

15 July 2019

**Land adjacent to 20 Bury Street**

in the City of London

planning application no. 18/01213/FULEIA

**Strategic planning application stage II referral**

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

**The proposal**

Demolition of existing building and structures and construction of a building to a height of 305.3m AOD for a mixed-use visitor attraction, including viewing areas, restaurant/bar area, and retail use at ground floor level; construction of a two storey building comprising visitor entrance and public roof garden.

**The applicant**

The applicant is **Bury Street Properties** and the architect is **Foster + Partners**.

**Key dates**

**Pre-app meeting:** 31 October 2018

**Stage 1 reporting:** 14 January 2019

**Planning committee:** 2 April 2019

**Strategic issues**

The proposed development of a tall visitor attraction, by virtue of its height, form, design and appearance would not constitute the very highest quality of **design** required for a tall building in this location. The development would compromise the ability to appreciate the Outstanding Universal Value of the Tower of London World Heritage Site and would cause harm to the **historic environment**. It would cause harm to the character and composition of the existing tall building cluster, the wider skyline and image of London, and **strategic views**, as well as the public space surrounding the site. The public benefits of the scheme are limited and would not outweigh this harm. The proposals are considered to result in a poor quality, unwelcoming, unnecessarily confined pedestrian environment and would provide inadequate cycle parking, contrary to London Plan **transport** policies.

**The Council's decision**

In this instance the City of London Corporation has resolved to grant permission subject to planning conditions and conclusion of a Section 106 legal agreement.

**Recommendation**

That the City of London Corporation is directed to refuse planning permission under Article 6 of the Mayor of London Order 2008, for the reasons set out in paragraph 157 of this report.

## Context

1 On 19 November 2018 the Mayor of London received documents from the City of London Corporation notifying him of a planning application of potential strategic importance to develop the above site for the development set out above. This was referred to the Mayor under the following category of the Schedule to the Order 2008:

- Category 1C: Development which comprises or includes the erection of a building of more than 150 metres high and is within the City of London.

2 On 14 January 2019 the Mayor considered planning report GLA/4868/01, and subsequently advised the City of London Corporation that the application does not comply with the London Plan, for the reasons set out in paragraph 84 of the above-mentioned report. A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report.

3 Following consideration at planning committee on 2 April 2019, the City of London Corporation resolved to grant planning permission. The Corporation advised the Mayor of this decision on 4 July 2019. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged, direct refusal under Article 6, or issue a direction to the Corporation under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application. The Mayor has until 17 July 2019 to notify the Corporation of his decision and to issue any direction.

4 The Mayor can direct refusal where he considers that to grant permission would be contrary to the London Plan, prejudicial to its implementation or otherwise contrary to good strategic planning in Greater London.

5 The matters specified in article 6(2) of the 2008 Order have been taken into account in the consideration of the exercise of the Mayors powers.

6 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been taken into account in the consideration of this case.

7 The Mayor's decision on this case, and the reasons, will be made available on the GLA's website [www.london.gov.uk](http://www.london.gov.uk).

## Consultation stage issues summary

8 At the consultation stage the City of London was advised that the application did not comply with the London Plan for the following reasons:

- **Principle of development:** The principle of a visitor attraction within a CAZ location would complement the strategic functions of the CAZ. However, the proposal fails to provide free to enter publicly accessible viewing areas and is therefore contrary to London Plan Policy 7.7 and Policy D8 of the draft London Plan.
- **Historic Environment:** The development would compromise the ability to appreciate the Outstanding Universal Value of the Tower of London World Heritage Site and would cause harm to the historic environment. Accordingly, the application does not comply with London Plan policies 7.7, 7.8, 7.10, 7.11 and 7.12 and Policies D8, HC1, HC2, HC3 and HC4 of the draft London Plan.

- **Design:** GLA officers have significant concerns with the design approach. The height is unjustified and the design and the introduction of significant expanse of solid and inactive building frontage would appear incongruous in the existing faceted context of the Eastern Cluster drawing significant attention in this heritage sensitive location. The site layout and loss of public realm at street level is also of significant concern.
- **Strategic Views:** The appearance of the proposed development within LVMF views 10A.1 and 25A 1,2 and 3 would cause harm to these strategic views and would therefore be contrary London Plan Policies 7.11 and 7.12 and Policies HC3 and HC4 of the draft London Plan.
- **Transport:** The proposals are considered to result in a poor quality, unwelcoming, unnecessarily confined pedestrian environment contrary to Policy 6.10 of the London Plan and Policy to D1 of the draft London Plan. The proposals would not reflect the Healthy Streets approach detailed within Policies T2 and T4 of the draft London Plan. The level of cycle parking would not accord with draft London Plan Policy T5.
- **Energy:** The applicant must explore the potential for connection to the City 2 district heat network. The full 'be lean' and 'be green' BRUKL sheets must be submitted. This further information must be submitted before the proposals can be considered acceptable and the carbon dioxide savings verified.

## Update

9 Since consultation stage, revisions to floorplans of the upper element of the proposals have been made. These are set out below and discussed in more detail in the relevant sections of this report.

## Planning policy and guidance update

10 On 19 February 2019, the Government published the revised National Planning Policy Framework.

11 Additionally, the public consultation on the draft City of London Local Plan (November 2018) closed in February 2019,

## Officer recommendation – refuse planning permission

12 This report sets out the matters that the Mayor must consider when deciding whether to allow the City of London Corporation's draft decision to proceed unchanged; direct the Corporation under Article 6 to refuse the application; or, issue a direction to the Corporation under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application and any connected application.

13 Further to the consideration within this report, GLA officers have concluded that the issues raised at consultation stage regarding the historic environment, urban design, strategic views and transport are still outstanding, and that the application does not comply with the NPPF, London Plan and draft London Plan and the City of London Local Plan.

14 Accordingly, officers consider that to grant permission would be contrary to the London Plan and draft London Plan, would prejudice the implementation of the policies within the London Plan and draft London Plan with respect to the historic environment, urban design, strategic views and transport, and would be contrary to good strategic planning in Greater London.

15 It is therefore recommended that the Mayor exercise his powers under Article 6 of the 2008 Order and direct refusal of the application for the following reasons:

- Urban Design: The proposed development, by virtue of its height, form, design and appearance would not constitute the very highest quality of design required for a tall building in this location. It would be detrimental to the character and composition of the existing tall building cluster, the wider skyline of London and the public space surrounding the site. The proposals would be contrary to policies 7.1, 7.4, 7.5, 7.6 and 7.7 of the London Plan, draft London Plan Policies D1, D2, D7 and D8, and City of London Local Plan Policies CS7, CS10, CS14 and DM10.1.
- Historic Environment - Tower of London World Heritage Site: The proposed development would be detrimental to the setting of the Tower of London World Heritage Site by reason of its height, form, design and materiality, along with the proximity and prominence which would adversely affect the following attributes of the Outstanding Universal Value of the Tower; the physical prominence of the White Tower; the site's strategic and landmark setting; and the site's status as an internationally famous monument. The integrity of aspects of the Outstanding Universal Value would also be affected including the concentric defences and the experience of the Tower being apart from the city. The harm would be significant and, whilst it would be 'less than substantial', it would be at the upper limit of this range. The public benefit of the provision of educational floorspace, a visitor attraction and the economic benefit arising from the development would not outweigh the harm identified. The proposals are therefore contrary to London Plan Policies 7.7, 7.8, 7.10, 7.11 and 7.12, Policies D8, HC1, HC2, HC3 and HC4 of the draft London Plan, Policies CS7, CS12, CS14 and DM12.1 of the City of London Local Plan, London's World Heritage Sites – Guidance on Settings SPG (March 2012), the guidance within the Tower of London World Heritage Site Management Plan and the National Planning Policy Framework.
- Historic Environment – Other heritage assets: The appearance of the proposed development within the setting of the Grade I listed St Botolph's Church without Aldgate and its appearance within key views of this heritage asset from the south, would cause harm to the contribution made by the setting to its architectural interest and the ability to appreciate the significance of this Grade I listed building. The proposal would also result in harm to the ability to appreciate the significance of other heritage assets including; the Grade II\* listed 10 Trinity Square, the Grade I listed Bevis Marks Synagogue, the Grade II listed 38 St Mary Axe, and the Grade I listed Church of St Helen's Bishopsgate. The public benefit of the educational floorspace, a visitor attraction and the economic benefit arising from the development would not outweigh the less than substantial harm identified with respect to these heritage assets. In addition, the submitted documents are inadequate to enable a full assessment of the impact on all heritage assets. The proposals are therefore contrary to London Plan Policies 7.7 and 7.8, Policies D8 and HC1 of the draft London Plan, Policies CS7, CS12, CS14, DM12.1 and DM12.3 of the City of London Local Plan, and the National Planning Policy Framework.
- Strategic Views: The location, height, form and appearance of the proposed development within LVMF views 10A.1 and 25A.1, 2 and 3 would fail to maintain the juxtaposition of the Tower of London World Heritage Site and diminish its prominence in relation to the Eastern Cluster, harming the composition of these views and failing to preserve viewers' ability to appreciate this recognisable and important aesthetic and cultural landmark, to the detriment of the image of London, contrary London Plan Policies 7.11 and 7.12, Policies HC3 and HC4 of the draft London Plan, Policies CS7 and

CS13 of the City of London Local Plan and the London View Management Framework SPG (March 2012).

- Pedestrian movement: As a result of the significant increase in pedestrian activity within a confined area subject to crowding, the proposal would result in a poor quality, unwelcoming, unnecessarily confined and potentially unsafe pedestrian environment. The proposals are therefore contrary to London Plan Policies 6.1, 6.7, 6.10, 7.1 and 7.5, draft London Plan policies T2, T3, T4, D1 and D7, and Local Plan Policies CS16 and DM16.2.
- Cycle parking: The proposals would fail to provide adequate new short stay cycle parking to serve the proposed visitor attraction and would retrospectively alter an existing building to reduce the quality of its active travel offer. The proposals would therefore fail to comply with Policy 6.9 of the London Plan, Policy T5 of the draft London Plan and Policies DM16.3 and DM16.4 of the City of London Local Plan.

16 In addition to the above, items relating to energy also remain outstanding. Should a revised application be submitted or the case considered at appeal the applicant should address this issue, as discussed below, as well as the comments set out within the GLA consultation stage planning report (ref: GLA/4868/01).

## **Outstanding issues**

17 Further to the above reasons for refusal, an assessment of the outstanding strategic planning issues on this case is set out below.

### **Urban design**

18 At consultation stage, significant concerns were raised regarding the design approach. The lack of justification for the height of the proposals was noted and it was considered that the proposed scale and unique form would fail to relate to the established character of the Eastern Cluster. Concerns were also raised regarding the site layout and loss of public realm at street level.

19 Despite the concerns raised at consultation stage and during pre-application discussions, the scheme's response to its context, in particular the form and design of the Eastern Cluster and the impact of the proposals at street level, remain unresolved.

### Eastern Cluster Context

20 The proposed development is located within the Eastern Cluster Policy Area of the City of London Local Plan. The Eastern Cluster is a collection of tall buildings which forms a distinctive element on the London skyline. It is located in the east of the City of London and defined as one of five key policy areas within the City of London Local Plan. Paragraph 3.7.1 of the City of London Local Plan states that the 'The Eastern Cluster has potential to accommodate more development and jobs and has fewer constraints on the development of tall buildings.'

21 Policy CS7 of the City of London Local Plan, which specifically relates to the Eastern Cluster, seeks to *'ensure that the Eastern Cluster can accommodate a significant growth in office floorspace and employment, while balancing the accommodation of tall buildings, transport, public realm and security and spread the benefits to the surrounding areas of the City, by (...) delivering tall buildings on appropriate sites that enhance the overall appearance of the cluster on the skyline, and the relationship with the space around them at ground level, while adhering to the principles of sustainable design, conservation of heritage assets and their settings and taking account of their effect on the wider London skyline and protected views.'*

22 The City of London's emerging Local Plan, the City Plan 2036, identifies the application site as falling inside the City Cluster Area (an area which broadly corresponds to the existing Eastern Cluster Policy Area). Strategic Policy S21 of the draft City Plan states that *'The City Cluster Key Area of Change will accommodate a significant growth in office floorspace and employment, together with complementary land uses, transport, public realm and security enhancements, by (...) Delivering tall buildings on appropriate sites, including Regeneration Opportunity sites. These should make a positive contribution to the City's skyline, conserving heritage assets and taking account of the effect on the wider London skyline and protected views.*

23 At the strategic level, the site lies within the Central Activities Zone which, which is a location where the principle of tall buildings is generally accepted, subject to the highest standards of architecture and urban design as set out in London Plan Policies 7.7 and Policy D8 of the draft London Plan.

24 The supporting text of policy 7.7 at paragraph 7.25 notes that tall buildings are those that are substantially taller than their surroundings, will cause a significant change to the skyline or are larger than the threshold sizes set for referral of planning applications to the Mayor of London.

25 Further to the above policy context, the Eastern Cluster is home to a number of existing and permitted tall buildings as set out below (in descending AOD height order):

- 1 Undershaft: 304.9m (permitted)
- 22 Bishopsgate: 294.94m (under construction)
- 122 Leadenhall Street: 239.40m (complete)
- 110 Bishopsgate: 217.80m (complete)
- 52-54 Lime Street: 206.50m (complete)
- Tower 42: 199.60m (complete)
- 30 St Mary Axe: 195m (complete)

26 The above policy context, along with the existing and permitted developments in the Eastern Cluster, therefore provide support for the principle of tall buildings within this part of the City of London.

#### Design policy context

27 Chapter 12 of the NPPF recognises that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 124 advises that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

28 Paragraph 127 provides that planning policies and decisions should ensure that development:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

29 Paragraph 128 advises that Local Planning Authorities have access to, and make appropriate use of, processes for assessing and improving the design of development including design advice and review arrangements.

30 Paragraph 130 advises that planning 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.

31 The London Plan sets out a number of policies that seek to deliver high quality design. These include Policy 7.4 (Local Character) which requires development to have regard to the pattern and grain of existing streets and spaces, make a positive contribution to the character of a place to influence the future character of an area, and be informed by the surrounding historic environment. Policy 7.5 (Public realm) seeks to ensure that development makes the public realm comprehensible at a human scale. Policy 7.6 (Architecture) requires buildings to be of the highest architectural quality and emphasises that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. Policy 7.6 further states that development should incorporate the highest quality materials and design appropriate to its context. Policy 7.7 (Tall and large scale buildings) seeks to ensure that large and tall buildings should not have an unacceptably harmful impact on their surroundings.

32 The Draft London Plan includes a number of similar design policies such as D1 (London's Form and Characteristics) which requires new developments to meet a series of criteria in relation to the context and character of their surrounds. The criteria include enhancing local context, positively responding to local distinctiveness through layout, orientation, scale, appearance and shape. Draft London Plan Policy D2 (Delivering Good Design) sets out the process through which developments can achieve high quality and includes evaluation, analysis and visualisation, scrutiny and design maintenance. Draft London Plan Policy D7 (Public Realm) seeks to ensure that development makes the public realm comprehensible at a human scale and draft policy D8 (Tall Buildings) seeks to ensure that large and tall buildings should not have an unacceptably harmful impact on their surroundings.

33 The City of London's Local Plan Policies CS10 (Design), DM10.1 (New Development) and CS14 (Tall Buildings), are also relevant.

#### London Review Panel

34 In accordance with paragraph 128 of the NPPF and draft London Plan Policy D2, the proposals were assessed by the London Review Panel (LRP) on 16 April 2019. The summary and conclusions of the LRP are included below:

## Summary

*The discussion by Mayor's Design Advocates about the design of The Tulip hinged around the question of whether this would be a world class tall building, justifying its height and prominence on the skyline of London. The panel does not feel that it meets this test. The project would clearly have value in drawing visitors to a predominantly business district, including school children using the educational facilities. The panel also recognises the legitimacy of a tall building primarily designed to provide spectacular views of the city. However, it thinks the quality and quantity of public open space is not sufficient to support the case for such a significant new visitor attraction. The panel does not agree that a roof terrace above the pavilion building can be seen as equivalent to fully public open space at street level. It also has reservations about the quality of the architecture. It thinks that the pavilion and base of the tower would do little to enhance the quality of the streets around them. The tower shaft in textured concrete is a 'mute' architectural element. The viewing platform levels have been designed to maximise views out, with extensive glazing. A potentially unintended consequence of this design is to create the appearance of a surveillance tower, particularly in views from Whitechapel Road. Overall panel members felt that whilst the building may be a successful response to the functions of its brief – this has not resulted in the world class architecture that would be required to justify its prominence. The panel also felt that a building of this size and impact should be carbon neutral, and that the education strategy should be more ambitious, if this is a core justification for the height of the building.*

## Conclusion

*The panel is unable to support The Tulip because it does not think it represents world class architecture, it lacks sufficient quality and quantity of public open space, and its social and environmental sustainability do not match the ambition of its height and impact on London's skyline.*

## Assessment of design

35 The proposed building would rise to 305.3 metres AOD and, at approximately 0.35m higher than 1 Undershaft, would be the tallest building within the Eastern Cluster and the second tallest building in London. As noted above, the proposal is located on the eastern side of the Eastern Cluster Policy Area and, with respect to the current, built form of the tall building cluster, the proposal would be positioned at the eastern edge of the grouping of tall buildings.

### *Tall building and impact on skyline*

36 As noted above, existing and emerging local policy provide support for the principle of tall buildings within the Eastern Cluster. Further to this London Plan 7.7 seeks to direct tall buildings to the Central Activities Zone, within which the Eastern Cluster is located. With regard to the acceptability of specific sites within the cluster, it is noted in the reasoned justification for policy S21 of the draft City of London Plan 2036 states that the spatial extent and redevelopment potential of the cluster has been informed by a 3D modelling process undertaken by the City of London. Further to this, the Corporation's committee report states that the 3D modelling work has been undertaken in response to concern about the impacts of the cluster on its surroundings, in particular the Tower of London WHS. This plan-led approach to modelling the impacts of the future development of tall buildings within the cluster accords with London Plan Policy 7.7A which states that tall and large buildings should be part of a plan-led approach



to changing or developing an area by the identification of appropriate, sensitive and inappropriate locations.

37 However, the Corporation's committee report states that "Through this 3D modelling initiative, the City is aspiring to develop a cluster of towers that step up in height from all directions towards 1 Undershaft." The proposed development, at a height of 305.3 metres (AOD), would be taller than the consented development at 1 Undershaft, thereby providing a new pinnacle to the tall building cluster on its eastern edge. Noting this contradiction, the committee report states that "the substantial height at this location in the cluster is at odds with this aspirational future shape and form of the City cluster."

38 The imposition of the proposed development in this location would therefore undermine the plan-led approach to the development of the eastern cluster, contrary to London Plan Policy 7.7A and the plan-led approach advocated by the NPPF. The wider implications of the impact of a new tall building in this location are discussed further below.

39 Regarding the proposal's impact on London's skyline, the proposed massing and form would represent a departure from the shaping of the Eastern Cluster from multiple long and mid-range views. The committee report notes that "the proposed tower due to its height and form would have a significant and far reaching impact on London wide views as well a substantial impact on local townscape views."

40 In long range views of the proposal, the height and location of the proposal would interrupt the eastward decline in height of the tall building cluster, moving the high point of the cluster to the east as well as elongating the form of the cluster towards the east. The distinctive form of the proposal and, in particular, its bulbous apex which would sit in front of clear sky when viewed from multiple vantage points, would draw attention to the manipulated form of the cluster, further emphasising this eastward spread.

41 With respect to cumulative views of the eastern cluster and wider townscape (those including consented developments as illustrated within the TBHVIA) the neighbouring existing and consented tall buildings within the cluster appear to form shoulders rising up to the height of 1 Undershaft, whereas the proposed building would stand separate from the cluster at the upper levels, being surrounded by clear sky for over half of its apparent height. In these views, the majority of the proposed building would appear as a solid, unresponsive mass with only the very upper parts being animated by glazed projecting oval sections. This would be in sharp contrast to the faceted form of the existing cluster, and in conjunction with the resulting irregular protrusion at the eastern edge of the cluster, would fail to enhance views of the cluster and London's skyline, contrary to London Plan Policy 7.7C(d)

### *Architecture*

42 London Plan Policies 7.6 and 7.7 advise that new development, including tall buildings, should be of the highest architectural quality. Given the prominence of the building on the skyline of London, and its appearance in array of long, mid-range and short views, the architectural expression and detailing of the proposal is of increasing importance. Indeed, the LRP consider that owing to this prominence, the proposals would likely become a defining element on the London skyline and consequently should deliver world-class architectural quality.

43 The external appearance of the proposal is dictated by the internal function of the building. The approximately 250 metre concrete stem or shaft, which would house the lift shaft and stairs, has been described as an 'honest' architectural expression by the City of London Corporation in its committee report. The LRP described this shaft as a 'mute' element within the

townscape owing to its lack of activation and monotone appearance. The existing tall building cluster is characterised by glass and steel structures and proposed and emerging additions to the cluster, while of varied architecture styles in their own right, are designed to consolidate and enhance this character. Their glazed and faceted facades collectively create a discernible close-knit coherence. In contrast to this, the introduction of a 250 metre high concrete lift shaft would be an obvious departure from the cluster's distinctive character and would offer no discernible complement, or balance, to its composition or appearance.

44 The form of the building is described as having been developed as a companion piece to the existing 30 St Mary Axe (the Gherkin), and to an extent this can be seen through the design of the bulb element, which mimics the shape and glazing pattern of the upper portion of 30 St Mary Axe. However, the building's viewing deck typology, and its resulting small footprint and elongated form, bears little relation to the surrounding local and wider built-form which is predominantly designed to create active and well defined areas of public realm that responds to the historic street network. The proposed building is also compromised at ground level as it diminishes the public space associated with the base of 30 St Mary Axe, creating constrained and poorly defined public realm, detracting from the existing arrangement.

45 The resulting spatial constraints placed on the immediate street network, poorly resolved interface between building frontages and public realm and lack of urban design justification for the striking juxtaposition of built form and lack of relationship to context would not represent the highest architectural quality and would be contrary to London Plan Policy 7.6B (parts a,b,c and f) and London Plan Policy 7.7C (parts b to f).

#### *Layout*

46 The area of public realm surrounding 30 St Mary Axe is understood to have been provided as a justification for the height of the building in relation to its context at time of construction. Since then, a significant amount of commercial development has been consented and constructed in this part of the City and this public realm now plays an important amenity role within the wider cityscape offering relief and circulation space for pedestrians, workers and visitors from the dense urban form of the City of London. The public realm is also well used and has become home to a weekly street food market as well as catering for outdoor events and acting as an outdoor seating area for the restaurant/bar at the base of 30 St Mary Axe.

47 The application site, which as noted above extends around much of the base of 30 St Mary Axe, equates to 2,900 sq.m. or 0.29 hectares. The existing building at 20 Bury Street occupies a floor area of approximately 200 sq.m. and along with the 470 sq.m servicing ramp are the only built up areas within the application site. The footprints of the two separate proposed buildings - the tower building and the entrance building - would occupy approximately 999 sq.m. and would therefore result in a loss of 329 sq.m. of the open public realm within the site.

48 It is noted that the proposals offer a degree of mitigation for this loss of public realm through landscaping improvements in the form of a small pocket park, and the notional public space at roof level of the two-storey entrance building. However, access to this roof space would be overseen by the applicant via an internal lift within the entrance building. As such, any sense of public ownership of this space would be negligible and it does not represent a replacement for the loss of public realm at ground level.

49 At street level, the proposed tall building and the proposed pavilion building would occupy irregular footprints at the north-eastern and north-western corners of the public space surrounding 30 St Mary Axe. As the concrete shaft of the tall building meets ground level its splays into three concrete 'buttresses' which act to further erode the existing area of public

realm. The arches formed by these buttresses would be infilled with glazing but in spite of this would provide no activation to the public realm. As with the form of the building, the functional element of this building faces 30 St Mary Axe, with the entrance doors for the restaurant/skybar facing the Gherkin Building, the proposals would turn away from Bury Street, failing to take opportunities to activate this route through this eastern cluster.

50 Similarly, the pavilion building would fail to maximise active frontages onto surrounding parts of the site, with a notable lack of activation to its northern elevation. This in conjunction with the tower buildings' minimal activation along this elevation, and the location of the servicing entrance at the north-western corner of the pavilion building, would create a marginalised corridor of public realm across the northern end of the site area.

51 The loss of valuable public realm in this dense urban location, in conjunction with the spatial constraints placed on the immediate street network and the poorly resolved interface between building frontages and the public realm would be contrary to London Plan Policy 7.5, London Plan Policy 7.6B (parts b and f) and London Plan Policy 7.7C (parts f and g).

#### Urban design conclusion

52 As discussed above, the proposal would be contrary to a number of London Plan design policies, notably those relating to; public realm (Policy 7.5), architecture (Policy 7.6) and tall buildings (Policy 7.7). The proposal would also be contrary to draft London Plan Policies D2, D7 and D8 which relate to architecture, tall buildings and public realm respectively. Additionally, the proposal would also be contrary to the City of London's Local Plan Policies CS7 (Eastern Cluster), CS10 (Design), DM10.1 (New Development) and CS14 (Tall Buildings).

53 Finally, the application would also be contrary to the design principles set out in the NPPF, which makes it clear that "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. "

#### **Strategic Views**

54 At consultation stage it was advised that the appearance of the proposed development within LVMF views 10A.1 and 25A 1,2 and 3 would cause harm to these strategic views and would therefore be contrary London Plan Policies 7.11 and 7.12 and Policies HC3 and HC4 of the draft London Plan.

#### Strategic view policy context

55 The London View Management Framework (LVMF) is a key part of the Mayor's strategy to preserve London's character and built heritage. London Plan Policies 7.11, 7.12 and the LVMF SPG outline the views of strategic importance to London, and detail how these views should be managed. These views are split into four distinct categories; London Panoramas, Linear Views, River Prospects and Townscape Views. Policy 7.12 (Implementing the LVMF) requires that new development does not harm, and where possible makes a positive contribution to the characteristics and composition of these strategic views and their landmark elements. Part c of Policy 7.12 seeks to ensure that development proposals in the background of strategic views give context to landmarks and do not harm the composition of the view as a whole. The policy also states that, "Where a silhouette of a World Heritage Site is identified by the Mayor as prominent in a Townscape or River Prospect, and well preserved within its setting with clear sky behind it, it should not be altered by new development appearing in its background". Policy 7.12d sets out principles that new developments should comply with in respect of London Panoramas (a), River Prospects (b) and Townscape and Linear views (c).

### LVMF View 10A.1

56 This view is a River Prospect, looking upstream, and originates from the North Bastion of Tower Bridge, a Grade I listed building of national significance. The elevated view enables the fine detail and layers of history of the Tower of London WHS to be readily understood. The significance of this viewing place is also highlighted within the World Heritage Site Management Plan Setting Study as being one of the best places from which to view the WHS.

57 With specific regard to this view, the LVMF SPG states that "Views from this place include the relationship between the Tower of London and the City in the background. It is important that the background of the landmark in these views is managed sensitively and should not compromise a viewer's ability to appreciate the Outstanding Universal Value of the World Heritage Site. Development should not breach the skyline of the four towers of the White Tower or its castellations. Some visual separation should be retained between the upper parts of the White Tower and the emerging cluster of tall buildings in the background."

58 From this viewing location, the White Tower is clearly visible at the heart of the WHS and currently retains its landmark value and high level of visual dominance on the skyline for the following reasons: The Tower of London is located in the foreground of the view and is in close proximity to the viewer, allowing the detail of the building to be clearly visible; the White Tower appears as a stand-alone element due to the retention of clear sky behind its distinctive corner towers and retention of a clear gap between its west elevation and the cluster of existing and consented taller buildings within the City of London and; the solid stone elevations of the Tower of London contrast significantly with the emerging glazed and faceted form of the modern buildings within the emerging City of London cluster.

59 The applicant's Townscape, Visual and Built Heritage Assessment (TVBHA) acknowledges this LVMF River Prospect as being of 'high' to 'exceptional' townscape quality with a "generally high sensitivity to change because views of the surroundings are an important contributor to the setting of this designated strategic viewpoint". This is considered to be an accurate representation of the significance of this view.

### Impact of proposals on View 10A.1

60 The proposed building would appear to the right-hand side of 30 St. Mary Axe, rising marginally higher than the tallest consented building in the Eastern Cluster, 1 Undershaft. Whilst the neighbouring existing and consented tall buildings within the City cluster appear to form shoulders rising up to the height of 1 Undershaft, the proposed building would stand separate from the cluster at the upper levels, being surrounded by clear sky for over half of its apparent height. The majority of the proposed building would appear as a solid construction with only the very upper parts being animated by glazed projecting oval sections and the proposed 'gondola' features.

61 In relation to the setting of the Tower of London WHS in this view, the proposed building would appear to be located very close to the Tower and would be seen to encroach upon the clear sky gap between the White Tower and the tall building cluster, particularly at the upper levels. For much of its height, it would appear to be a vertical solid shaft that would be seen to abruptly terminate the eastern side of the tall building cluster. Its solid and highly distinctive form would be in direct contrast to the emerging form of the tall building cluster and to the architecture of the Tower of London, thereby making it a new focal point and landmark in this view. This would serve to challenge the dominance of the Tower of London as a key feature in the view, altering the composition of the view and fail to give appropriate context to the Tower of London, harming the viewers' ability to appreciate this important aesthetic and cultural landmark.

62 As such the proposals are detrimental to this view, contrary London Plan Policies 7.11 and 7.12, Policies HC3 and HC4 of the draft London Plan, Policies CS7 and CS13 of the City of London Local Plan and the London View Management Framework SPG (March 2012).

#### LVMF Views 25A.1, 2 and 3

63 This kinetic set of Townscape Views encompasses a series of viewing locations on the south bank of the Thames close to the two public open spaces on either side of City Hall. These locations provide good views of the Tower of London with a relatively clear background setting to the White Tower. The WHS Management Plan Setting Study notes that views from these locations “exemplify many of the cultural qualities that give the Tower its OUV, including its landmark siting on the River Thames, its role as a symbol of Norman Power, as an outstanding survival of Norman keep architecture in England, as a model example of a medieval fortress palace, and its associations with State institutions”.

64 The juxtaposition of the WHS with the modern city is noted as being a central characteristic in these views and there are a rich variety of landmark elements. It is noted that the White Tower still appears as a large and dominant feature on the skyline and these views provide the best places from which to see the Tower of London in its riverside context and to understand the complex historic relationship between the Tower and the City of London, which still exists today as illustrated through the challenges for dominance in these views. Whilst other heritage assets feature within these views, the Tower of London WHS is very much the key landmark feature.

65 The visual management guidance within the LVMF SPG for this view states that, “New development in the setting of the Tower of London should be of appropriate height, scale, massing and materials. Its relationship to other buildings in the view and the quality of design is of particular importance when considering the likely impact a proposal will have on views of the Tower of London and the viewer’s ability to appreciate the Outstanding Universal Value of the World Heritage Site. New development should respect the setting of the Tower of London and should not dominate the World Heritage Site – especially the White Tower.”

66 The applicant’s TVBHA acknowledges this LVMF River Prospect as being of ‘high’ to ‘exceptional’ townscape quality with a generally high sensitivity to change. This assessment is accurate.

#### Impact of proposals on View 25A.1, 2 and 3

67 The proposed building would appear to the right-hand side of 30 St. Mary Axe and other consented buildings in the emerging City cluster notably 100 Leadenhall Street and 22 Bishopsgate. From these viewing locations, the consented buildings on the eastern side of the cluster appear to rise steeply. The proposed building would rise to a height comparable with 1 Undershaft, located at the centre of the cluster. The proposed building would stand separate from the existing cluster in the most easterly view (view 3) and would gradually move alongside the consented buildings at 100 Leadenhall Street and 22 Bishopsgate as the viewer moves west (views 1 and 2).

68 As with view 10A.1, the majority of the proposed building would appear as a solid construction with only the very upper parts being animated by glazed projecting oval sections and the proposed ‘gondola’ features. In relation to the setting of the Tower of London WHS in these views, the proposed building would appear to have a physically close relationship to the tall building cluster and to retain a clear sky gap between the City and the Tower of London.

69 However, the building would contrast in form, materials and design from the existing buildings within the tall building cluster, thereby becoming a focal point in these views and competing for visual dominance with the Tower of London WHS. Consequently, the proposal would fail to maintain the juxtaposition of the Tower of London World Heritage Site with the tall building cluster and diminish the prominence of the WHS in relation to this cluster.

70 The proposed development would harm the composition of these views and fail to preserve viewers' ability to appreciate this recognisable and important aesthetic and cultural landmark, to the detriment of the image of London, contrary London Plan Policies 7.11 and 7.12, Policies HC3 and HC4 of the draft London Plan, Policies CS7 and CS13 of the City of London Local Plan and the London View Management Framework SPG (March 2012).

## **Historic Environment**

71 At consultation stage, it was advised that the proposals would compromise the ability to appreciate the Outstanding Universal Value (OUV) of the Tower of London World Heritage Site and would cause harm to the historic environment. Accordingly, it was noted that the application did not comply with London Plan policies 7.7, 7.8 and 7.10, and Policies D8, HC1 and HC2 of the draft London Plan. Since the consultation stage, whilst there have been modest alterations to the internal floorplans, the physical form of the proposals has not changed. Consequently, the impact of the proposals on the historic environment have also not changed.

### Heritage context

72 The impact of the proposed development will be on the contribution made by the setting of designated heritage assets to their significance, or the ability to appreciate their significance. The impact is most easily appreciated visually, i.e. in views, but there are also potential impacts in the way other elements of setting are experienced, principally tranquillity and enclosure, which have not been adequately addressed within the Environmental Statement (ES) provided by the Applicant or the assessment carried out by the Corporation of London in their Planning Report. These other aspects of setting are most relevant in relation to the Grade I listed Bevis Marks Synagogue and the experience of the courtyard in providing an enclosed refuge from the city which contributes both to the significance of the building as a place of worship and also to the ability to appreciate that significance. It also applies to the Tower of London WHS and in particular the integrity of aspects of the Outstanding Universal Value where the ability to appreciate further development beyond the outer defences of the WHS erodes the experience of the Tower being slightly apart from the city.

73 The Tower of London WHS is situated approximately 0.6 kilometres to the south-east of the application site. The Tower of London is one of London's four WHS, and its history, development and significance are widely recognised and form the basis of the site's Outstanding Universal Value (OUV). The Statement of OUV sets out the significance of the Tower of London and is included in the Tower of London World Heritage Site Management Plan (WHSMP) (2016). The OUV is stated to derive from several attributes which include but are not limited to; the site's status as an internationally famous monument; the site's strategic and landmark siting; the site's role as a symbol of Norman Power, the physical dominance of the 11 Century Norman White Tower at of centre of the site; the concentric defences around the site; the surviving 11 to 16 Century ruins at the site and their symbolism of royal power; and the site's historical association with the institutions of the state. The Tower of London is also a Scheduled Monument, contains a number of listed buildings and is within a conservation area.

74 The setting of the Tower of London WHS is detailed within the WHSMP. With regard to its local setting, this is said to comprise the spaces from which it can be seen from street and river level, and the buildings that enclose, or provide definition to, those spaces. This is said to form an 'arena' from which to experience to the Tower of London WHS.

75 The wider setting of the Tower of London WHS is stated to comprise “buildings and areas beyond the local setting that are inter-visible with the Tower, or which could (if redeveloped) have an effect on its setting. The wider setting is therefore not fixed, and is proportionate to the scale of development in the vicinity of the Tower - the taller the development, the further its visual impact will extend.”

76 The WHSMP makes reference to the existing character of this wider setting and notes that “The inter-visible wider setting of the WHS comprises a mix of historic and modern commercial buildings, mostly ranging up to about 10 storeys (30-40 metres) high, with residential and commercial buildings of varying heights predominating to the north-east. Since the 1960s, tall commercial buildings, particularly in the City of London, have become increasingly characteristic of parts of the wider setting of the Tower.” It is further stated that, “To the north-west of the Tower stands the City of London’s growing ‘eastern cluster’ of tall buildings, signifying its commercial centre. Its visibility expresses the evolving political and cultural relationship between the Tower and the trading centre of the City of London.” This ‘eastern cluster’ forms the background to views of the Tower of London from the east, and the Tower of London WHSMP provides an agreed framework for long-term decision-making on the conservation, management and enhancement of the Tower of London WHS.

77 The overarching purpose of the WHSMP is to sustain and promote the OUV and Attributes of the Tower of London WHS. The WHSMP sets out six principle aims for the management of the WHS, with one of these being, ‘To preserve and enhance the local and wider setting’ of the WHS. With the accompanying text to this aim (paragraph 7.3.27), and with specific regard to the tall building cluster it is stated that, “Proposals for tall buildings to the west of the White Tower, falling within the background of the WHS, will continue to need to consider their effect on the established eastern cluster, the space between it and the Tower and the effect on the ability to recognise, understand and appreciate the OUV of the Tower.”

78 Other designated heritage assets in close proximity to the application site include the Grade II listed No. 38 St Mary Axe, the Grade II\* listed Holland House, and the Grade I listed Bevis Marks Synagogue. The church of St Botolph’s without Aldgate, which is located approximately 0.2 kilometres to the east of the site. The Grade I listed church dates to 1741-4 and is of brick with classical stone detailing. The churchyard and railings to the south and west contribute to the building’s setting and significance. The church’s setting was recently enhanced by the new Aldgate Square to its west, and the building has a group relationship to the Sir John Cass School on the opposing side of the square.

#### Heritage policy

79 Paragraph 192 of the NPPF advises, “In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.”

80 Paragraph 193 of the NPPF advises “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This

is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

81 Paragraph 194 of the NPPF states “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”

82 Paragraph 196 of the NPPF states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

83 London Plan Policy 7.8 (Heritage assets and archaeology) states that development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate. Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

84 Policy 7.10 (World Heritage Sites) states that development in World Heritage Sites and their settings, including any buffer zones, should conserve, promote, make sustainable use of and enhance their authenticity, integrity and significance and Outstanding Universal Value. The Mayor has published Supplementary Planning Guidance on London’s World Heritage Sites – Guidance on Settings, to help relevant stakeholders define the setting of World Heritage Sites.

85 Development should not cause adverse impacts on World Heritage Sites or their settings (including any buffer zone). In particular, it should not compromise a viewer’s ability to appreciate its Outstanding Universal Value, integrity, authenticity or significance. In considering planning applications, appropriate weight should be given to implementing the provisions of the World Heritage Site Management Plans.

86 London Plan Policy 7.7 (Location and design of tall and large buildings) states that the impact of tall buildings proposed in sensitive locations should be given particular consideration. Such areas might include conservation areas, listed buildings and their settings, registered historic parks and gardens, scheduled monuments, battlefields, the edge of the Green Belt or Metropolitan Open Land, World Heritage Sites or other areas designated by boroughs as being sensitive or inappropriate for tall buildings.

87 Policy 7.4 (Local Character) sets out that Buildings, streets and open spaces should provide a high quality design response that has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass and is informed by the surrounding historic environment.

88 Local Plan Policies CS7 (Eastern Cluster), CS12 (Historic Environment), CS14 (Tall Buildings), DM12.1 (Managing change affecting all heritage assets and spaces) and DM12.3 (Listed buildings) of the City of London Local Plan are also of relevance.

89 The Tower of London WHSMP provides an agreed framework for long-term decision-making on the conservation, management and enhancement of the Tower of London WHS. The



overarching purpose of the WHSMP is to sustain and promote the OUV and Attributes of the Tower of London WHS.

### Impacts on Tower of London WHS

90 Paragraphs 55 to 70 above, assess the harm to the setting of the Tower of London WHS as seen in strategically important LVMF Views 10A.1, 25A.1, 25A.2 and 25A.3. As set out in these paragraphs, the appearance of the proposed development within LVMF views 10A.1 and 25A.1, 2 and 3 would be detrimental to these strategic views and would be contrary London Plan Policies 7.11 and 7.12 and Policies HC3 and HC4 of the draft London Plan and the LVMF SPG.

91 As discussed above, the proposed development would appear within the setting of the WHS as a vertical concrete shaft against a clear sky and would abruptly terminate the eastern side of the tall building cluster, creating a vertical cliff edge. The proposed building would appear very close to the Tower and would be seen to encroach upon the clear sky gap between the White Tower and the City cluster, particularly at the upper levels. Its solid and highly distinctive form would be in direct contrast to the emerging form of the tall building cluster and to the architecture of the Tower of London, thereby making it a new focal point in views. The visual prominence of the development particularly from these, the most important viewing points, as shown within the TVBHA, would result in harm to the setting and thereby significance of the Tower of London WHS and would adversely affect the following attributes of the OUV; the physical prominence of the White Tower; the concentric defences and; the site's strategic and landmark setting.

92 With respect to LVMF View 10A.1, it is also noted that Historic England, Historic Royal Palaces and the London Borough of Tower Hamlets (in their consultation responses) along with the City Corporation (within the committee report) all concur that the imposition of the proposal within this view would result in harm to the setting and thereby significance of the Tower of London WHS and would adversely impact on the OUV.

93 LVMF views 25A.1, 2 and 3 which encompass a series of viewing locations on the south bank of the Thames close to the two public open spaces on either side of City Hall. These locations provide high-quality views of the Tower of London with a relatively clear background setting to the White Tower. These views are noted by Historic Royal Palaces as world famous, within which the distinctive silhouette of the Tower of London is internationally recognised. The proposed building would contrast in form, materials and design from the existing and emerging buildings within the tall building cluster, which are largely glazed and faceted in form. It would rise steeply on the eastern side of the cluster and would create a new focal point with its contrasting architectural form and materials. As such, it would compete for visual dominance with the Tower of London in these views. As shown within the TVBHA, the proposal would result in harm to the setting and thereby significance of the Tower of London WHS and would adversely affect the following attributes of the OUV; the physical prominence of the White Tower and; the site's strategic and landmark setting; and the site's status as an internationally famous monument.

94 Further impacts on the setting of the Tower of London would be experienced from views towards the application site from within the Tower. The proposal would be visible in views 26, 29, 30 and 31 as shown within the applicant's TVBHA. Most notable is the impact on view 26 from Inner Ward towards the Chapel Royal of St. Peter ad Vincula. In this view, the top of proposed development would be visible above the roofline of the Chapel building. The consented buildings at 22 Bishopsgate and 1 Undershaft would also intrude into this view when complete, however, the harm arising from the proposal must be considered in isolation as well as

cumulatively. The distinctive form and prominence of the proposal would draw increased attention to modern development outside the Inner Ward affecting the sense of intended enclosure at the heart of the concentric defences which culminate in the White Tower. This impact will be increased in the winter months when the tree screening would be reduced and the impact would be experienced through more of the inner Ward than just the view point identified in the TVBHA.

95 The proposals would result in serious harm to the significance of the Tower of London WHS. Whilst this level of harm is considered to be less than substantial in NPPF terms, given the major adverse impacts to LVMF views, which are regarded as the most important places from which to appreciate elements of OUV and significance, and the harm caused to the contribution made by the setting of the WHS to the integrity of the OUV, the degree of harm would be at the upper limits of less than substantial harm. The proposals would also diminish the ability to appreciate the OUV of the Tower of London WHS. As illustrated in LVMF views 10A.1 and 25A.1, 2 and 3, the height, form, design and materiality of proposals, along with the proximity of the application site to the Tower of London WHS and prominence of the proposal, are considered to adversely affect the following attributes of the OUV; the physical prominence of the White Tower; the concentric defences; the site's strategic and landmark setting; and the site's status as an internationally famous monument.

#### St Botolph's Church - Grade I listed

96 The proposals would be visible in key views of the southern elevation of the church looking along Aldgate High Street. The Grade I listed church dates from 1744 and was designed by renowned architect Dance the Elder.

97 As illustrated in View 54 of the TVBHA, the church addresses the street with a fine symmetrically composed facade and distinctive central tower with a spire over. This view is considered to be of high significance in relation to the setting of the church, because it is one of the few places from which the tower and spire of the church can be seen to stand proud of backdrop development. In addition, the significance of this view and its contribution to the setting of the church is heightened by the alignment of the church tower with the Minories opposite, with the church tower and spire terminating northerly views along the Minories.

98 As illustrated with in View 54 of the TVBHA, the proposed building would appear directly to the left-hand side of the church tower and spire in this view and would form a contrasting and dominant element that would be seen to challenge the dominance of the church tower. On entering Aldgate High Street from the Minories, it would not be possible to experience the church without being aware of the impact arising from the proposed development. There would be a loss of clear sky which, at present, allows the tower and spire of the church to be seen to stand proud of backdrop development.

99 As such, the appearance of the proposed development within View 54 and views of the church from the Minories to the south, would cause serious harm to the setting and thereby significance of the Grade I listed church. Whilst this level of harm is considered to be less than substantial in NPPF terms, given the serious impact on the setting of the church within highly significant views of the church, the degree of harm would be at the upper limits of less than substantial harm.

#### Holland House, Bury Street, Grade II\* listed

100 The proposal would be in located in close proximity to this Grade II\* listed heritage asset and, as stated in the committee report, would have significant impact on this building constituting 'an assertive neighbour' with the base of the stem obscuring views of the listed

building in views looking east and thereby resulting in harm to its setting. The harm to the significance of the Grade II\* listed Holland House would be less than substantial.

#### Bevis Marks Synagogue – Grade I listed

101 The proposal would be a prominent feature in views from the enclosed courtyard of the Synagogue. It will be particularly apparent in views both from the courtyard on the north side of the Synagogue and from within the glazed roof extension to the south of the Synagogue. The committee report notes that 'It would appear as a prominent skyline feature with the added perception of overhanging the courtyard which may appear uncomfortable in views westwards.' The resulting harm to the significance of the Grade I listed Synagogue would be less than substantial.

#### 38 St Mary Axe (The Baltic Exchange) – Grade II listed

102 As noted within the committee report, the proposal would be a very assertive neighbour in views to the east and the two-storey pavilion will obscure views of part of the south elevation of the building. There would therefore be harm to the setting of this Grade II listed building.

#### Church of St Helen's Bishopsgate – Grade I listed

103 Whilst noted that this Grade I listed Church's immediate setting is characterised in part by the tall building of the eastern cluster, the proposal would rise above the existing tall buildings and in particular 30 St Mary Axe, representing an 'eye-catching feature' according to the committee report. The proposals would therefore result in harm to the setting of this designated heritage asset with less than substantial harm resulting to the significance of the Grade I listed Church.

#### Wider heritage impacts

104 The impact of the proposed development will be on the contribution made by the setting of designated heritage assets to their significance, or the ability to appreciate their significance. The impact is most easily appreciated visually, i.e. in views, but there are also potential impacts in the way other elements of setting are experienced, principally tranquillity and enclosure, which have not been adequately addressed within the TBHVIA or the assessment within the committee report. These other aspects of setting are most relevant in relation to the Grade I listed Bevis Marks Synagogue and the experience of the courtyard in providing an enclosed refuge from the city which contributes both to the significance of the building as a place of worship and also to the ability to appreciate that significance.

105 The visual assessment within the ES is based upon agreed viewpoints which have been used primarily to judge impact upon the Tower of London WHS. However, the Tower of London is not the only designated heritage asset within some of the views, but no assessment of impact upon these other assets has been provided. The clearest example of this flaw in the approach to assessment is in View 31 which contains the impressive tower element of 10 Trinity Square (listed at Grade II\*). Although noted in the description of the existing view there is no other consideration of the contribution of the existing setting to the ability to appreciate this designated heritage asset in this particular view. Therefore, there is no assessment of the impact of the development upon the setting of this listed building from this viewpoint or any other location within its setting or the indeed the setting of the Tower of London. It is clear that with the references to "foreground: high sensitivity and background: low sensitivity", what is being assessed is the view itself and not the setting of the listed buildings.

106 Within the immediate area of this particular viewpoint e.g. the north end of Petty Wales and Gloucester Court by the Tower Vaults, the proposed development will also be visible within the setting of The Grade I listed Church of All Hallows by the Tower. It may also be possible to see the proposal from within Trinity Gardens and, therefore, the proposed development could have an impact upon the setting of the Mercantile Marine First World War Memorial (listed Grade 1) and The Merchant Seaman's Memorial (listed Grade II\*).

107 The assessment of the impact of the proposed development within the Environmental Statement (and TVBHA therein) is therefore inadequate with respect to these other heritage assets and therefore the potential level of harm to these assets is not properly identified or addressed within the committee report.

## **Transport**

108 At consultation stage it was considered that the proposals would result in a poor quality, unwelcoming, unnecessarily confined pedestrian environment contrary to Policy 6.10 of the London Plan and Policies D1 and D7 of the draft London Plan. Additionally, it was advised that the proposals would not reflect the Healthy Streets approach detailed within Policies T2 and T4 of the draft London Plan and that the level of cycle parking would not accord with draft London Plan Policy T5.

### Transport policy context

109 At paragraph 102, the NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- potential impacts of development or on transport networks can be addressed;
- opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- opportunities to promote walking, cycling and public transport use are identified and pursued;
- the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- patterns of movements, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

110 London Plan Policy 6.1 applies these principles within the strategic approach for transport in London. Other relevant strategic transport policies in this case include: Assessing effects of development on transport capacity (Policy 6.3); Enhancing London's transport connectivity (Policy 6.4); Better streets and surface transport (Policy 6.7); Cycling (Policy 6.9); Walking (Policy 6.10).

111 The Mayor's Transport Strategy (2018) (MTS) seeks to put people's health and quality of life at the very heart of planning the city's transport with aims that by 2041, 80% of personal trips in London will be made on foot, by cycle or by public transport, all Londoners will do at least 20 minutes of active travel per day, and deaths and serious injuries will be eliminated from London's transport network.. The MTS seeks to impose high expectations on developers to deliver transport solutions that will promote sustainable mode shift, reduce road congestion, improve air quality and assist in the development of attractive, healthy and active places.

112 The aspirations of the Mayor's Transport Strategy are embedded in the policies of the draft London Plan particularly the policy approaches such as 'Healthy Streets', 'Good Growth' and the Mayoral mode share targets. Draft London Plan Policy T1 sets the Mayor's strategic target of 80 per cent of all trips to be made by foot, cycle or public transport by 2041. Draft London Plan Policies T3-T6 and T6.1 – 6.3 seek to enable the achievement of the Mayor's strategic target.

#### Impacts on pedestrian movements

113 Documents submitted in the application show the proposed development would have significant impacts on pedestrian movements within the Eastern Cluster, which already suffers from extremely high levels of pedestrian crowding. Crowding in this location will also continue to increase in the near future due to the opening of Crossrail at Liverpool St Station and future completion of multiple high-density new developments including those referred to in paragraph 25 above.

114 The application also predicts that 88% of new visitors to site would arrive as pedestrians coming from the north-west. The vast majority would then therefore be likely to walk along and cross Bishopsgate A10, which is part of the Transport for London Road Network (TLRN). 66.8% of National Rail trips and 22% of London Underground (LU) trips expected to be generated by the development in a typical peak hour would arrive into Liverpool Street, across Bishopsgate A10 from the site. Just 9.2% of the new LU trips generated in a typical peak hour are expected to use stations east of the site, with no impacts on Bishopsgate A10.

115 The proposed development would considerably increase crowding on local footways at already busy times of day, especially leading to and from major transport hubs to the west. No mitigation has been proposed or agreed for this harm in accordance with London Plan Policy 6.3 and draft London Plan policies T2, T3 and T4.

116 Pedestrian Movement Analysis, prepared by Space Syntax for the application, was audited independently by Arup for the City of London Corporation following the Stage 1 consultation response. Arup's report assumed that at full capacity, the proposed development would generate over 17,000 journeys a day and attract 1.2 million visitors per year. As the application's Transport Assessment notes both the Space Needle and CN Tower, similar tourist attractions to the one proposed, attract larger numbers of visitors than the 1.2 million tested – 1.3 and 1.5m respectively.

117 Transport for London (TfL) believe the visitor numbers tested by Arup were too low and may represent a best-case scenario. Further assessment of a more robust and reliable worst-case scenario of the proposed development at full capacity may enable TfL to advise on appropriate mitigation for local streets including parts of the TLRN and London's strategic walking, cycling and public transport networks.

118 Notwithstanding the above, the submitted analysis models a 'typical busy day' for the proposal (referred to as the design day), projected to occur on the 30 busiest days of the year including during summer holidays and public holidays. The analysis suggests that at peak hour during the design day, 1,820 pedestrian movements would be generated across the site. The City Corporation acknowledge at paragraph 266 of the Committee Report that "these 1,820 visits in the peak hour would add significant additional stress to the streets in the City Cluster, which already experience substantial crowding in some locations at some times [of the day]."

119 The highest levels of crowding would be expected on St Mary Axe between Camomile Street/Bevis Marks and Bury Court, where predicted pedestrian numbers would reach 6,599 in the evening peak hour, potentially resulting in a pedestrian comfort level (PCL) of C-. TfL

Pedestrian Comfort guidance defines a PCL score of C- as: '24-26 pedestrians per metre of clear footway width per minute; 78% Restricted movement'. A C- score is also defined as 'unacceptable' in areas 'particularly sensitive to crowding' such as high streets or major tourist attractions.

120 At the same location during lunchtime peaks, the existing PCL baseline for this location is B, the future baseline with other committed developments in the Eastern Cluster will be C+, and the proposed development would make the PCL a score of C.

121 The City Corporation also acknowledge in their Committee Report that expected PCLs around the proposed development depend on the completion of nearby developments. Most importantly, if the neighbouring 1 Undershaft development is not implemented and thereby does not provide additional pedestrian space on the south side of Undershaft and the western side of St Mary Axe, the PCL at the narrowest points for pedestrians would be C+ instead of B on Saint Mary Axe south and C- instead of A- on Undershaft.

122 As can be seen from the above, by increasing visitor numbers to the area, whilst simultaneously reducing the available open area at ground floor level, the proposed development would significantly degrade the pedestrian experience to unacceptable levels.

123 In its busiest periods, in practical terms, the proposed development would not be permeable by foot and cycle or connect to local walking and cycling networks and public transport, because accessing the site by sustainable and active modes would be unpleasant, difficult and unattractive. It may in fact often be impossible for some older people, parents with pushchairs, and people with mobility issues, visual impairments and certain disabilities. PCL scores projected on the surrounding streets clearly indicate that pedestrians from some walks of life would be excluded from the local area at peak times.

124 The City Corporation also noted at Paragraph 238 of the Committee Report that, 'With the increase in the number of extra deliveries to the Tulip, the addition of approximately 1.2m visitors per year and additional cycling movements, it is likely to increase the conflicts within the Eastern Cluster.' This statement clearly runs contrary to the Mayor's Vision Zero aim to improve public safety with no deaths or serious injuries on London's roads and streets by 2041.

125 The proposed development would instead increase the likelihood of conflict between people and vehicles and the risk of a life-changing or life-ending collision taking place and is therefore contrary to London Plan Policies 6.1, 6.7, 6.10, 7.1 and 7.5, draft London Plan Policies T2, T3, T9 and D7 and Policies CS16 and DM16.1 of the City of London Local Plan.

#### Cycle parking

126 In order to accord with Policy 6.10 of the London Plan, 64 new short-stay cycle parking spaces would be required whereas in order to comply with Policy T5 of the draft London Plan, 126 new short-stay cycle parking spaces would be required. Both the London Plan and draft London Plan require 21 new long-stay cycle parking spaces.

127 The application does not propose any new cycle parking which would comply with the London Plan or draft London Plan. Furthermore, the application proposes to convert 114 existing long-stay cycle parking spaces for users of 30 St Mary Axe to make them non-compliant with the London Cycle Design Standards (LCDS) through use of a ticketed cycle parking system that would likely lead to waiting/queueing for cyclists. Additionally, the LCDS makes clear at page 3 that 'destinations' such as 'leisure venues' should 'be served by cycle parking that can accommodate employees, customers, residents and visitors.' It would therefore be unacceptable for short-stay cycle parking to be provided for employees and customers only.

128 The proposals would therefore retrospectively alter an existing building to reduce the quality of its active travel offer and fail to comply with Policy 6.9 of the London Plan, Policy T5 of the draft London Plan and Policies DM16.3 and 16.4 of the City of London Local Plan.

## **Update on other strategic issues**

129 An update on the other strategic issues raised at consultation stage is set out below.

## **Principle of development**

130 On 8 February 2019, the applicant provided an updated floor plan to the City Corporation for Level 3 of the of the bulb element of the proposals (Dwg. No. A-PT-031-03-01 rev 02). As per the initial application drawings, level 3 was to provide an 88 sq. m. classroom/educational space plus associated ancillary space along with back of house/plant space. The alterations to level 3 would now see approximately 168 sq. m. provided for three classrooms at this level, out of a total of 314 sq.m. including welcome areas and cloakrooms provided for this use. It is understood that it is now possible to accommodate the plant/back of house space (previously located on Level 3) at Levels 1 and 2.

131 The draft Section 106 agreement secures this space at level 3 for free of charge visits from London state school children between the hours of 1000 and 1500 on Mondays to Fridays during school term. In addition, the same space would be secured for free of charge education and community use between the hours of 1500 and 1900 on Mondays to Fridays. The exact details of these uses and their operation would be set out with an Education and Community Use Management Plan, submission of which is also required by the draft Section 106 agreement. The agreement also states that the applicant should ensure that education floorspace is made available in a manner which will permit no less than 40,000 London state school children to visit per annum.

132 As noted at Stage 1, London Plan Policy 7.7 and Policy D8 of the draft London Plan require free to enter publicly accessible areas to be incorporated into tall buildings, particularly those that are more prominent such as the proposed development. In this regard, levels 4 to 7 of the proposed development would provide paid for access to a viewing gallery experience. This would be contrary to the above policies, however, owing to the inclusion of the free to access educational floorspace and the limited overall floorspace within the proposed building, on balance, a refusal on this basis is not considered warranted.

133 The Stage 1 report also noted the loss of office arising from the demolition of the building at 20 Bury Street. Policy 2.10 of the London Plan and Policy SD5 of the draft London Plan require that mixed-use developments within the CAZ do not result in a net loss of office floorspace. Given the proposals would not re-provide office floorspace, the resulting loss of this space would be contrary to the above policies. However, given the minimal level of floorspace lost, some 428 sq.m. according to the application documentation, a refusal on this basis is not warranted.

## **Climate change**

134 Limited additional information has been provided since consultation stage and the following items remain outstanding: As the development is located close to the City 2 proposed district heating network, the applicant must demonstrate that the opportunity to connect to this network has been fully investigated by providing evidence of communication with the network operator to establish the anticipated timeframes of the network and its available capacity for connection. The full BRUKL files for each stage of the energy hierarchy should also be submitted for review. This

information must be submitted before the proposals can be considered acceptable and the carbon dioxide savings verified. GLA officers do not recommend refusal of the application on these grounds as this can be addressed at detailed design stage via a condition. The applicant should have regard to these comments in any appeal or subsequent application.

## **Equality**

135 London Plan Policy 3.1 and Policy GG1 of the draft London Plan seek to ensure that development proposals protect and enhance facilities and services that meet the need of particular groups and communities, and resists their loss without adequate justification or re-provision.

136 More generally, the 2010 Equality Act places a duty on public bodies, including the GLA, in the exercise of their functions, to have due regard the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

137 This requirement includes removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic and taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it. The Act defines protected characteristics, including age, disability and pregnancy/maternity, which are considered to be of most relevance to this application. In assessing the application, GLA officers have had regard to the Act and concluded that the scheme would have some negative equalities impacts on these three protected characteristics owing to the increased crowding resulting at street level as highlighted in paragraphs 113 to 125 above.

## **Response to consultation**

### Responses to neighbourhood consultation

138 In addition to inviting comments from statutory consultees and publishing all the relevant documents on the planning register, the City of London Corporation carried out a public consultation with local residents, businesses and institutions. The Corporation publicised the application by notifying 606 neighbouring properties, placing site notices and publishing notices in the local press. A total of 26 objections were received, with reasons as summarised below:

- Unnecessary form of development
- Proposal is out of context with rest of the City
- Proposal detracts from London's reputation
- Proposal detracts from high quality architecture of neighbouring buildings
- Proposal would make no architectural or townscape contribution to surrounding area, in particular the blank shaft
- Design is unattractive
- Proposal would add to visual clutter of skyline
- Proposal is a symbol of exclusivity
- Proposal would detract from the Tower of London



- The height of the proposal is solely driven by desire to be the tallest building in the city cluster
- The educational facilities are a poor substitute for what the Museum of London provides
- Proposal would lead to tourist crowds and undesirable side effects – rubbish and street sellers.
- Concerns about the large number of private coaches that would visit.
- Proposal would lead to further pedestrians in area which is already suffering.
- Adverse impacts on the transport network.
- Adverse impacts during construction
- Already sufficient bars and viewing galleries in London

139 In addition, 31 responses were received in support of the proposal and a further 104 people signed a pro-forma letter in support of the proposals. The comments in support can be summarised as follows:

- Proposal would bring extra visitors to the City in line policy initiatives
- Elegant design that complements the gherkin and makes positive contribution to skyline
- Proposals would enliven City at all times of day and seven days a week, resulting in economic benefit
- Proposal would provide high quality public realm and improved pedestrian routes
- Proposal would create new jobs during construction and operation
- Education facility would allow every inner London state school child to visit free of charge
- Proposal would increase the standing of London as an international City purely through its aesthetic appeal
- Innovative design creates something special out of unused plot
- Proposals would benefit locals as well as tourists
- London needs more viewing galleries
- Important for the status of the city
- Help with the appearance of the eastern cluster
- Would not harm the Tower of London as seen in context of wider views
- Proposal could be taller to improve views

#### Response to statutory consultation

140 The following organisations issued responses to the consultations:

- **Historic England:** Historic England objects to the application on heritage grounds. Based on the documents submitted with the application, Historic England is not convinced that the harm to the significance of the Tower of London, a World Heritage Site of international importance, could be outweighed by public benefits.

The gradual intensification and densification of the Eastern Cluster of tall buildings has changed the visual relationship between the City and the Tower of London WHS in some views. The proposals will further change this relationship, creating a vertical 'cliff edge' to the Eastern Cluster when viewed from the north bastion of Tower Bridge (LVMF 10A.1), while the unusual form of the building, intended to be eye-catching, draws attention away from the Tower. In our view, the proposed new building would change the relationship between City and Tower to such an extent that the Eastern Cluster begins to visually challenge the dominance and strategic position of the Tower (both attributes of OUV), thereby causing harm to its significance.

This harm is primarily experienced in one view, but it is the view that best illustrates the relationship between the Tower and the City of London and thereby the attribute of OUV that relates to the strategic and dominant position along the river, set apart from

the mercantile City. The proposed building would diminish the sense of dominance of the Tower, resulting in harm to the significance of the World Heritage Site.

A further impact on the significance of the Tower occurs in the view from the Inner Ward towards the Chapel Royal of St. Peter ad Vincula. Here, the top of the 'Tulip' would be visible above the roofline of the Chapel, adding to the modern visual intrusions of the tall buildings at 22 Bishopsgate (under construction) and 1 Undershaft (consented) above the chapel roofline when these buildings are completed. The appearance of modern tall buildings above this roofline causes harm, as it diminishes the self-contained ensemble of historic buildings currently largely unimpeded by signs of the modern city beyond. This is not a pristine view, but each time a new building appears in the view, it contributes to a diminution of the impact of the sense of history in this special place. Our view is that the harm here is less than substantial. We also note that there are already viewing platforms in the City of London, including of course Wren's historic Monument, with which the proposed new development would compete.

- **Historic Royal Palaces:** Historic Royal Palaces (HRP) objects to the application on heritage grounds.

HRP disagree with the conclusion in the Environmental Statement that only one of the three relevant attributes of the OUV (identified in the Tower London WHS Management Plan 2016) are affected by the proposed development, which is the physical dominance of the White Tower – and then only in one view, the London View Management Framework (LVMF) view 10A.1 from the north bastion of Tower Bridge looking upstream.

HRP state that The Tower's distinctive silhouette as seen in the view from the south bank of the Thames (LVMF protected views 25A.1-3) is recognised internationally; the White Tower has become an iconic image of London, frequently used in publicity by organisations such as Visit Britain. HRP considers that the proposed development would have a major, harmful effect on the setting of the Tower WHS in these views. The height, proximity and dramatic design of the proposed development would diminish the Tower WHS, reducing it to the appearance of a toy castle set-down between the Eastern Cluster and the Tower Bridge.

HRP state the views towards the application site from within the Tower would also be seriously affected by the proposed development, as illustrated in view 26, 29, 30 and 31 in the TVBHA.

- **UNESCO:** Culture Sector World Heritage Centre: the overall impact of the proposed developments within the setting of the World Heritage property is assessed in an integrative approach considering the accumulative effect as a whole within the setting of the property and their potential impact to its Outstanding Universal Value. Trust that this will be considered before an irreversible decision is taken. Information has been forwarded on to ICOMOS for their review.
- **ICOMOS:** Objects to the proposals. ICOMOS considers that the proposed development project is not compatible with the preservation of the integrity of the World Heritage property of the Tower of London, and would therefore advise that the State Party:
  - Abandon the Tulip development project; and
  - Adopt a stricter and more appropriate evaluation of proposed constructions that could have an impact on World Heritage properties, giving priority to the preservation of OUV, in line with previous mission recommendations.

- **London Borough of Tower Hamlets:**

The proposed development would cause serious unacceptable (less than substantial) harm to the significance and setting of the Grade I listed Tower of London World Heritage Site, without significant and proportionate public benefit to justify such harm. The proposed development would conflict with paragraph 193 and 196 of the NPPF and policies 7.7, 7.8, 7.10, 7.11 and 7.12 of the London Plan, including policies D8, HC1, HC2, HC3 and HC4 of the draft London Plan.

The proposal is likely to impact onto the LBTH local public transport infrastructure which would have to absorb a proportion of the forecasted visitors to site annually. Insufficient information has been submitted with the application to allow officers to fully understand the likely impacts on to the transport network. LBTH reserve the right to provide comments when such information is made available.

The Environmental Statement does not contain sufficient information to fully assess the proposals and there is likely to significant adverse effects in terms of greenhouse gas emissions.

- **Heathrow Airport:** No objection subject to condition requiring submission of a construction management strategy prior to commencement.
- **NATS:** Satisfied no impact is anticipated from either the building itself, or any moving parts. NATS has no objections to the application subject to the imposition of the aviation planning condition requiring the submission of a Crane Operation Plan.
- **London City Airport:** No objection subject to conditions requiring a Crane Operation Plan and Construction Methodology.
- **Port of London Authority:** No objection.
- **Natural England:** The proposed development would not have a significant adverse impact on statutorily protected sites and provided advice on other natural environment issues for information for the applicant.
- **London Borough of Southwark:** No objection.
- **London Borough of Hackney:** No objection.

#### Representations directly to the Mayor

141 In addition to the consultation responses outlined above, the Mayor has also received 23 direct representations from members of the public, along with a petition signed by 264 people and representations from London Assembly Members. Representations to the Mayor from members of the public are summarised as follows:

- Proposal detracts from London's reputation
- Proposal detracts from high quality architecture of neighbouring buildings
- Proposal would make no architectural or townscape contribution to surrounding area
- Design is more appropriate for a theme park rather than central London
- Limited purpose to the viewing gallery
- Would be another illustration of lack of coherent conservation policy in this historic part of London
- Could be higher than air traffic safeguarding heights
- Proposal is contrary to the London Plan
- Proposal would damage the skyline of London
- Proposal would detract from, and breach protected views of, the Tower of London
- The educational facilities are a poor substitute for what the Museum of London provides

142 Representations to the Mayor from Assembly Members are summarised as follows:

- **London Assembly Member Tom Copley:** Object to the application. The viewing gallery should be free to the public. There are other viewing galleries in close proximity to the site, the proposals therefore lack justification given the detrimental impact it would have on the Tower of London. Proposal create a lot of extra pressure on Liverpool Street station and pedestrian overcrowding around the eastern part of the City of London. This will be compounded by the fact the development would build over some current public realm that acts as an important pedestrian route. The proposal is simply another phallic object that London doesn't need. It will be an eyesore that Londoners will have to endure whether they can afford to pay to visit it or not.
- **London Assembly Member Andrew Dismore:** Object to the application. Proposal would result in significant level of harm to views of and around the Tower of London. Proposal would not add to other viewing attractions in the capital. The viewing gallery element should be free of charge and fully accessible. There little demonstrable benefit to schoolchildren relating to the education space. The last thing London's historic skyline needs is another ludicrous phallic object, which is out of place, out of keeping, and beneficial to only the wealthy few who will pay to visit it.
- **London Assembly Member Unmesh Desai:** Object to the application. Proposal would constitute a blight on the London skyline with next to nothing in terms of benefits to Londoners. Proposal will be of detriment to Tower of London WHS. The proposed viewing platforms would not add anything compared those already existing and should be free of charge.

#### Consultation summary

143 Having considered the responses to public consultation, and representations submitted to the Mayor of London, GLA officers are satisfied that the statutory and non-statutory responses to the public consultation process do not raise any further material planning issues of strategic importance that have not already been considered in this report, or consultation stage report GLA/4868/01.

### **Draft section 106 legal agreement**

144 As part of City of London Corporation's draft decision to approve the application, a draft Section 106 agreement has been provided which includes the following obligations:

- A financial contribution of approximately £217,523 towards affordable housing provision
- A financial contribution of approximately £32,958 towards local training, skills and job brokerage
- A carbon-offset contribution of approximately £186,498
- Highway Reparation and other Highways obligations
- Delivery and Servicing Management Plan
- Consolidation Plan for the Tulip and the Gherkin
- Formation of construction working group with neighbouring developments
- Travel Plan
- Cycle parking commitments
- Cessation of existing Market use at ground level
- Limits on tables and chairs around the base of the Gherkin
- No coach drop off within the Square Mile

- Local Training, Skills and Job Brokerage Strategy (Construction)
- Local Procurement strategy
- Utility Connections
- Public Realm Access Pocket Park
- Highways S278 Agreement (to include but not limited to):
  - Pedestrian improvements to St Mary Axe and Bevis Marks
  - Contributions to the delivery of Eastern City Cluster Strategy projects
  - Improvements to Bishopsgate/Camomile Street/Wormwood Street
- Visitor Management Plan including: varying restrictions on the number of tickets:
  - Restrictions on the number of tickets sold at varying times of the day
  - Provision that residents in the City and neighbouring boroughs discounted tickets which is specified by postcode.
  - A concession policy (under 4s free, 4-12 discounted, student discount and senior citizen discount and visitors on state benefits) amounts to be agreed
  - Opening hours
  - Security/Emergency arrangements
  - Access arrangements (including queue restriction, access for people with disabilities)
  - Maintenance
  - Review Mechanisms
- Education/Community Facility Management Plan
  - Free use of education floorspace by State Schools between 1000-1500 hours
  - Free use of educational floorspace by community/other educational organisations between 1500-1900
  - Security/Emergency
  - Access and facilities (including age appropriate requirements and facilities for people with disabilities)
  - Maintenance
  - Review Mechanisms
- Restriction on advertising on any part of the development

## **Legal considerations**

145 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to the London Plan, would prejudice the implementation of the policies within the London Plan or would be contrary to good strategic planning in Greater London.

146 If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice.

## **Officer recommendation – Article 6: Direction that the Mayor refuse planning permission**

147 Article 6 of the Mayor of London Order (2008) states that where the Mayor considers that to grant planning permission would be contrary to the spatial development strategy or prejudicial to its implementation or would otherwise be contrary to good strategic planning in

Greater London, he may, within the period specific in article 5(1)(b)(i), direct the local planning authority to refuse the application.

### The balancing exercise

148 As the development plan for the area is not considered to be out of date, the tilted balance in favour of sustainable development, referred to at paragraph 11 of the NPPF, should not be applied.

149 The proposals would bring forward public benefits which would principally be associated with the educational floorspace located on Level 3 of the proposed bulb element. The proposals would deliver 168 sq.m. of classroom space which would be offered free of charge to local schools in order to conduct lessons for pupils in this space, which would be secured by the Section 106 legal agreement. It is also noted that the educational space would be available for community use between 1500-1900 hours, which constitutes a further public benefit. However, given the limited amount of floorspace associated to this particular use, the public benefits ascribed to this function are limited.

150 Further benefits of the scheme would relate to the economic benefits arising from increased visitor numbers to this part of the City of London and financial contributions in the form of an affordable housing contribution of £217,523, and a local skills, training and job brokerage contribution.

151 The proposals would also bring forward dis-benefits including the adverse impacts on public realm and pedestrian movement.

152 This report has identified that the proposed development would cause serious, less than substantial harm to a number of designated heritage assets. Harm has been identified to assets of great importance, namely the Tower of London World Heritage Site and the Grade I listed St Botolph's Church. The NPPF is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Case law (Barnwell Manor) has established that this harm should be given "considerable importance and weight" in the decision-making process.

153 The NPPF states that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

154 Given the significance of the heritage assets that would be harmed by the development, and the level of harm that would be caused, the weight that must be afforded against the development is very significant indeed. The public benefits that the development would bring forward would not come close to outweighing that harm and as such, planning permission should be refused.

### Conclusion

155 As set out above, GLA officers have concluded that to grant permission would be contrary to the London Plan and would prejudice the implementation of the policies within the London Plan relating to the conservation and enhancement of London's heritage, including one of London's WHS, the protection of strategically important views, and principles of good design and functioning and safe highway network.

156 Planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. No such material considerations have been found to exist.

157 The Mayor is therefore recommended to direct refusal under Article 6 of the Order for the reason set out below:

- Urban Design: The proposed development, by virtue of its height, form, design and appearance would not constitute the very highest quality of design required for a tall building in this location. It would be detrimental to the character and composition of the existing tall building cluster, the wider skyline of London and the public space surrounding the site. The proposals would be contrary to policies 7.1, 7.4, 7.5, 7.6 and 7.7 of the London Plan, draft London Plan Policies D1, D2, D7 and D8, and City of London Local Plan Policies CS7, CS10, CS14 and DM10.1.
- Historic Environment - Tower of London World Heritage Site: The proposed development would be detrimental to the setting of the Tower of London World Heritage Site by reason of its height, form, design and materiality, along with the proximity and prominence which would adversely affect the following attributes of the Outstanding Universal Value of the Tower; the physical prominence of the White Tower; the site's strategic and landmark setting; and the site's status as an internationally famous monument. The integrity of aspects of the Outstanding Universal Value would also be affected including the concentric defences and the experience of the Tower being apart from the city. The harm would be significant and, whilst it would be 'less than substantial', it would be at the upper limit of this range. The public benefit of the provision of educational floorspace, a visitor attraction and the economic benefit arising from the development would not outweigh the harm identified. The proposals are therefore contrary to London Plan Policies 7.7, 7.8, 7.10, 7.11 and 7.12, Policies D8, HC1, HC2, HC3 and HC4 of the draft London Plan, Policies CS7, CS12, CS14 and DM12.1 of the City of London Local Plan, London's World Heritage Sites – Guidance on Settings SPG (March 2012), the guidance within the Tower of London World Heritage Site Management Plan and the National Planning Policy Framework.
- Historic Environment – Other heritage assets: The appearance of the proposed development within the setting of the Grade I listed St Botolph's Church without Aldgate and its appearance within key views of this heritage asset from the south, would cause harm to the contribution made by the setting to its architectural interest and the ability to appreciate the significance of this Grade I listed building. The proposal would also result in harm to the ability to appreciate the significance of other heritage assets including; the Grade II\* listed 10 Trinity Square, the Grade I listed Bevis Marks Synagogue, the Grade II listed 38 St Mary Axe, and the Grade I listed Church of St Helen's Bishopsgate. The public benefit of the educational floorspace, a visitor attraction and the economic benefit arising from the development would not outweigh the less than substantial harm identified with respect to these heritage assets. In addition, the submitted documents are inadequate to enable a full assessment of the impact on all heritage assets. The proposals are therefore contrary to London Plan Policies 7.7 and 7.8, Policies D8 and HC1 of the draft London Plan, Policies CS7, CS12, CS14, DM12.1 and DM12.3 of the City of London Local Plan, and the National Planning Policy Framework.
- Strategic Views: The location, height, form and appearance of the proposed development within LVMF views 10A.1 and 25A.1, 2 and 3 would fail to maintain the juxtaposition of the Tower of London World Heritage Site and diminish its prominence in

relation to the Eastern Cluster, harming the composition of these views and failing to preserve viewers' ability to appreciate this recognisable and important aesthetic and cultural landmark, to the detriment of the image of London, contrary London Plan Policies 7.11 and 7.12, Policies HC3 and HC4 of the draft London Plan, Policies CS7 and CS13 of the City of London Local Plan and the London View Management Framework SPG (March 2012).

- Pedestrian movement: As a result of the significant increase in pedestrian activity within a confined area subject to crowding, the proposal would result in a poor quality, unwelcoming, unnecessarily confined and potentially unsafe pedestrian environment. The proposals are therefore contrary to London Plan Policies 6.1, 6.7, 6.10, 7.1 and 7.5, draft London Plan policies T2, T3, T4, D1 and D7, and Local Plan Policies CS16 and DM16.2.
- Cycle parking: The proposals would fail to provide adequate new short stay cycle parking to serve the proposed visitor attraction and would retrospectively alter an existing building to reduce the quality of its active travel offer. The proposals would therefore fail to comply with Policy 6.9 of the London Plan, Policy T5 of the draft London Plan and Policies DM16.3 and DM16.4 of the City of London Local Plan.

## **Article 7: Direction that the Mayor is to be the local planning authority**

158 Under Article 7(1) of the 2008 Order the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance, for the reasons detailed above, GLA officers are recommending that the Mayor directs that City of London Corporation refuse the application.

### **Financial considerations**

159 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

160 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

161 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the council to do so) and determining any approval of details (unless the council agrees to do so).

### **Conclusion**

162 Further to the consideration within this report GLA officers have concluded that The proposed development of a tall visitor attraction, by virtue of its height, form, design and appearance would not constitute the very highest quality of design required for a tall building in this location. The development would compromise the ability to appreciate the Outstanding Universal Value of the Tower of London World Heritage Site and would cause harm to the historic environment. It would cause harm to the character and composition of the existing tall building cluster, the wider skyline and image of London, and strategic views, as well as the public space



surrounding the site. The public benefits of the scheme are limited and would not outweigh this harm.

163 The Mayor is therefore recommended to direct refusal under Article 6(1)(a) of the Order for the reasons set out in this report.

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