moreover receive very little sunlight on early summer evenings because of the imposing bulk of block EC1.
46. The desire to place play in greater sunlight means that pleasant landscaped areas where adults might wish to sit outdoors near their homes where they might want to avoid being near children playing are not well served by sunlight, especially along the Bridge approach. Added to these compromises must be added the sense of enclosure that users would experience in many of the areas around the main blocks, which was evident from the model of the scheme and comes across strongly in the architectural images. The towpath would be more open (not part of the site) but this would suffer from extensive shading in the middle of the day, being directly north of the scheme: and is subject to unpredictable use by vehicles.
47. Moreover, the play areas would not be easily supervised from the family units, as these would be above ground level, albeit on the lower floors of the blocks. The use of the Courtyard passage as a public thoroughfare would negate any sense of community ownership that local occupiers might desire and would make constant supervision essential for young children. The prevailing slope would also be tempting for users of skateboards and cycles. I give little credence to the idea that local residents and commercial occupiers would be able to effectively keep it sufficiently safe for young children criss-crossing the ramps as they would, or prevent noisy activities by teenagers. In short, the

pressure to create enough space for play in the limited space available including a public route through has led to compromises in zoning and design.

48. In addition to these difficulties, the largest 'triangle' play space to the north of the site would have numerous disadvantages. The most serious concerns the difficulty of ensuring children would be able to cross Global Approach safely and pass through the gate, when the access to Bow Free Wharf must remain open at all times for traffic which may include heavy goods vehicles and lifting gear for removing weed or lifting/launching boats. At the Inquiry, efforts were made to address this issue by means of a Triangle Park Management Plan<sup>10</sup> including on-site security personnel to operate a safety barrier sealing off Courtyard passage, signage, road markings and new gates. Banksmen/women are needed to help with reversing, and an agreement with Tower Hamlets Borough Corporation, who own the road, is necessary to enable effective control of maintenance of and operation of the barrier where it joins the A12 approach. There is every reason for the parties to agree such a plan, but in the end all that is before me are assurances. There is no agreement. Large HGVs can arrive at any time. Even if an agreement was concluded, there is a risk that staff may not be where they need to be when needed and children take chances. Fundamentally, the separation of the triangle play areas from the rest of the scheme by a HGV access roadway owned by others lies at the root of this issue. The difficulties associated with accompanying children safely across Global Approach to the triangle and then staying with them is likely to mean that the other 2 main play areas are preferred, and this would place extra pressure on them with consequences for the quality of play experienced.
49. That is even more likely when one takes into account the other disadvantages of the triangle, namely the proximity of heavy traffic, noise (in the region of 56-60 dBA) and associated pollution from the adjacent roundabout. Minimising the exposure of children to poor air quality is a key concern for the Mayor. I do not doubt that a noise barrier would be erected<sup>11</sup> and planting would be successful and would mature in time, and electric vehicles of all kinds would become more common. It may well be that pollution levels would be acceptable in a purely statutory sense and I accept that many childrens' playgrounds exist in more difficult circumstances than would be the case here. However, it remains likely that this element of the scheme would be less popular with parents, certainly before planting is established. It does not represent good planning, as it would be disconnected from the network of play areas elsewhere in the development. LonP policy D3 seeks proposals that, amongst other things, provide conveniently located green and open spaces for social interaction, play, relaxation and physical activity; help prevent or mitigate the impacts of noise and poor air quality; and achieve indoor and outdoor environments that are comfortable and inviting for people to use. Policy S4 requires good-quality, accessible play provision that can be accessed safely from the street by children and young people independently; forms an integral part of the surrounding neighbourhood; and is overlooked to enable passive surveillance. Whilst the overall quantum of play space meets policy requirements, the triangle play area seriously struggles to meet these recommendations.

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<sup>10</sup> CD 11.30 and plan at CD11.31

<sup>11</sup> Though the proposed acoustic wall would do little for the experience of those on the footway along the A12 approach.

50. Acknowledging that ideal circumstances for play provision can be difficult to achieve in urban locations, the circumstances here would fall significantly below the standards desired. The 'optimisation' of the site for residential accommodation has led to too many demands being placed on the external space with compromises for all users, that together mean that the quality aims of policies S4 and D3 of the LonP and BN.9 and S.1 of the LP would not be met.

#### *Green space*

51. Turning to green space, LonP policy G5 seeks a target score of 0.4 for predominantly residential developments. This can be achieved by incorporating measures such as high-quality landscaping (including trees), green roofs, green walls and nature-based sustainable drainage. The scheme achieves a UGF factor of 0.36<sup>12</sup>, much of which is contributed by the 150 deep substrate under solar panels on the roofs of the towers. I accept that the 2021 LonP draft guidance indicates such areas contribute to the UGF factor. I also consider that given the extremely low ecological value of the existing site and the presence of commercial space, (which has a lower UGF target of 0.3) the score is not unreasonable and would not be a reason to refuse the proposal.

#### *Servicing, access, waste storage and collection*

52. The relevant reason for refusal 3 refers to interrelated conflict, between servicing the development and users of Bow Wharf, the impact of blue badge parking required by LonP policy, and the congested nature of servicing generally, given the high density of development. There are no opportunities for additional bays on the public highway so all servicing has to be accommodated within the site.
53. The appellant proposes servicing canal side units and the commercial space via basement loading bays and I accept that in theory, this would avoid potential conflict with wharf traffic. I also accept that, as at present, a barrier across Global Approach is likely to deter occasional opportunistic deliveries, providing it is kept closed. However, future occupiers of dwellings will make intensive use of the public realm and users will include children. As previously stated, recognising the good intentions of the appellant, without a firm agreement with Tower Hamlets as owner of Global Approach as to management of the barrier, it is difficult to be sure that there would be sufficient constant supervision of commercial traffic that might wish to enter at any time. That includes heavy goods vehicles associated with operation of the wharf. It is unclear that there would be adequate control of the barrier to avoid pedestrian/vehicle conflict in an area where residents will naturally assume a degree of safety.
54. Any vehicle above the size of a van (over 3.1m) and emergency vehicles would have to use other parts of the public realm, which is likely to be congested, especially if additional disabled spaces required by LonP policy T6.1 are allocated and occupied<sup>13</sup>. It is the intention that motorcycle and van drivers use the basement, but the routes from the basement to service the main blocks are convoluted which is a disincentive to using basement loading bays for food deliveries, for instance. Delivery drivers are often under time pressure. The sheer number of vehicle movements necessary for such a large number of units at certain times of the day/week is likely to lead to congestion and conflict with

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<sup>12</sup> According to the SoCG

<sup>13</sup> A potential total of 44 spaces

other users including Corporation and commercial waste collections and I am not persuaded that, given the extension of blue badge eligibility in 2019 and the aging population, that over the lifetime of this scheme, utilisation of blue badge spaces would be as low as the appellant anticipates.

55. In short, to work effectively and efficiently, the proposed strategy for access and deliveries requires strict adherence to a set of rules set out in a management plan, a high degree of supervision and co-ordination, and compliance by all. The appellant places considerable reliance on low take up of blue badges which is altogether uncertain. Take up of the 23 spaces above ground will affect the availability and useability of public open space and potentially reduce the amount of allocated play space<sup>14</sup> and moreover create a situation where cars would dominate parts of the public realm, which is undesirable with the A12 nearby. Altogether there are too many uncertainties for me to be convinced that the public realm would not ultimately be unacceptably compromised by vehicle congestion, conflicting with the parking, safe, clean and efficient deliveries and servicing aims of LonP policies T6 and T7 and LP policy T.8.

### **Other matters**

#### *Odour*

56. I do not doubt the degree of unpleasantness related to the odour generated by the weed collection and removal process carried out at Bow Wharf where there is easy access for the necessary plant and vehicles. I accept that this can take place unexpectedly and relatively frequently in the summer, depending on weather conditions. Weather conditions including wind direction will also determine the degree of nuisance caused. However, the CRT accept the desirability of regeneration of the site for housing which is inevitably going to involve dwellings overlooking the wharf. It is a moot point whether the effect would be any less with an 8/10 storey building than it would be with a 26 storey tower. As it is, the proposed scheme includes commercial uses immediately next to the wharf. A hydrant would be installed by means of the S106 Agreement, which would enable effective washing down of excess weed. Occupiers of units on the lower floors of the main blocks most likely to notice odour would have the opportunity to close windows and rely on mechanical ventilation while these operations are carried out. Whilst appreciating the magnitude of the problem and the experience of the CRT, I do not therefore consider that the potential for disagreeable odour should prevent redevelopment of the site or that mitigation would not go a long way to making the circumstances acceptable for future occupiers.

#### *S106*

57. A signed and dated S106 Obligation by Agreement has been provided with the objectives of providing various benefits including affordable housing, contributions to enable the bridge across the Lea, viability review, improved pedestrian and cycle links, a car club and commercial van sharing, a contribution towards improvements at Bromley-by-Bow station, towpath upgrade, a Travel Plan, affordable workspace, a carbon offset payment, a strategy for management of the estate, provision of a water hydrant and monitoring of the design in accordance with the approved drawings. There

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<sup>14</sup> See revised play diagram attached to S106 Agreement compared to Velocity drawing 2630-1100-T-016 CD 8.25

remains disagreement pertaining to whether the amounts of financial contributions proposed towards the towpath, improvements to Bromley-by-Bow station and crossing improvements to the A12 would be fairly and reasonably related in scale and kind or would be necessary to make it acceptable. However, as I am dismissing the appeal on other grounds, I do not analyse these points further.

## **Conclusion**

58. The Mayor's 2016 Housing SPG states that for the purposes of the London Plan, 'optimisation' can be defined as 'developing land to the fullest amount consistent with all relevant planning objectives'. Development plan policy in this instance indicates that to be acceptable, tall buildings away from planned centres need to demonstrate additional public benefits and be of exceptionally good design. The public benefits include the provision of a substantial number of dwellings including affordable housing which are needed and this attracts significant weight; the redevelopment of a vacant brownfield site with pedestrian and cycle links through the site and to the towpath; the provision of an important bridge link across the Lea which is a policy objective; improvements to safe use of the wharf; the provision of commercial space and other community benefits in line with the S106 Agreement.
59. Against these benefits, great weight attaches to the low-medium level of 'less than substantial' harm to the significance of heritage assets. Substantial weight attaches to the detrimental impact on the townscape in conflict with the spatial aspiration for the area expressed in development plan policy, in marked contrast to the general pattern of heights in the area, with an overbearing impact on the river and other nearby development. The overall level of architectural design quality, which although imaginative and skillful in some respects, has not reached the threshold for tall buildings of exceptionally good design as demonstrated by independent design review. The public realm would suffer from an unacceptable level of congestion particularly if blue badge parking spaces are significantly taken up during the lifetime of the scheme and the triangle play area is in an area which could not be reached independently and safely by children and has air quality and noise disadvantages. Some play spaces suffer from poor levels of sunlight. There are disadvantages for some future residents in terms of overlooking and privacy.
60. I conclude that the appellant has underestimated the visual, functional and environmental disadvantages of the scheme. The effect on character and appearance and the impracticality of the triangle play area are the most important factors that together outweigh other aspects that I have found work in favour. The end result would be an overall impression of overwhelmingly dense human habitation, which the evidence indicates has been mainly driven by the appellant's aspiration for optimisation in line with the density tables in the previous version of the LonP related to public transport provision, and less by a more contextual capacity approach<sup>15</sup>. The disadvantages seriously outweigh the benefits and for this reason the appeal must be dismissed.

*Paul Jackson*

INSPECTOR

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<sup>15</sup> Ms Scurlock's evidence paragraph 2.1.4





## INQUIRY DOCUMENTS

CD 11.1	Reviewing Landscape and Visual Impact Assessments (LVIAs) and Landscape and Visual Appraisals (LVAs), Landscape Institution, Technical Guidance Note 1/20 (10 Jan 2020)
CD 11.2	Visual Representation of Development Proposals, Landscape Institute, Technical Guidance Note 06/19
CD 11.3	Chris Miele's proof on the Marshgate appeal
CD 11.4	Philip Catcheside's proof on the Marshgate appeal
CD 11.5	The Inspector's report on the LLDC Local Plan
CD 11.6	Appeal Consultation Letter 08.02.2022
CD 11.7	LLDC Park Design Guide 2018
CD 11.8	LLDC Inclusive Design Standards 2019
CD 11.9	LLDC Design Quality Policy
CD 11.10	Appellant model photographs
CD 11.11	CRT mark-up of 3D model
CD 11.12	LLDC photographs of model
CD 11.13	Clarifications to Statement of Common Ground 23.02.2022
CD 11.14	TfL Consultation Response Dated 03 March 2020
CD 11.15	Email correspondence between CRT and KCA Architects 2019
CD 11.16	Opening Statement from LLDC - Bow River Village
CD 11.17	Opening Statement from Appellant - Bow River Village
CD 11.18	Urban Greening Factor - Methodology and Results on behalf of the Appellant
CD 11.19	End of Season Report 2021
CD 11.20	LLDC List of Consultees
CD 11.21	Bow River Village Inquiry Register - Tuesday 1 <sup>st</sup> March 2022
CD 11.22	Proof of Evidence Appendices of Simone Pagani, GIA Associates
CD 11.23	Annotated Proposed Second & Third Floor
CD 11.24	Annotated Proposed Fourth to Sixth Floor
CD 11.25	GLA Stage 1 Report dated 24th February 2020
CD 11.26	Kate Anderson evidence - Viewpoints 07.03.2022
CD 11.27	Trium response to EIA Scoping Opinion 29.08.2019
CD 11.28	Night Time Photos from the A12
CD 11.29	World Health Organisation, Community Noise Guidelines, 1999
CD 11.30	SHG Proposed Triangle Park Management Plan
CD 11.31	SHG Management Plan - Global Approach
CD 11.32	Green Roof and UGF clarification email
CD 11.33	Supplementary note in relation to Triangle Park noise levels
CD 11.34	LBTH to Southern Housing Group - Global Approach
CD 11.35	Closing Submissions (Canal & River Trust) - 20 April 2022
CD 11.36	Closing Submissions (LLDC) - 20 April 2022
CD 11.37	Closing Submissions (SHG) - 20 April 2022