

Item No. 2	Classification: OPEN	Date: 11 October 2011	Meeting Name: PLANNING COMMITTEE
Report title:	Development Management planning application: Application 09-AP-0343 for: Full Planning Permission Address: EILEEN HOUSE, 80-94 NEWINGTON CAUSEWAY, LONDON, SE1 6EF Proposal: Demolition of existing office building and erection of a 41 storey (128.7m AOD) mixed use building incorporating 255 private flats (16 x studio, 120x 1-bed, 86 x 2-bed and 33 x 3-bed), 80 intermediate flats (23x 1-bed, 50 x 2-bed and 7 x 3-bed), 4785sq.m of office/ educational/ health uses (Use Class B1) and 287sq.m retail use (Use Class A1-A5) together with a separate 8 storey (35.60m AOD) building incorporating office/educational (Use Class B1) and retail (Use Class A1-A5) uses, together with 34 disabled car parking spaces, 44 motorcycle spaces and 411 cycle spaces within 2 basement levels, plus associated servicing facilities (4626sqm) and public realm improvements including creation of a resident's garden and linear park (458sq.m) and University Square (2768sq.m).		
Ward(s) or groups affected:	Cathedrals		
From:	HEAD OF DEVELOPMENT MANAGEMENT		
Application Start Date 23/02/2009		Application Expiry Date 25/05/2009	

RECOMMENDATION

- 1) Grant Planning Permission subject to conditions and the applicant entering into an appropriate legal agreement, and subject to referral to the Mayor of London and the Secretary of State for Communities and Local Government;
- 2) If it is resolved to grant planning permission that it is confirmed that the environmental information has been taken into account as required by Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessments) Regulations 1999;
- 3) That it is confirmed that following issue of a decision that the Head of Development Management shall place a statement on the Statutory Register pursuant to Regulation 21 of the Town and Country Planning (Environmental Impact Assessments) Regulations 1999 which contains the information required by Regulation 21 and that for the purposes of Regulation 21(1c) the main reasons and considerations on which the Planning Committee's decision was based shall be set out as in this report.

BACKGROUND INFORMATION

Site location and description

- 3) The 0.64 hectare application site is situated on the western side of Newington Causeway, between the Elephant and Castle northern roundabout and the Newington Causeway railway viaduct. The site is located within the Elephant and Castle Opportunity Area (as designated within the London Plan and the Southwark Core

Strategy). Current development on the site comprises a part 7, part 8 office building constructed in the 1960's or early 70's, which is a typical example of a speculative concrete frame and panel office block rising from a ground level podium structure with a basement containing parking for 20 cars. It is largely vacant, and is of little architectural or aesthetic value. The site also has a number of mature London Plane trees around its perimeter. The building is set at an angle to Newington Causeway which lies to the east, and is only partly occupied by the London Southbank University (LSBU). The remainder of the site comprises the area to the south and west of the building, extending from Newington Causeway on its east side into Keyworth Street (an LSBU entrance), to the west, and north along Southwark Bridge Road to the intersection with Gaunt Street.

- 4 The site is not located within a Conservation Area, though it is close to the Trinity Church Conservation Area to the northeast and the St George's Conservation Area to the northwest. It is not adjacent to, nor does it contain any listed buildings. The proposal would be seen (albeit marginally) in a number of Strategic Views from Central London, and in particular the site is visible in the background of the Townscape View of Westminster from the Serpentine Bridge.
- 5 The site is directly bounded to the east by the A3 Newington Causeway, a Transport for London Road Network (TLRN), which leads into the northern (Elephant and Castle) roundabout. To the north the site is bounded by Gaunt Street and along the southern and western boundaries by Southwark Bridge Road. The application site however extends beyond these boundaries to include those areas of the surrounding streets, including part of Keyworth Street in the LSBU campus, where public realm improvements are proposed. The site is contained within the Congestion Charging Zone, and is highly accessible with a public transport accessibility level (PTAL) of 6b. The site is within 180m walking distance of the Elephant and Castle Underground station providing access to the Bakerloo and Northern lines, as well as access to overland rail services. Borough station is also within 620m north of the site. A number of bus routes serve the site and the local vicinity, with bus stops located just north and south of the site on Newington Causeway. A London Cycle Network route runs along the portion of Southwark Bridge Road which bounds the site. The roads surrounding the site, including Gaunt Street and Southwark Bridge Road, primarily serve as a bus turning point and bus stand.
- 6 The townscape character and local context is extremely mixed, with a general increase in scale and density as one approaches the Elephant and Castle. The immediate context is one of medium to high rise development, with a mixture of uses. Opposite the site to the east across Newington Causeway is a 2 storey commercial development, currently occupied by the Salvation Army, which rises to 11/12 storeys. Adjoining this building further south is Metro Central Heights and the recently completed Metro Central Vantage, residential developments of up to 18/19 storeys at the uppermost point. Directly to the west and north of the site are buildings within the LSBU campus, ranging in height from 3 to 10 storeys (up to 42m AOD). To the north across Gaunt Street are a range of office buildings of up to 7 storeys and the Ministry of Sound nightclub.
- 7 Eileen House is a prominent and highly visible site located within the Elephant and Castle Opportunity Area. From the north it is sited at the end of an important local view from Borough Tube Station. Looking south Newington Causeway slightly curves to the southeast at this point and these features present a site that forms a gateway into the centre of the Elephant and Castle, acting as a significant entry point to what will be the major town centre of the Elephant and Castle and to the South Bank University campus. From the south the site will be highly visible from the proposed civic square and the cultural and retail heart of this new town centre which is envisaged in the Elephant and Castle SPG.

Details of proposal

- 8 Full planning permission is sought for the demolition of the existing Eileen House building for the redevelopment of the site for a mixed use scheme. The proposal will include two buildings, one predominantly residential and the second for offices, both with a mixture of uses at the ground floor. The scheme is made up of the following elements:
- a. A 41 storey (128.7m AOD) tower incorporating 255 private units (16 x studio, 120x 1-bed, 86 x 2-bed and 33 x 3-bed) and 80 shared ownership units (23x 1-bed, 50 x 2-bed and 7 x 3-bed), over floors three to thirty-eight, with half the third floor dedicated to residential amenity space in the form of meeting rooms, balcony space and a gym room. The ground floor contains double height residential and commercial entrances plus 287sq.m (GEA) retail use (Use Class A1-A5). A mezzanine contains plant areas and management facilities. Floors one and two contain commercial floorspace (Use Class B1). The main retail frontage and commercial entrance face Newington Causeway with the residential lobby on the opposite side, facing into a residents garden. The tower has a parallelogram form, with diagonal slices chamfered off the top to reveal two inclined triangular faces which extend from the top of the tower to the thirty-fourth floor;
 - b. An 8 storey (35.60m AOD) triangular building incorporating commercial floorspace (Use Class B1) over upper floors and retail (Use Class A1-A5) at ground floor level. This building has a main frontage towards Southwark Bridge Road and a newly created linear park spanning the frontage;
 - c. Across both buildings the commercial floorspace totals 4785sq.m gross external area (or 4488sq.m gross internal area);
 - d. A basement over 2 levels to include 34 disabled car parking spaces, 44 motorcycle spaces and 411 cycle spaces, plus associated servicing facilities (4626sqm)
 - e. Public realm improvements including the creation of a residents' garden (458sq.m) which sits between the two proposed buildings, a linear park along Southwark Bridge Road adjacent to the office building and creation of a University Square (2768sq.m) to the east where Keyworth Street meets Southwark Bridge Road at the entrance to the LSBU campus. Ultimately it is proposed to change the current arrangements for buses which use Gaunt Street and Southwark Bridge Road as bus stands in order to allow for the creation of the University Square.
 - f. Phase I and II Public Realm Works: The public realm works will be implemented over two phases. The first phase will deliver the majority of the works outlined above, but will allow the southern section of Southwark Bridge Road to continue to operate as a through route for buses and cyclists and as a vehicular access to Keyworth Street. Phase II works will see the closure of this southern portion of Southwark Bridge Road to through traffic, allowing for the removal of all bus movements and the general pedestrianisation of the University Square Area (still allowing for service vehicles). The traffic direction on Gaunt Street will then be reversed (going north from Newington Causeway) to allow for the northerly movement of vehicles from Newington Causeway onto Southwark Bridge Road. The ability to implement Phase II relies on the use of an 'interim' solution to relocate bus stands and re-route buses, which has been agreed with TfL.
- 9 During the course of the application the scheme was reduced in height following

concerns raised by the GLA about the impact of the proposed tower on Designated View 23, a townscape view from the Serpentine Bridge in Hyde Park which aims to protect the silhouette of historic buildings including the Palace of Westminster World Heritage Site from visual intrusion caused by new buildings. A number of changes were made to the scheme and accordingly revised plans were submitted on the 03 July 2009 including the following key amendments:

- Reduction in height of the tower from 44 storeys (137.5m AOD) to 41 storey (128.7m AOD);
- Reduction in unit numbers from 284 private flats (18 x studio, 140 x 1-bed, 90 x 2-bed and 36 x 3-bed), 85 intermediate flats (25x 1-bed, 52 x 2-bed and 8 x 3-bed) to 255 private flats (16 x studio, 120x 1-bed, 86 x 2-bed and 33 x 3-bed), 80 intermediate flats (23x 1-bed, 50 x 2-bed and 7 x 3-bed);
- Internal alterations to the layout of some units to ensure all rooms meet or exceed minimum floorspace standards;
- Commercial floorspace increased from 4764sq.m office/ educational/health uses (Use Class B1/D1) and 307sq.m retail use (Use Class A1-A5) to 4785sq.m of office use (Use Class B1) and 287sq.m retail use (Use Class A1-A5), with removal of the optional D1 health/educational use;
- No changes were made to the design of the 8 storey office building (35.60m AOD) however the educational use was removed to provide only a Use Class B1 provision, retaining retail (Use Class A1-A5) at the base.
- No changes were made to the basement car parking provision (34 disabled spaces, 44 motorcycle spaces);
- Cycle parking was marginally reduced from 429 cycle spaces to 411 cycle spaces to reflect the reduction in residential units.

Environmental Impact Assessment (EIA)

- 10 The application for planning permission was accompanied by an Environmental Statement (ES) submitted for the purposes of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999. As a result it is EIA development for the purposes of those Regulations: see Regulations 4(1) and (2) of the 1999 Regulations. The EIA regulations 1999 have been replaced by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 however the 1999 Regulations continue to apply to applications received prior to 24 August 2011.
- 11 Regulation 3 of the EIA Regulations 1999 precludes the granting of planning permission unless the Council has first taken the 'environmental information' into consideration. The 'environmental information' means the ES, including any further information, any representations made by consultation bodies, and any other person, about the environmental effects of the development
- 12 Regulation 10 of the Environmental Impact Assessment Regulations 1999 allows any person who may be considering lodging an application to which the Regulations may apply to ask the relevant planning authority to state in writing their opinion as to the information to be provided in the environmental statement, a "Scoping Opinion". A request for a 'Scoping Opinion', to establish the scope of, and methodology for the ES and to identify appropriate data that would be of relevance to the study was therefore submitted. The Council issued a formal Scoping Opinion on 9 May 2008, which identified the scope of the ES.
- 13 An Environmental Statement (ES) comprising a Non-Technical Summary, Main Text (Volume 1), Townscape Assessment (Volume 2) and Technical Appendices (Volume 3) accompanied the Following the submission of that ES amendments were made to the proposed scheme in response to issues raised by the GLA and the Council. An

amended ES was then produced which assessed the likely significant effects of the amended scheme. This was the subject of further public consultation.

- 14 The Council has power under Regulation 19 of the 1999 Regulations to request further information where it is of the opinion that an ES should contain additional information in order to be an ES within the meaning of the Regulations. The Council made two such requests in January 2010 and in October 2010
- 15 The January 2010 Regulation 19 request sought further information relating to the socio-economic impact upon the Ministry of Sound business by reason of future nuisance complaints from future occupiers of the proposed development. The applicant was asked to provide an addendum to the ES reflecting the possible impact on the club and mitigation proposed.
- 16 A response was received on 27 January 2010. This included further information related to the potential impact of the Ministry of Sound's operation upon future occupiers. It did not however address the possible socio-economic impact upon the club indicating instead that this was a "peripheral issue". That response was the subject of further public consultation.
- 17 The October 2010 request sought further information relating to the socio economic impacts upon the Ministry of Sound.
- 18 A response was received 13 May 2011 as a further Addendum to the ES. This was based in part upon a noise survey conducted in January 2011. It concluded that "no adverse impact is anticipated from the MoS on the proposed development. As such, the conclusions in the socio-economic chapter of the ES Addendum remain valid"
- 19 Ministry of Sound has argued and continues to argue that the assessment of the socio-economic upon its business is deficient. Indeed, it must be noted that the Assessment in the ES Addendum 2 is dependent in part upon noise surveys undertaken in the early part of 2011 which have been superseded by more recent noise survey work (see below). The question then is whether the ES as a whole fails to assess a likely significant impact upon the Ministry of Sound.
- 20 As set out below, in the light of the more recent noise survey work, an impact upon future occupiers would be experienced if they chose to have their windows open at times when the MoS is operating.
- 21 Even when MoS is not operating this particular location is such that noise levels from trains and road traffic would also result in the need to keep windows closed at night in order for noise standards to be met. To succeed in any action in nuisance a future resident would have to establish that the average person would expect to be able to sleep without disturbance with his window open in this inner city London location. Officers consider that it is reasonable to conclude that there may be real difficulty in establishing this. However, it is not possible to rule out the possibility of a successful claim in nuisance against MoS by a future occupier or the potential for the Council to take action pursuant to its powers.
- 22 Officers therefore take the view that, whilst an impact upon MoS arising from potential claims in nuisance from future occupiers cannot be ruled out, such an impact cannot reasonably be viewed as likely. Consequently, Officers considered that the ES is a valid ES for the purposes of the 1999 Regulations.
- 23 The ES together with the Addenda provide an assessment of the beneficial and adverse environmental impacts in relation to the proposed development, including the following areas of impact (in the order they appear in the ES):

- Demolition and Construction;
- Sustainability;
- Socio Economics;
- Traffic and Transportation;
- Ground conditions and Contamination;
- Water Resources and Flood Risk;
- Noise and Vibration
- Air Quality;
- Archaeology;
- Wind;
- Daylight, Sunlight and Overshadowing;
- Ecology;
- Electronic Interference;
- Cumulative Impacts
- Residual Impacts
- Townscape Assessment (Volume 2).

- 24 Information includes a prediction of the impact (methods/assumptions and underlying rationale/ interpretation of facts, opinions, judgments based on facts/ confidence limits associated with the prediction and the characteristics and dimensions of the impacts i.e. nature, magnitude, extent, timing, duration, reversibility, likelihood and significance) and the certainty of the impact (worst case/ impact range and risk assessment).
- 25 Reference to cumulative effects includes the combined effects of different types of impact, for example, noise, dust and visual impacts- impact interactions and impacts from several developments, which individually might be insignificant, but when considered together, could amount to a cumulative impact
- 26 Potential positive and negative residual effects remaining after mitigation measures have been identified and incorporated are also included in the ES in order to assess their significance and acceptability with environmental chapters containing a 'Residual Effects Table'.

Planning history

- 27 On the 02 June 2005, an application (ref. 05-AP-0295) for the erection of a part 11, part 18 (66.8m high) and part 24 (87.57m high) storey building to provide retail, restaurant and leisure uses on the ground and part first floors and 329 flats on the upper floors, with a basement floor to provide 20 car parking spaces, 319 bicycle spaces and refuse storage with vehicular access from Gaunt Street was refused for the following reasons:
- i. The proposed building by reason of its height and scale responds poorly to its immediate context and would result in an overly dominant development in both local and longer range views of the area.
 - ii. The architectural quality of the proposed building is not considered acceptable given the scale and prominence of the site and the proposed scheme. The scheme fails to relate well to the local context particularly in relation to its detailed design which emphasises the bulky nature of the building (south tower) and accentuates its unsympathetic relationship with the street scene and surrounding area.
 - iii. The proposed development would provide less than 10% of flats with 3 or more

bedrooms and overall fails to provide a majority of two bedrooms flats or more and therefore would not provide an appropriate mix of dwellings to adequately address housing needs within the borough.

- iv. The proposed development by reason of the service arrangements, lack of disabled off street car parking, the proposed new pedestrianised area, changes to existing bicycle routes and the proposal to signalise Newington Causeway would give rise unacceptable vehicular movement around the site, prohibit proper access and servicing to the adjacent Southbank University and the application site, would generally impact on the existing road network up to the Elephant and Castle Northern Roundabout, which in turn would be detrimental to the safety of both vehicles and pedestrian movement in the area.
- 28 On 17 March 2008, a request for a 'Scoping Opinion' (ref. 08-AP-0687) was submitted in relation to the redevelopment of the site in order to provide a building of approximately 147 metres in height incorporating residential, educational and retail uses together with a separate building of approximately 35 metres in height incorporating office/educational and retail uses. The Council issued a formal Scoping Opinion on 9 May 2008, which confirmed the scope of the EIA.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 29 The main issues in this case are:
- Principle of the Proposed Use;
 - Density, Mix and Tenure;
 - Design, (including Height and Quality of Accommodation)
 - Impact on Strategic and Local Views, and on the Character and Setting of a Listed Building or Conservation Area;
 - Impact on the Amenities of Neighbouring Residents and Occupiers;
 - Transport Issues;
 - Flood Risk Assessment;
 - Environmental Impact Assessment;
 - Planning Obligations; and
 - Sustainability.
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Planning policy

- 30 The statutory development plan for the borough comprises:
- The Consolidated Replacement London Plan 2011; and
 - The Southwark Plan (2007) - Saved Policies
 - Southwark Core Strategy 2011
- 31 The Southwark Plan (UDP) July 2007: The site is designated under The Southwark Plan as being located within a Major Town Centre within the Central Activities Zone (CAZ), the Elephant and Castle Opportunity Area, an Air Quality Management Zone and an Archaeological Priority Zone. The site is also within a Transport Development Area. It is within proposals site 43P- the Elephant and Castle Opportunity Area, but is not located within the area covered by the Elephant and Castle SPG, and as such lies outside the Core and Secondary tall building clusters designated within this plan. It is, however, identified within the 'Enterprise Quarter' SPD as site 5 'Newington Causeway- Eileen House', a 'key development site'. The public realm improvements centre on the area identified within the SPD as Project 4a 'University Gateway-

Newington Causeway'.

32 Saved Policies:

Policy 1.1: Access to Employment Opportunities
Policy 1.4: Employment Sites
Policy 1.7: Development within Town and Local Centres
Policy 1.8: Location of Developments for Retail and other Town Centre Uses
Policy 2.2 Provision of new Community Facilities
Policy 2.5: Planning Obligations
Policy 3.1: Environmental Effects
Policy 3.2: Protection of Amenity
Policy 3.3: Sustainability Assessment
Policy 3.4: Energy Efficiency
Policy 3.6: Air Quality
Policy 3.7: Waste Reduction
Policy 3.9: Water
Policy 3.11: Efficient use of Land
Policy 3.12: Quality in Design
Policy 3.13: Urban Design
Policy 3.14: Designing out Crime
Policy 3.15: Conservation of the Historic Environment
Policy 3.18: Setting of listed buildings, conservation areas and world heritage sites
Policy 3.19: Archaeology
Policy 3.28: Biodiversity
Policy 3.31: Flood Defences
Policy 4.1: Density of Residential Development
Policy 4.2: Quality of Residential Development
Policy 4.3: Mix of Dwellings
Policy 4.4: Affordable Housing
Policy 4.5: Wheelchair Affordable Housing
Policy 5.1: Locating Developments
Policy 5.2: Transport Impacts
Policy 5.3: Walking and Cycling
Policy 5.4: Public transport improvements
Policy 5.6: Car Parking
Policy 5.7: Parking Standards for Disabled People and the mobility impaired

33 Southwark Core Strategy (2011)

On the 6th April 2011 the Core Strategy was adopted and its strategic policies, together with the 'saved' policies of the Southwark Plan (2007) are now the development Plan policies.

34 Strategic Policies of the Core Strategy:

Strategic Policy 1	Sustainable Development.
Strategic Policy 2	Sustainable Transport.
Strategic Policy 5	Providing new homes.
Strategic Policy 6	Homes for people on different incomes.
Strategic Policy 7	Family homes.
Strategic Policy 10	Jobs and Businesses.
Strategic Policy 12	Design and Conservation.
Strategic Policy 13	High Environmental Standards.
Strategic Policy 14	Implementation and delivery

35 Replacement London Plan July 2011:

In July 2011, the replacement London Plan was formally adopted. The site is located

within the Central London Sub-Region, within Opportunity Area 9 - Elephant and Castle and an Area for Regeneration.

Key Policies:

Context and strategy

Policy 1.1 Delivering the strategic vision and objectives for London

London's Places

Policy 2.3 Growth Areas and Co-ordination Corridors
Policy 2.9 Inner London
Policy 2.10 Central Activities Zone – strategic priorities
Policy 2.11 Central Activities Zone – strategic functions
Policy 2.12 Central Activities Zone – predominantly local activities
Policy 2.13 Opportunity Areas and Intensification Areas
Policy 2.14 Areas for regeneration
Policy 2.17 Strategic industrial locations

People

Policy 3.1 Ensuring equal life chances for all
Policy 3.3 Increasing housing supply
Policy 3.4 Optimising housing potential
Policy 3.5 Quality and design of housing developments
Policy 3.6 Children and young people's play and informal recreation facilities
Policy 3.7 Large residential developments
Policy 3.8 Housing choice
Policy 3.10 Mixed and balanced communities
Policy 3.11 Definition of affordable housing
Policy 3.12 Affordable housing targets
Policy 3.13 Negotiating affordable housing on individual private residential and mixed use schemes
Policy 3.14 Affordable housing thresholds
Policy 3.16 Coordination of housing development and investment

Economy

Policy 4.2 Offices
Policy 4.3 Mixed use development and offices
Policy 4.12 Improving opportunities for all

Climate change

Policy 5.1 Climate change mitigation
Policy 5.2 Minimising carbon dioxide emissions
Policy 5.3 Sustainable design and construction
Policy 5.5 Decentralised energy networks
Policy 5.6 Decentralised energy in development proposals
Policy 5.7 Renewable energy
Policy 5.8 Innovative energy technologies
Policy 5.9 Overheating and cooling
Policy 5.10 Urban greening
Policy 5.11 Green roofs and development site environs
Policy 5.12 Flood risk management
Policy 5.13 Sustainable drainage
Policy 5.14 Water quality and sewerage infrastructure
Policy 5.15 Water use and supplies
Policy 5.18 Construction, excavation and demolition waste
Policy 5.21 Contaminated land

Transport

- Policy 6.3 Assessing transport capacity
- Policy 6.5 Funding Crossrail and other strategically important transport infrastructure
- Policy 6.9 Cycling
- Policy 6.10 Walking
- Policy 6.13 Parking

Living Places and Spaces

- Policy 7.1 Building London's neighbourhoods and communities
- Policy 7.2 An inclusive environment
- Policy 7.3 Secured by design
- Policy 7.4 Local character
- Policy 7.5 Public realm
- Policy 7.6 Architecture
- Policy 7.7 Location and design of tall and large buildings
- Policy 7.8 Heritage assets and archaeology
- Policy 7.11 London View Management Framework
- Policy 7.12 Implementing the London View Management Framework
- Policy 7.13 Safety, security and resilience to emergency
- Policy 7.14 Improving air quality
- Policy 7.15 Reducing noise and enhancing soundscapes

Monitor and review

- Policy 8.2 Planning obligations
- Policy 8.3 Community infrastructure levy

36 Supplementary Planning Documents, Planning Policy Guidance [PPG] and Planning Policy Statements [PPS]

- PPS 1: Planning for Sustainable Communities
- PPS 3: Housing
- PPS 5: Planning for the Historic Environment
- PPG 13: Transport
- PPS 22: Renewable Energy
- PPS 23: Planning and Pollution Control
- PPG 24: Planning and Noise
- PPS 25: Development and Flood Risk
- SPG: London View Management Framework
- SPG: Sustainable Design and Construction
- SPG: Providing for Children and Young People's Play and Informal Recreation
- SPG: Planning for Equality and Diversity
- SPG: Accessible London: Achieving an Inclusive Environment
- SPD: Affordable Housing (2008)
- Section 106 Planning Obligations SPD (2007)
- Residential Design Standards SPD (2008)
- Sustainable Transport SPD (2008)
- Sustainable Design and Construction SPD (2009)
- Ministerial Statement "Planning for Growth"
- Community Infrastructure Levy Regulation 122
- Circular 05/2005
- Draft National Planning Policy Framework July 2011
- Draft updated Residential design Standards SPD 2011
- Draft Affordable Housing SPD 2011

37 Draft National Planning Policy Framework

The draft NPPF was published at the end of July 2011 for consultation until 17 October 2011 and is capable of being a material consideration. The draft is currently

the subject of public consultation and could be subject to change in the light of that consultation. As a result, whilst it carries some weight, it should not be given substantial weight. The Government has set out its commitment to a planning system that does everything it can do to support sustainable economic growth. Local planning authorities are expected to plan positively for new development. All plans should be based on the presumption in favour of sustainable development and contain clear policies that will guide how the presumption will be applied locally.

The presumption in favour of sustainable development is a new policy designed to ensure that the planning system as a whole focuses on opportunities. The presumption, in practice, means that significant weight should be placed on the need to support economic growth through the planning system and local planning authorities should plan positively for new development and approve all individual proposals wherever possible. But development should not be allowed if it would undermine the key principles for sustainability in the Framework. The draft NPPF makes clear that the policies should apply 'unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits'.

The draft NPPF also states that 'The primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent development' and that local authorities should look for solutions to problematic applications, so they 'can be approved wherever practical to do so'.

The draft NPPF also sets out core principles that should underpin both plan-making and development management. It states that 'every effort should be made to identify and meet the housing, business, and other development needs of an area, and respond positively to wider opportunities for growth'.

The NPPF builds upon the Government's 'Plan for Growth' which was published in March 2011. The overall theme of this document is to support long term sustainable economic growth and job creation in the UK. This is set out as a clear and current Government objective.

Consultation

- 38 Site Notice date: 6 notices erected 10/03/09 and again on 16/07/09 (reconsultation)

Press Notice date: 12/03/09, 16/07/09, Feb 2010, June 2011 and 11/08/11

Neighbour consultation letters sent: Over 5000 letters sent from 7 -18 March 2009
Neighbour re-consultation 16/07/09, 16/02/2010, 06/06/2011 and 16/08/2011

Case officer site visit date: Various site visits throughout 2007 and 2008 during pre-application period and application period, most recent being 20 July 2011._

- 39 Internal Consultees: Access Officer; Archaeology Officer, Design and Conservation; Waste Management; Planning Policy; Environmental Protection, Transport Group; Highways Infrastructure, Environment and Housing, Southwark Design Review Panel; Elephant and Castle Major Projects, Waste Management; Economic Development and Strategy Team; Arboriculturalist; Highways Infrastructure.
- 40 Statutory and Non-statutory Consultees: Government Office for London; Greater London Authority (GLA); Transport for London (TfL); Southwark Design Review Panel; Commission for Architecture and the Built Environment-CABE; Design for London; London Fire and Emergency Planning Authority (LFEPA); Environment Agency (EA); Thames Water; London Underground; BBC; BAA; London City Airport, Metropolitan Police; London Borough of Lambeth; City of Westminster; Corporation of London,

Natural England, English Heritage; Royal Parks, Southwark Cyclists.

- 41 Neighbour Consultees: Over 5000 properties were consulted on the application. The consultation area extended south to Walworth Road/ Hampton Street and Churchyard Row, east to Falmouth Road, north to Trinity Street/Great Suffolk Street/Webber Street, and west to Brook Drive/ the Imperial War Museum and Blackfriars Road. All properties within this area were consulted on the application and a full list of addresses can be found on the case file.
- 42 Pre-application Consultation: A Statement of Community Involvement was submitted, which set out the pre-application consultations that were carried out in relation to the application. The consultation was undertaken by a specialist communications agency, and included newsletters (sent January 2008 and October 2008), exhibitions (held January 2008 and October 2008), meetings with some local Ward Members, and meetings with adjoining occupiers at Ministry of Sound, Skipton House (Housing the Department of Health) and LSBU. In addition, the scheme was presented to the Southwark Design Review Panel prior to submission (details below). A presentation to Council Members was held at the Town Hall on 11 March 2009.

Internal Consultation Replies

- 43 Access Officer: All dwellings are to Lifetime Homes standard. The Design and Access statement isn't clear about % of w/c units. Public Realm is all to best practice standards. Retail entrances are level and will be power assisted if not under cover. Retail units will be prepared to shell standard subject to a tenants fit-out, and they will be responsible for installation of facilities. Disabled person parking is provided in the basement. The development is in accordance with Buildings Regulations Part M.
- 44 Archaeology Officer: The site is located within the Borough, Bermondsey and River Archaeological Priority Zone, against the boundary of the Kennington Road and Elephant and Castle Archaeological Priority Zone. The building occupying the site has a basement and this will have had an impact upon buried archaeological remains. Any site investigation works should be archaeologically monitored to help reveal the remaining potential on the site. Depending upon the results of such an investigation, an archaeological evaluation may be required and further works. These works can be secured by condition, in line with Southwark Plan policies 3.15 and 3.19 and the recommendations of PPG16
- 45 Waste Management: Commercial and household waste should be separated. Preference for waste compaction to reduce the number of bins on site. Waste calculations look acceptable and there appears to be sufficient storage capacity. Collection regime is based on a twice weekly collection and, with regard to domestic waste, is something the Council are unlikely to sign up to. The Waste Management Plan anticipates use of a private waste contractor. Council would need to ensure that the collection regime is not passed on to the Council by default. Residents would be paying for domestic waste collection through their Council Tax, so there would need to be something in place that protects the residents from further waste collection recharges. Concern with the frequency of collection for commercial waste as this is a paid for service that the Council doesn't provide. Are control measures in place to ensure commercial waste doesn't end up in the domestic bins? *(Response provided by applicant: Private contractor to be used to allow flexibility of all collections. A compactor may be installed within the basement if required. Developer is willing to accept a s106 clause to confirm twice weekly collection of waste by private contractor for the life of the development without additional charges being imposed on residents. Only the resident's waste room is accessible and it is close to the concierge so fly tipping by commercial users is unlikely.)*

Land use

The site lies in a designated town centre in the core strategy. Saved Southwark Plan policy 1.7 indicates that retail, office and residential uses are appropriate uses in principle in a town centre. Provision of retail use at ground floor level is welcome and complies with guidance in section 3.1 of the 2008 Enterprise Quarter SPD which seeks to ensure that active uses are provided on key routes into the opportunity area. It should be noted that there is a typographical error in Figure I1 in appendix 1 of the SPD in which the nightclub colouring and preferred office location colouring are reversed.

In addition to 287sqm of retail use, the proposal provides 4,785sqm of office (class B1 use). There is currently 6,124sqm of office space on the site along with 152sqm of retail space. Saved policy 1.4 of the Southwark Plan requires re-provision of B class use within the CAZ, unless the applicant can demonstrate that convincing attempts have been made to market the premises either for continued B class use or for mixed uses, including redevelopment, over a period of 24 months. The policy also states that within town centres, alternative town centre uses may be acceptable in place of B class space. Taking retail and employment space together, the proposal would result in a shortfall of 1204sqm of business space over the current provision. This would be contrary to policy 1.4 unless the applicant can demonstrate convincingly that re-provision of business space would be unviable. The proposal would also be contrary to the vision for the Elephant and Castle in the recently adopted core strategy which seeks the provision of 25,000sqm of additional business space in the Elephant and Castle opportunity area. Provision of new office floorspace in the area is welcome and it should be able to accommodate higher employment densities than the existing space which appears outdated. This in itself however does not constitute a reason for providing less space than the existing. Southwark's 2009 Employment Land Review found evidence of strong demand for business space in the centre of the borough. The capacity for additional employment space identified in the ELR is derived from a synthesis of historic floorspace trends and historic and future employment trends, rather than job densities.

Housing mix

Core strategy policy 7 requires 10% of homes in developments at Elephant and Castle to have 3 or more bedrooms. The proposal complies in this respect. It also requires 60% of units to have 2 or more bedrooms. 52.5% of the proposed units have two or more bedrooms and it therefore fails to comply with this element of the policy.

Residential design standards

The council has recently consulted on revised space standards in an updated Residential Design Standards SPD. This document has not yet been adopted and therefore has limited weight. Similar standards are set out in the draft Replacement London Plan 2009. The London Plan EIP panel generally endorsed the standards although recommended that they should be "indicative" rather than "minimum". It is very likely that the standards will feature in the adopted version of the plan, either as indicative or minimum and they should therefore be given significant weight. The council should be satisfied that the proposal provides standards which are roughly in line with the draft Replacement London Plan standards. It is noted that all the one bed units (below level 31) are below the standards set out in the draft Replacement London Plan. The provision should be assessed to see the relationship between levels of occupancy and unit sizes

Energy and sustainable design and construction

Core strategy policy 13 requires development to meet Code for Sustainable Design level 4 and BREEAM excellent. The proposal fails to comply with these standards. In addition, major development is expected to reduce CO2 emissions by 44% over the 2010 Buildings Regulations (56% of the 2006 Building Regulations). The proposal provides a 52% reduction over the 2006 Regulations which is below the Core Strategy standard. The proposal should not be reliant on the MUSCo or an alternative district CHP/communal heating scheme given current uncertainty.

In accordance with Core Strategy policy 13 the proposal should be designed so that it can connect with a district CHP/communal heating system and this should be secured through a s106 obligation

Design and height

Key design considerations for the site are set out in section 4.6 of the Enterprise SPD 2008. Appendix 5 shows public realm proposals for the site.

Saved Southwark Plan policy 3.20 sets out criteria for the assessment of tall buildings. Policy 12 in the Core Strategy also provides overarching design policy indicating that development should conserve or enhance the significance of Southwark's heritage assets, that tall buildings should exemplify standard of design and make a positive contribution to regenerating areas. Section 3.3.2 of the Enterprise Quarter SPD 2008 provides further guidance on the approach to tall buildings in the enterprise quarter. Eileen House is located within an extended tall buildings secondary cluster. Figure 3.16 suggests that Eileen House may be appropriate for a building of less than 135m in height subject to criteria set out in this section of the SPD. Officers should be satisfied that the criteria in these policies are met.

Density

Core strategy policy 5 states that developments above 1,100 hr/ha in opportunity areas must have an exemplary standard of design.

Amenity

The scheme will meet SPD standards for amenity space, both private and communal

Affordable housing

Core strategy policy 6 requires 35% of housing in developments to be affordable. Saved Southwark Plan policy 4.4 indicates that in the Elephant and Castle opportunity area, this should be split 50/50 between social rented and intermediate housing. It is noted that 23.8% of homes in the proposal will be affordable and moreover that all will be intermediate. Justification for this should be provided in an up-to-date viability appraisal.

47 Environmental Protection Team:

Commercial Ventilation: Plans show retail/café use at ground floor and ventilation just above this level. A ventilation outlet at this point is likely to give rise to odour nuisance -any commercial kitchen exhaust system should discharge at a high level. (Note that revised plans were provided to demonstrate how a commercial kitchen exhaust can be discharged at roof level).

Demolition and Construction: am impressed with the level of detail given in the ES. A condition will be recommended for the applicant to submit an Environmental

Management Plan dealing with the potential impacts of this phase of development, to form part of the Demolition and Construction Method Statement.

Sustainability: Section 3.8 of the Sustainability Chapter suggests that large window openings shall be provided in order to control summer temperatures. Should occupiers of the residential units need to open windows during the summer; the sound insulation will be compromised and internal noise levels exceeded. Residential premises should be designed to ensure that they can be occupied comfortably without the need to open windows bar for purge ventilation. Recommended noise levels in section 3.4 are acceptable, in particular the commitment for increased sound insulation between dwellings, which must be designed to ensure that acoustic privacy is maintained. The applicant has proposed NR25 as a sound criterion for mechanical ventilation to act as masking noise to reduce the potential for reduced acoustic privacy. A commitment to increased sound insulation between dwellings to be carried out is requested via a recommended condition.

Ground Conditions/ Contamination: Although the majority of contamination, if any, on site will be removed through the building of the basement, areas not excavated will need remediation if contaminated, which can be dealt with by condition.

Air Quality: The applicant has proposed a means of mitigation with respect to air quality. The extent in terms of height for the mitigation is acceptable; however additional information is to be submitted with respect to the effectiveness of the means for NO₂ filtration, which can be facilitated by condition. To ensure that the system of mitigation will be part of lease agreements, the s106 agreement should ensure that on-going maintenance is undertaken by the building management and is not the responsibility of individual leaseholders through their lease agreements. A major adverse impact on local air quality is considered to occur because of the development and a large number of people will be exposed to high levels of pollution and therefore £60,000 is requested towards future Air Quality monitoring

Noise and Vibration: The site is challenging being an NEC D site.

- a) Construction- Some levels are extremely high and even exceed the first action level under the Noise at Work Regulations.
- b) Building services plant noise- environmental noise limits in table 12-10 are acceptable but should any noise from plant display tonal or other acoustic characteristics, a further reduction of 5dB, L_{Aeq} will be required. Proposed changes to the public realm on Southwark Bridge Road and will need to be taken into account when setting criteria for plant noise, as will any shielding effects of the development itself.
- c) Impact on the proposed development- the challenging nature of the site is recognised with respect to noise and is partly addressed through having no residential premises on the Newington Causeway façade below the 4th floor. Disappointed that lower section is designated for affordable housing. The assessment with respect to the impact of environmental noise on the potential occupiers of the development is acceptable. Accept the rationale for the use of 88dB LAFmax for the design of internal LAFmax levels at night. Conditions are recommended in relation to suitable internal noise levels, sound insulation between dwellings and plant noise.

There have been a series of noise surveys undertaken by representatives of the applicant (Sandy Brown Associates); the Ministry of Sound (Sharps Redmore Partnership) and the Council (Rupert Taylor). The initial assessment of noise from MoS by SBA suggested that noise from the premises was quite high, particularly in the lower frequencies. However, subsequent surveys by the Council have found that the actual noise levels from music break out from the club at the lower frequencies are in fact lower than those reported by SBA by 5-7dB. Music break from was MoS was

audible at both on the podium and roof of Eileen House consisting of a noticeable repetitive beat that varied from time to time. It is difficult to say whether the noise from this music would in fact constitute a statutory nuisance because of the fact that noise from music would reduce from outside to inside premises, even with a window open.

An acceptable noise levels could be achieved by designing the facade of Eileen House to meet the following sound levels with respect to typical music noise from MoS:

Frequency (Hz)	31.5	63	125	250	500	1000	2000	4000	8000	'A'
Internal noise level, dB (L _{Smax})	60	47	38	26	19	15	12	9	7	27

These internal levels could be achieved through the glazing system proposed by SBA in their letter to Christopher Allen dated 21 October 2010.

Considering that music noise from MoS is does not normally start until after 23:00 and is at its peak between 02:00-04:00, the only areas of residential units that could be reasonable expected to be subject to nuisance would be bedrooms and if residents closed bedroom windows to protect against what are high levels of road traffic noise, protection would also be afforded against noise from MoS. There is also a significant contribution of noise from people in the courtyard. Again, noise from this source increases from about 23:00 but stays relatively constant throughout the night. Disturbance might be caused to residents should they leave their windows open but acceptable noise levels will be achieved with windows closed.

Noise from the dragging of barriers is high, however the practices currently used such as dragging barriers and sliding them from one member of staff to another cannot be considered to be best practice and might in fact be a health and safety risk. More considerate means of erecting the queue barrier coupled with quieter barriers (for example, barriers with rubber soles or on wheels) will be likely to be sufficient to reduce any impact from this activity.

- 48 Traffic Group: Policy 5.2 requires developments likely to have significant transport implications to submit a transport assessment (TA). A TA was submitted (within the ES) and was amended during the course of the application.

Parking: The proposal is in a high PTAL area (level 6), within a CPZ and the CAZ where developments are required to be car free. Policy 5.7 requires this development to provide a minimum of 1 disability parking bay. 34 disabled parking spaces are provided to ensure an adequate provision for the development. All parking bays within the basement are to be disabled bays and design is compliant with disability standards.

Cycle Parking: Parking standard for cycles is a minimum of 1 per 250m² of commercial (A and B1) floor space (minimum of 2) and a minimum of 1.1 per residential unit and the levels proposed are acceptable and policy compliant. The cycle parking spaces required for commercial building (13) are located in a dedicated cycle parking area at the ground floor of that building. The cycle parking required for the commercial uses in the tower (9) are in a dedicated area at second basement level (Cycle Parking Room 4). This will be accessed via cycle lifts, takes only approximately 6 seconds longer to travel to second basement than to first basement

level for the round trip from and back to ground floor. A cycle crossing island will be provided over Gaunt Street at the junction with Southwark Bridge Road.

Public Realm Phases I and II: Various meetings and discussions have been held during pre-application and application stage with the applicant, TfL and LBS Transport and Planning Officers in relation to proposed Phase I and II transport works which will allow for the creation of public realm proposals at the base of the tower. In Phase I a car lift waiting bay is located to the north of the car lift as Gaunt Street would operate one way towards Newington Causeway as per the existing situation. In the Phase 2, the waiting bay is located to the south of the car lift as it is proposed that the one way direction of flow on Gaunt Street would be reversed (i.e. away from Newington Causeway). A disabled bay is provided on the south side of Gaunt Street. There are 5 existing parking bays on the north side of Gaunt Street and there is a reduction in pay and display bays on Southwark Bridge Road in the Phase 1. The applicant undertook a Parking Beat Survey which indicated that the existing bays were not well used and therefore re-provision not necessary. In the Phase 2 scenario, there would be a net increase of one pay and display bay.

Servicing: required to take place off street in designated servicing bays during agreed hours. A servicing strategy is to be agreed as part of a Service Management Plan that will be secured by condition.

49 Environment and Housing: The scheme includes intermediate rented accommodation that is RSL managed accommodation that is let to households who cannot afford to buy or rent market housing in the borough. It is let at rents that meet the council's affordability criteria for intermediate housing which is typically 20-30% below the cost of market housing. The affordable units at Eileen House will be available on either an intermediate rented or shared ownership basis. The latter would also comply with the council's affordability requirements.

50 The Elephant and Castle regeneration team: support the proposal for a 41 storey mixed use scheme on the site of Eileen House. The scheme is a strong building architecturally which will help facilitate the regeneration of the Enterprise Area and begin the process of implementing the public realm improvements identified in the Enterprise Area SPD. The regeneration benefits of the scheme include;

- Redevelopment of existing building which is of poor architectural merit. The office space does not meet current standards. While the office is currently occupied by LSBU this is a short term let and there is no evidence that this space could be let successfully in the longer term.
- While the office provision within the proposed building does not replace the B1 floorspace which would be lost through the development it will be of a higher quality and is more likely to attract occupiers.
- New housing [including an element of affordable housing] which will help contribute towards meeting plan targets.
- Public realm improvements which will provide an improved environment for both pedestrians and cyclists and reduce the dominance of buses in Southwark Bridge Road in particular. The public realm treatment will significantly improve the quality of this part of the Enterprise Area which currently lacks character and coherence. It will help to define an important gateway to the LSBU and secure the first phase of the public realm improvements to Keyworth Street which forms the central spine of the campus.
- A package of s106 contributions which will help improve local open spaces and create employment and training opportunities through the construction programme.

51 It is acknowledged that the scheme does not fully comply with council's affordable

housing and employment policies [which require the existing B1 floorspace to be re-provided]. These departures from plan requirements should be weighed against the overall benefits of the project [summarised above], overall scheme viability and the need to continue to support development while market conditions continue to be challenging. Some form of claw back arrangement or viability review at the point of implementation may be a means by which additional s106 could be secured from the development. If additional contributions are judged to be viable then we would argue that the priority for these should be used to contribute to the strategic objective of improving the environment for pedestrians in the vicinity of the northern roundabout.

Statutory and Non-statutory Consultation Replies

- 52 Government Office for London (GOL): No response received. Further referral will take place post decision.
- 53 Greater London Authority (GLA): The application represents EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The application complies with the following London Plan policies:
- Regeneration and land use: proposal is consistent with policies 2A.4, 2A.5, 2A.7, 3A.18, 3B.11, 5D.1-2 and 5G.1-5.
 - Children's play space: proposal is consistent with Policy 3D.13.
 - Urban design and views: proposal is consistent with the design requirements of 4B.1, 4B.9, 4B.10 and 4B.18.
 - Inclusive access: proposal is consistent with Policy 3A.5 and 4B.6
 - Climate change adaptation: application is consistent with policies 4A.10, 4A.11, and 4A.16. The proposal is inconsistent with policies on drainage in particular 4A.12 and 4A.13 and 4A.14. The proposal does not include electric car changing points inconsistent with London Plan Policy 4A.3.
 - Transport: The application is consistent with policy 3C23. The application is inconsistent with London Plan policies 3C2, 3C 17, 3C22 and 3C25.

Where the scheme does not fully comply remedies are proposed which may lead to full compliance with the London Plan as set out below:

- Housing: the applicant has not demonstrated that the site would deliver the maximum reasonable amount of affordable housing and the proposal is therefore inconsistent with London Plan policies 3A.10 and the financial appraisal to support the approach requires further testing. The GLA wish to commission a review of the submission to ensure that the proposed approach represents the maximum reasonable amount of affordable housing in accordance with Policy 3A.10.
 - Climate change mitigation: application is inconsistent with London Plan policies 4A.1, 4A.3, 4A.4, and 4A.7, and further work is required on all aspects of the energy strategy in order to meet with policy 4A.1.
 - Climate change adaptation: the applicant should commit to the provision of electric car changing points. Further work is also required regarding drainage and flooding to ensure consistency with policy 4A.12, 4A13 and 4A14.
 - Transport: In order to ensure consistency with policies 3C2, 3C 17, 3C22 and 3C.25 the applicant must provide further details/information on trip generation cumulative impacts and capacity analysis, cycle parking and integration of the site with the Mayor's Cycle Highway plans, construction management and travel plans and appropriate mitigation. In respect of Policies 3C1, 3C4, 3C20, appropriate planning conditions must be agreed with TfL and the Council.
- 54 Revised information was submitted via the Regulation 19 'further information' response in June 2009, with a fully updated ES submitted which sought to address the various concerns of the GLA. Final comments from the GLA will be received following

Planning Committee via a Stage II consultation, however an interim comment was provided by the GLA in relation to the reduction in height of the tower. GLA advised that further to Stage I and without prejudice to the Mayor's determination of the application, the GLA can confirm that in the opinion of the Deputy Mayor for Policy and Planning and GLA planning officers the reduction in height of three storeys shown in the verified views of the Eileen House proposal from Serpentine Bridge provided for review would satisfy the Mayor's concerns regarding this issue.

55 Transport for London (TfL) Comments follow GLA Stage I:

- a) *Impacts on transport network:* The impact on the highway network is not likely to be significant and therefore considered acceptable. The cumulative impacts of this and other developments in the E & C will have a negative impact on bus services. Mitigation towards improved bus services/bus infrastructure is therefore sought. The additional rail trips generated by this development can be adequately accommodated within existing services and is unlikely to have a significant impact on either the Bakerloo or Northern line services. TfL remains concerned with the cumulative impact of committed and planned developments within the Opportunity Area on the capacity and operation of the Northern Line Ticket hall in particular. Modelling forecasts based on future growth illustrate that unless there is investment in upgrading the ticket hall and associated infrastructure, it is highly likely that the demand generated from new developments such as Eileen House will over burden the underground station resulting in regular station congestion, station management procedures and ultimately station closures. Surface Transport presents a number of challenges and these should be addressed to improve pedestrian access, cycling, bus access and provision in terms of bus standing/stopping and driver facilities and highways alterations.
- b) *Phase I public realm arrangements:* The S106 agreement shall ensure the Phase 2 'interim solution' can only be implemented once an alternative bus standing location, which meets TfL's operational and service requirements, has been agreed. The type of materials to be used in relation to the public realm works should be conditioned, subject to TfL agreement. Funding of bus service alterations associated with relocation of bus stands as part of Phase I shall be £13,600p.a for 10 years (including fuel, tyres and a small element of engineering costs). TfL expects flexibility in the S106 wording to allow this money to be redirected to other transport mitigation in the Opportunity Area if alternative arrangements are made prior to the end of the 10 year period. If a permanent solution is delivered before the start of the 10th year then TfL would no longer claim the money for this purpose. The total payment will be £136,000, towards additional bus running costs associated with the delivery of Phase 1.
- c) *Phase II public realm arrangements:* TfL have reviewed the costs associated with the delivery of the proposed 'interim' (Phase 2) bus solution involving changes to Borough Road and its junction with Southwark Bridge Road. A cost of £250,000 is sought to fully implement the public realm package (Phase 2). If by the time the developer is in a position to deliver Phase 2 a new bus facility/solution has been identified in the E & C, the 'interim' Phase II facility is not likely to be required. TfL will then expect the contributions to be directed towards transport improvements in the wider Elephant and Castle area. The council has advised that this payment will be required at '*implementation stage*' in order to allow TfL to undertake the bus solution works during the project's construction phase, such that the bus stands may be relocated in time to allow for the Phase 2 public realm works to be implemented towards the end of the construction programme.
- d) *Conclusion:* The total contribution requested from TfL in relation to this scheme is £386,000. The majority of transport issues have now been resolved, the key issue

relates to the need to agree an appropriate level of contribution towards enabling this development to proceed (both Phase 1 and 2), as well as mitigating the impacts of this development on the local transport network.

56 Southwark Design Review Panel (pre-application, March 2008):

The Panel welcomes the opportunity to comment on such a significant Elephant and Castle proposal. At 47 storeys, the scheme poses a series of interesting and challenging urban design questions for London's skyline and the Elephant and Castle masterplan. In many urban regeneration areas of such importance it is common that planning policies are in place to give guidance on the appropriate heights for tall buildings. As no such policies are currently in place, the panel feel that the proposal should be assessed on its own merits of architectural quality and site specific design issues. In broad terms, the architecture is thorough and well considered providing a design coherence that is evidenced by a unity of concept, proportion and approach to detailed design. The result is a strong design language that will guide further design development. The bold grid strategy for the building's primary elevations is supported by highly resolved detailed design; the result is a promising geometry that creates the potential for a high degree of interest as the building's deep cuts respond to light and shade. The façade implications of the internal plan may require further consideration. As party walls divide glazed sections within individual grid units a more fragmented façade pattern is likely to emerge. The Panel is keen to see the scheme's high architectural standard achieved in relation to other important design quality measures, most notably the internal accommodation...which will be needed to achieve an exemplary design standard that goes beyond building envelope. In this regard there appears to be a lack of generosity in relation to room sizes. The two building plan with the lower 8 storey building to the north west creating a central open space is welcomed. In spite of the many demands on ground level space for storage, servicing and circulation greater spatial generosity is a desirable and reasonable expectation for a building of such significant height. The responsibility of tall buildings to deliver dynamic and welcoming public realms at ground level is a strong design tradition and thus the scheme should be more ambitious in this regard. Many of the ideas for public realm treatments for Southwark Bridge Road are welcomed and if achieved would go some distance in integrating the scheme within its local environment. The scheme's strong design language will undoubtedly offer a strong basis for further design development.

57 Commission for Architecture and the Built Environment-CABE:

Broadly supportive of the scheme. Consider a cluster of tall buildings at E & C is appropriate, and principle of a tall building on the site is justified. Do not believe impact on views is harmful. Architecture is intelligent and high quality, and we support the well considered form, massing and facade treatment. We have reservations about the public realm treatment and management. Endorse the removal of bus stands and co-ordination of a wider landscape strategy with LSBU and creation of a campus gateway space, and the increased permeability. However, the public spaces feel uncomfortable. Central space works as a public route but not a resident's garden. There is a lack of definition between the spaces. University Square should be a place to linger, do not support a circus type space. Prow by southern apex of lower block creates uncomfortable space to the south, which could be improved by undercutting at ground floor like the northern apex. No management strategy in place is a concern. Sceptical about green wall as will require weekly maintenance. Support the design of the buildings but need more work on landscaping and a management strategy. *Regulation 19 response:* We don't wish to review the additional information, which does not appear to fall under any of the categories recommended by the Department for Communities and Local Government for consulting CABE. *Following Reconsultation-* no further comments to make

58 Design for London:

No response received however Design for London were heavily involved at both pre-application and early in the application process in relation to the design of the public realm and TfL concerns.

- 59 London Fire and Emergency Planning Authority:
Development should comply with requirements of Approved Document B. A full building consultation will take place with when application is received.
- 60 Environment Agency:
Key issues for the EA at this site area flood risk including the management of surface water. A Sequential Test has been agreed for this development. No objection subject to conditions.
Following Reconsultation- Following the submission of all additional information the Environment Agency has no further comments to make.
- 61 Thames Water: Condition regarding waste water infrastructure requested. Surface water drainage is the responsibility of the developer. Condition regarding water supply infrastructure requested. Informatives sought. *Regulation 19 response:* response unamended.
- 62 London Underground:
In principle no objection. A number of potential constraints exist due to proximity of tunnels and infrastructure, and it will need to be demonstrated that there will be no detrimental effect. When available, developer is to send details to engineers to assess impact. *Regulation 19 response:* Comments unchanged. Seek conditions requiring developer to contact London Underground prior to commencement of works.
- 63 BBC:
No response received.
- 64 BAA:
The development has been examined from an aerodrome safety perspective and does not conflict with safeguarding criteria. No objection.
- 65 London City Airport:
No response received.
- 66 Metropolitan Police:
No mention of Secured by Design but will have to make the application if social rented. Note: Phase II landscaping may need further consultation with Anti-terror Police unit. *Regulation 19 responses:* No issues.
- 67 London Borough of Lambeth:
Initial consultation response: No objection to the potential effects of the application.
Following reconsultation: Objection, given the height and location, the development would likely harm the setting of the Walcot Conservation Area and would harm views into it.
- 68 City of Westminster:
Response in relation to 44 storeys: Objection. The extent of the building mass appearing above the tree canopy from Serpentine Bridge in Hyde Park would be intrusive and compromise unacceptably the view. Need comparative images when trees are not in leaf and at night, to understand full visual impact of the development. Response following height reduction: welcome reduction in height but submitted images fail to show the view will not be compromised and further images are required.
- 69 City of London:
Proposal will not have a detrimental impact on City of London.

- 70 Natural England:
No specific comment to make in relation to this application because we do not feel that the proposals are likely to significantly affect the natural environment. Although we do not have specific comments to make, we recommend that should you be minded to grant permission that you secure, as appropriate, measures to enhance the natural environment in accordance with the planning guidance in relation to Biodiversity (PPS9), Planning for Open Space, Sport and Recreation (PPG17) and Climate Change Adaptation. *Regulation 19 response:* The application does not impact on any priority interest areas for Natural England, therefore do not object, in line with previous response.
- 71 English Heritage (EH):
Pre-application response to a 46 storey tower in January 2008: Site is not within a designated Conservation Area, and there are no listed buildings on the site or immediately adjacent to it. Visual impact will be felt over quite a wide area. Recognise the redevelopment is part of a wider masterplan-led regeneration of the E & C. The scheme would have a modest impact on the strategic view from the Serpentine Bridge in Hyde Park, and EH considers the impact would be slight. Of greater concern is the impact on the setting of the fly towers of the Grade II listed Royal National Theatre when viewed from Waterloo Bridge, which would compromise this setting and cause modest harm to this view. Similar concern is the impact on the view from Walcot Square, where the impact of the tower would be a modestly harmful intrusion upon the view. Of greatest concern is the impact on the view looking south across St George's Circus, where the proposal rises dominantly over the roofline of the group causing significant harm to the setting. Application should be refused unless the harm is outweighed by other planning considerations. If planning permission is granted, we urge that the s106 agreement secures significant funding towards bringing the listed London Road/ Borough Road terrace buildings back into beneficial use.
- 72 *Response in relation to 44 storey building in March 09:* The submitted application is generally the same. It remains EH view that the proposal would cause harm to the historic environment of this part of London. Advice remains that the application should be refused unless the harm is outweighed by other planning considerations. If planning permission is granted, we urge that the s106 agreement secures significant funding towards bringing the listed London Road/Borough Road terrace buildings back into beneficial use.
- 73 *Response in relation to 41 storey building in August 09:* Latest proposal represents a modest reduction in height. It remains EH view that the proposal will still harm to the historic environment of this part of London. Advice remains that , despite the harm, should permission be granted, the s106 agreement should secure significant funding towards bringing the listed London Road/Borough Road terrace buildings back into beneficial use.
- 74 *Response in relation to regulation 19 consultation July 2011:* Remains as previously submitted i.e. consider proposal will harm historic environment but that if planning permission is granted a s106 contribution towards bringing the listed London Road/Borough Road terrace buildings back into beneficial use should be secured.
- 75 Royal Parks:
Note and welcome reduction in height by 3 storeys. Still have reservations with regards to negative impact on the sky space around the Royal Parks of Hyde and St James's during autumn and winter when tree canopies will not be in place, leader to a clearer, more intrusive view of Eileen House. *Regulation 19 response:* Still have reservations with regards to the negative impact on the skyspace around the Royal Parks of Hyde and St James's during Autumn and Winter.

- 76 Southwark Cyclists:
Add a condition to ensure secure, covered bike parking spaces are provided for 130% of residents and 30% of employees, with 100 visitor spaces provided within 20m of the site. S106 to provide £500,000 for local walking/ cycling.

Neighbour Consultation Replies

- 77 Letters of objection:
56 letters of objection were received, set out below:
- 78 17 Hayles Buildings, Elliotts Row- object to height (44 storeys), already too many oppressive tall towers being built/ proposed at E & C. Regret that no social rented and only 25% intermediate housing is proposed. If health use is included, hope it will include a pharmacy.
- 79 Flat 126 Metro Central Heights- no objections to redevelopment of site in general, but deeply concerned that height is in excess of what should be allowed. My flat faces north-west and tower will form an enormous visual blight on views currently enjoyed. The size is out of context for northern area of E & C. When purchasing my flat was assured the site would not be developed with such a tall building obstructing views given previous refusal. Was also reassured that development of a tall building was not in scope for this end of regeneration area, and was confined to southern roundabout. Visual impact has not been assessed from a resident's perspective, with emphasis on historical views and no consideration of impact on residents. This will have a serious impact on the price of my property and views across London. Second response: continue to object as the amended application still contains a tower of 128.7m. Further response in July 2011. Objects to height of the structure and the impact this will have on views from the property and on its value. Refers to incorrect height indicated in one of the applicant's documents and repeats a request for a visit to his property by either the Council, Planning team or developer to assess this impact. Response received in relation to August reg 19 consultation repeating previous concerns. Requests his objection in full to be appended.
- 80 SE1 1PA: We have a lot of office blocks and flats and in this present climate people can't afford places to buy. It will also block all the light to my flat.
- 81 27 Tadworth House, Webber Street- do not support another tower block of exceedingly horrendous height (44 storeys). All the historical skyline is disappearing from view in favour of New York look of high buildings. We can no longer see Big Ben and recently the Imperial War Museum disappeared. When will this persistence of having high buildings cease? We are being hemmed in all around.
- 82 21 Devonshire House, Bath Terrace- very concerned that Newington Gardens, one of the few green spaces around E & C will be completely overshadowed by the 44 storey development so close by, which will greatly affect the character of the park, and will not be in keeping with the low-rise nature of the area. Also concerned about extra pressure of cars and people on the park and surrounds. The building is far too big to be properly integrated. July 2011 confirms objection - not against tall buildings per se but thinks this is too tall and has little architectural merit. it will be highly visible and dominate the area
- 83 No address- Strongly object, opposed to any skyscraper being built anywhere. We could end up like New York where you are lucky to see the sky.
- 84 42 Trinity Church Square- 44 storeys equals too high!
- 85 No address- I can envisage another mini Manhattan like you have in the City and

Croydon- no thank you.

- 86 41 Collinson Court, Great Suffolk Street- object as it will block my sunlight/views from balcony, limited spaces for cars as it is- cannot see additional car spaces, 44 storeys extremely high, enough residential unsold properties in the area as it is, more specifics on retail use- i.e. pub etc.
- 87 140 Southwark Bridge Road- encourages traffic congestion and further noise. E & C already an eyesore and this 44 storey proposal will worsen this. Will increase number of Council residents and downgrade what is already a poor area.
- 88 Flat B, 12 Gaywood Street- Object. Structure would be 44 storeys high, out of keeping with neighbouring properties, would be significant obstacle on landscape and horizon. Already feel overshadowed by the tower block being erected at the southern roundabout of which only half is built. A similar structure on eastern side of our corner would have the effect of making us feel completely overshadowed and dwarfed. Density of 350 flats would bring dramatic increase in population. Infrastructure could not cope, no plans to improve other supporting facilities. E & C is already severely over-crowded. A further influx is poor planning, without improving services and amenities for the area. Transport hub is overstretched, no progress on creating an integrated plan that helps ease congestion/ improve passage for pedestrians/cyclists, and ease overcrowding. Call into question the reliability of Oakmayne- they are supposedly responsible for Volvo New Kent Road redevelopment, which seems stalled and on that basis have little faith in them completing this larger project.
- 89 5 Banks House, Rockingham Estate- would be better to leave building at present size and shape, and then get Council to convert into Council flats with parking areas so local people can afford to live in this area, plus have garden area too, retail shops, space to fit them. 44 storeys is too high.
- 90 55 Harper Road- building is significantly higher than other development in area, creating unpleasant conditions below and towering over the existing housing on the Rockingham Estate. In an area where provision for young people/ children is limited, massive building could further fuel the view that they are living in an inner city ghetto rather than a community. The built environment cannot be ignored in terms of impact on local young people. Another example of a development which doesn't benefit them, even, as in the Impact Assessment, will disadvantage them. Very poor provision of safe indoor and outdoor places for children to play. Development would further exacerbate the issue, in area where youth workers are struggling to prevent influence of gang culture, disappointing to see such a major residential development that takes such little care to try and improve facilities for youth, which should be integral to the project. Large number of developments recently- despite large s16 moneys having been paid, no noticeable improvement to youth services or built environment in the area- other areas get the benefit of the s106 moneys.
- 91 Flat 28 Lingfield House, Lancaster Street- Council is unable to clarify the exact location of the proposed building- am not in agreement with the proposal as it will have major effect on natural daylight due to fact I live on ground floor. Have ongoing problems with lack of TV reception due to Council removing aerial from roof.
- 92 11 Gladstone Street- Object. Surely we have learned that high rise blocks of flats are a social and environmental disaster- nothing other than a vertical slum in the sky, that appeals to the architects' and planners' vanity but will be blight and a curse for local residents
- 93 7 Collinson Walk- this part of London benefits from a busy but no over-crowded quality of life. 44 storeys is not in keeping with local atmosphere or architecture. Bound to be

increased traffic feeding over 300 new residences and offices. Scovell Estate has sunlight almost all day- a key feature in choosing to live here. Outside space will be overshadowed by enormous incongruous building. Lengthy time to build with increased noise and traffic, including once it is built. Strongly object.

- 94 SE11 4TD- tower blocks bring nothing but problems. Increased population, traffic, crime. Need more green areas and less ugly concrete blocks.
- 95 SE1 6PP- 44 floors would block sunlight to most of surrounding area, increase danger to traffic/pedestrians, cause major transit log jams.
- 96 8 Scovell Crescent- object due to effect it will have on existing community, it will completely overwhelm the Borough as a community, add to recent and planned development in the area, that have little consideration for people already living here. Was a quiet residential borough, but this and other developments will leave area overburdened with colleges/ late night pubs/clubs/ supermarket etc. Number of people living/passing through area increased to point that transport and amenities are difficult to use. Older people finding it harder to get around, and have been overlooked. Offshoots from Eileen House will add to sense that we are being marginalised especially the elderly. No normal peace and quiet left, add to this the Shard and London Bridge Station expansion and whole area will feel like a terminus. Whilst area has become fashionable, many people passing through, Borough not their home so impossible for community structure to grow. Too much concentrated in this area. Disturbance from building work is far outweighed by concerns for our environment. Other concerns- Eileen House will affect light and privacy, and tall building a target for terrorists, and negative effects on historic borough.
- 97 210 Metro Central Heights- too high at 44 storeys. It will block light and views of St. Pauls and Tate Modern. Too many developments of flats in surrounding area, believe there is a risk of having too many flats available as existing developments have unsold units. Would support smaller scale development.
- 98 33 Trinity Church Square- height is main reason for objection, 44 storeys is huge and imposing and out of context. Transient nature of the dwellings- if for student use, should be managed as student block, otherwise would prefer to see greater proportion of 2 and 3 bed flats for families planning to live for longer than 1 or 2 years in the area.
- 99 119A Brook Drive SE11- tower will be too high and intrusive, something on a smaller scale, already have large tower at E & C under construction. Second response: totally against any further towers in E & C area. Strata visually intrusive from many viewpoints and proposal will be the same. Cladding of new tower looks cheap, just like other tower blocks in Wandsworth and Battersea. Concentrate on quality instead. July 2011 - remains opposed to the tower. It will be out of character with the surrounding area, create noise and traffic and be intrusive from every angle and perspective.
- 100 7A Princess Street- too tall, one of many applications of this proportion and not part of unitary plan. The long discussed development of the E & C is not taking place; instead large style projects are planned. Will cause traffic congestion, overstretch public transport, and place undue strain on local services. Will create a long shadow across neighbourhood, block light and encroach on skyline. Will not be in keeping with surrounding buildings except the skyscraper already being built. Will change the nature and quality of the neighbourhood. The planned retail and office units are not part of an existing redevelopment of the social, shopping, economic development of the area- will lead to increase demand on roads/public transport/local services. Likely to create a fractured rather than planned redevelopment of existing E & C shopping centre.

- 101 37 Oswin Street- having lived in area since 1991, realise it is waste of time opposing a development which is integral to what is proposed for the E & C area. I believe these so called landmark buildings are examples of architectural bling that in 2 to 3 generations will contribute to city blight in much the same way as what is being replaced- you are creating another pink elephant.
- 1-2 50 Elliott's Row- partly agree to redevelopment of site but scale of 44 floors is obscene in relation to other buildings. Would look unsightly and dwarf other buildings and block sunlight. Question what community amenities are available and what housing will be affordable. What is the education and health use proposed? Height is outrageous and inappropriate- E & C is not the new Canary Wharf but should retain character.
- 103 Top Flat, 156 Southwark Bridge Road- 44 storeys out of place on this north side of E & C roundabout where there are no buildings taller than 8-10 storeys. This give neighbourhood nice feel which would be lost. Will take sunlight and privacy away. Do not object to proposal other than height, and see a risk that various towers in the area will not be filled for a long time which could have a negative impact on area.
- 104 18 Market Place, Blue Anchor Lane- object as none of the proposed residential units are social rented, contrary to requirement that 50% of affordable housing in E & C are social rented. Policy 4.4 required 35% of total to be affordable, or 129 units, and 64 social rented. Application only proposes 85 affordable units, none social rented.
- 105 45 Martin House, Falmouth Road- strongly do not support application, 44 storeys too high, ruins atmosphere of our community. People living in these types of flats often isolated and lonely. Why is Council recreating the mistakes of the 1960s again? Second response: too many storeys, far too tall, an eyesore. Strongly oppose it.
- 106 74 Rockingham St- area already is becoming quite congested and has a fair few developments already underway. Impact on traffic and facilities will be a factor.
- 107 9 Stephenson Street- object as infrastructure in the area will not support such a high density building, not enough parking spaces, size of development will block light, will overload limited services that currently exist.
- 108 SE17 3AF- this is yet another proposal that will obstruct light of residents at 9-11 Steedman St. Too high given little consideration to current residents.
- 109 No address: too many housing developments in this area. It will bring too many people who will be fighting to utilise all the facilities i.e. tube/train/buses, making an already congested area over crowded. While hoping for increased revenue Council should also look at pressure of increased demand for all facilities.
- 110 102 Metro Central Heights- support regeneration in area but 41 storey block is monstrously out of proportion with surrounding buildings. Metro Central is highest block along Newington Causeway at 16 storeys; this is 2.5 times as large. It will seriously affect the outlook from my property. Urge reconsideration.
- 111 27 Merrick Square- building is too high and will dominate area.
- 112 47 Collinson Walk, Scovell Estate- I have a south facing window and doorway to my main room- do not object to general plan and welcome progressing the area. Strongly object to the height of the tower, which will affect my sunlight and my living conditions and property value.
- 113 No address- Feel we have far too many flats in the area. Most people prefer to live in

a house with a garden. Haven't got enough parking for people who live in this area as it is. People need bigger flats not smaller, don't want another 255 flats in the area. Area has a lot of disused office space with the recession don't need any more. 34 disabled spaces- where are the people who are not disabled or ride a motorcycle or bike on our C2 permits?

- 114 38 Metro Central Heights- I live 4th floor, north facing flat- a 41 storey building being built so close to where I live will block out far too much light, not to mention the noise and dust over several years. I have the right to not have my light blocked by the building of a new tower block that is right outside my window.
- 115 37 West Square- Hard to believe the blight of 41 storey skyscraper in this part of London can be justified in planning terms. Canary Wharf yes, City possibly, in a primarily residential area with density constraints of the Elephant's traffic hub and periphery of the Congestion Zone, surely not. July 2011 confirm this objection still stands. Reaffirmed objection following latest reg 19 consultation.
- 116 43 Comber House, Comber Grove- No social rented units, contrary to Southwark and London Plan policy, Core Strategy calls for no parking and cycle parking provision. Plan includes parking and limited cycle parking. Argument that developer doesn't have finance is inadequate. No mention of s106.
- 117 No address- no social rented units contrary to policy, site is a major source of noise, contrary to PPG24 and London Plan. Essential that correct noise mitigation measures are imposed. Repeated objection in July 2011 regarding the lack of social rented accommodation within the scheme.
- 118 156 Southwark Bridge Road- concern is not the building itself but the timing. 41 storey tower a huge change for the area, in which there are no buildings of even a smaller height, not much smaller than One Canada Square. Not possible to predict impact on immediate neighbourhood, why not wait until it can learn from other nearby cases what the impact will be, particularly in a weak environment for housing and economy.
- 119 Balfour Street Housing Project- object. Lack of social housing contrary to policy, Environmental Statement suggests provision of a 'broad mix of private and affordable' unsure what 'broad' means but London Plan and Southwark Plan targets for affordable are not met by the scheme and should be refused accordingly.
- 120 28 Thornton House- application should not be considered till a masterplan is in place for E & C Opportunity Area, with full involvement from stakeholders. Scheme has severe detrimental impact on amenity of neighbours- air quality and noise exceed regulations; developer friendly Environmental Statement has no credibility, debatable if in compliance with statutory regulations on EIA and SEA. No social rented housing contrary to policy, a copy of viability test should be available for independent assessment; s106 fails to meet local need such as community premises, affordable business units, rather than some s106 funds for air quality monitoring; fails to meet energy targets, should connect to MUSCO; peculiar to bring forward another Oakmayne scheme when ex-Volvo site is stalled.
- 121 28 Sutherland Square - vital that developments such as Eileen House contribute towards improving the pedestrian and cycling movement in the area. contributions need to improve accessibility by bike and foot from the surrounding area.
- 122 130 Draper House -concern about impact on local amenities including parking, tube, shopping facilities and local GPs. Improvements to Newington Causeway also required and S106 should cover all these matters.

- 123 14 London Road- object to height of new development as inconsistent with urban design and quality of the area, negative impact on London Southbank University by dwarfing its buildings and outdoor spaces and impacting negatively on its micro-climate. Concerned about potential ground- level winds across the new university square;
- 124 64 Smeaton Court - objects - need more trees not blocks of flats
- 125 3 Stephenson House - a building of this height is not welcome in the area.
- 126 10 Rockingham Estate - objects because of the loss of Elephant Park and considers city to be already over-crowded not needing more developments
- 127 40 Albert Barnes House - objects because there are too many residential buildings in our area with a shortage of open spaces. Response in relation to August 11 reg 19 consultation - opposed to further residential development. More parks needed instead.
- 128 89 Albert Barnes House - too many developments in the area, already over-populated with less open spaces. Needs to be a decent park. Objection repeated in response to further consultation august 2011.
- 129 12 Smeaton Court - Totally against the plans due to the influx of so many people moving to this area.
- 130 28 Wollaston Close - concerned that there may be inadequate amenities for local population or social infrastructure.
- 131 5 Albert Barnes House - objects as the area is too congested and public transport is already over-crowded. Objection repeated in response to August 2011 consultation. Area is over-populated
- 132 75 Rockingham estate. objects due to loss of elephant park and lack of open space. Objection repeated in response to August 2011 consultation
- 133 No address - Objects on grounds that no more high rise blocks required - what is needed is more flats for local people to rent not buy. Parking is a problem.
- 134 57 Leybourne Rd E11 consider luxury flats and Ministry of Sound will not co-exist happily; If permission is given there should be sound proofing requirements.
- 135 45 Smeaton Court opposed to development due to strain on public services which are at breaking point.
- 126 20 Albert Barnes House - objects as the plans are not practical - there are too many buildings and not enough parks.
- 127 8 Wellesley Court, 15 Rockingham St objects to planning permission due to the massive population already at Elephant and Castle. The area is congested and we do not need more properties being built.
- 138 50 Smeaton Court objects as public services are already over-stretched.
- 139 37 Albert Barnes House objects as there are too many blocks of flats already in the area. The area should be more green.
- 140 Flat 3 Stephenson House, Bath Terrace objects to the height of building which would be out of context and seeks assurance that the development would be carbon neutral.

141 3 Smeaton Court - objects as our public services are overloaded and we do not need another block of flats.

142 No address - objects because we need a park at elephant and castle.

143 Ministry of Sound (MOS)

a) Summary of initial objection letters and email correspondence:

MOS HQ is at 103 Gaunt Street. Over 125 people are employed in the building, with the night club central to the business and the brand. If the club is unable to operate in its current location, the brand will lose its focal point and identity. The club has been operating for 18 years from this site, and since 2005 has operated 24 hours a day 7 days a week, but mainly weekends and Tuesday nights, with plans for regular Thursday nights in the future or let out as a private hire venue when not in club use. An independent assessment of the ES Noise chapter was undertaken to consider the specific threat of introducing a sensitive noise receptor in the form of a residential development directly opposite the club, a major noise source. The review found that the survey information was insufficient to conclude that the future occupants of the building would be adequately protected from noise generated by the club and that current levels of mitigation would not be sufficient to avoid future complaints. The content of the noise, i.e. the very heavy base element associated with a nightclub, was not addressed. It is also questioned whether it is appropriate to have open balconies in a Noise Category C environment, and should be required to have 'winter gardens' which would add an additional level of noise protection. There is an informal taxi waiting area on club nights and at present drivers enter Gaunt Street from the north looping around from the southern section of Southwark Bridge Road which is to be partially closed by the application. The MOS do not object the proposals to rearrange Southwark Bridge Road and Gaunt Street, but the arrangements do not take account of off peak traffic movements associated with the club, and an off peak taxi waiting area should be able to operate. The addition of a public open space could provide the opportunity for congregation at unsociable hours, leading to complaints, and needs to be carefully managed though implementation of secure by design principles such as CCTV and site management. MOS have agreed with the applicant what further work would need to be undertaken to make the report sound and take a view on whether or not the proposed attenuation measures go far enough as there are still concerns over the potential for music break-out from other areas of the club, and the impact this may have on upper floors of the proposed residential tower having a view over the roof of the club.

144 Further MoS comments following re-consultation: We have met with the developer and agreed a further noise survey would be undertaken. MOS is satisfied the revised survey is robust and welcomed the upgraded glazing specification recommended. Should the application be granted, request a condition to ensure the glazing is implemented and that measurements are undertaken post-construction to verify performance. Design solutions other than reliance on closed windows and mechanical ventilation should be explored. The residents "choice" of whether to occupy these units does not, however, stop these residents complaining about noise from Ministry of Sound in a few years time. Irrespective of the objections raised, the planning process and any resulting façade noise control does not exempt Ministry of Sound from future action for noise nuisance and this could be an unacceptable risk. There are currently no residential premises in close proximity to the Ministry of Sound and the operation of the club is not restricted in a planning or licensing sense. The club could increase the intensity of operations at any time without the need for further permissions or licenses. The latest assessment still fails to take account of such an eventuality. It is very important that the Ministry of Sound have flexibility for operations and this is how their business has developed over the years. This would be seriously jeopardised through the development of residential property next door.

- 145 The above submissions were received prior to December 2009 when the application was first due to be reported to the planning committee. A letter dated 3 December 2009 from Richard Max & Co (Solicitors acting for Ministry of Sound) was received in advance of that meeting raising the following issues:
- 146 Members should be made aware of the importance of the Ministry of Sound before determining the application. The impact of granting planning permission on Ministry of Sound is a highly important material consideration which members must take into account. Proposals for noise mitigation works to be carried out at Ministry of Sound were not agreed and should be dealt with in the S106 agreement. The impact of external noise and activity should be addressed in full and a condition requiring acoustic glazing and fully sealed windows should be imposed. The proposed conditions and S106 agreement are not sufficiently comprehensive or precise.
- 147 In the event the report was withdrawn in order to deal with the matters raised in this submission. Further submissions were received in September and November 2010 and there were ongoing discussions between all parties.
- 148 Further submissions (in relation to both this application and the application at 89-93 Newington Causeway) have been received:
- Letter dated 9 November 2010, email February 2011 from Planning Perspectives.
 - Letter dated 10 September 2010 from Planning Perspectives

The key issues raised in this letter are as summarised below:-

Noise - The noise surveys are inadequate. The proposed mitigation scheme is flawed. Anxiousness about vulnerability to potential nuisance claims.

Cost of the mitigation enhancement scheme cost - no agreement between Oakmayne and Ministry on the cost of the mitigation works.

Impact on Ministry of Sound Business - lack of socio-economic chapter in Eileen House environmental statement. Failure to assess impact of granting planning permission on MoS business.

Planning Policy – Both schemes breach major areas of established and adopted planning policy. Protection of amenity interests of existing occupiers. Importance of understanding impact on MoS. Regard to be had to possible outcome for MoS business.

Housing Need – No demonstrable planning imperative for housing development. SPD does not acknowledge the proximity of MoS premises to Eileen House. The Council's own figures show that the housing targets can be met without the Eileen House or this site. Grounds for Council to reconsider regeneration strategy for the Enterprise Quarter Area needs good quality office accommodation and not further housing.

Planning Balance and Human Rights – Council must assess whether the public benefits of the two applications are such that they justify interference with the MoS business. (See below for officer response.)

- 149 Letter dated 3 June 2011 from Planning Perspectives
The key issues are summarised below:-

- Regeneration- report fails to acknowledge positive regenerative role of MoS.

Regeneration can be delivered in another way without recourse to high density residential led developments. MoS does not accept the housing need on the site. Planning balance must be struck between the perceived merits of the scheme in regeneration terms and the probable impact a grant of planning permission would have on a major business.

- Noise – concern at reliance on January and April 2011 fundamentally flawed reports. Conclusion not to have sealed windows is based on imprecise findings of recent noise surveys and belief that noise limiters introduced by MoS. Council should undertake further more comprehensive assessments to reach an informed view. Little weight should be attributed to results of January survey because of insufficient duration, wind speed too great, noise from external speakers masking noise from main building, no noise measurements carried out within the club and no account taken of external activity. April survey does not go far enough in addressing deficiencies in Jan survey. Reliance on incorrect assumptions re noise limiters.

150 In response to 2 no. Regulation 19 consultations (June & August 2011) in letters dated 1st July and 8th September 2011 MoS maintains its objection and make similar comments on the proposal. In particular it contends that there are deficiencies in noise surveys carried out in January and April this year and that their results are invalid partly due to the fact that they did not span the full opening hours of the club. Reliance on these surveys is wrong given the findings of their own survey undertaken in June.

However MoS accepts the validity of the July 2011 survey (carried out by Council officer & noise consultant in the presence of MoS' own noise consultants) which it says comes to different conclusions and provides conclusive evidence of noise break-out from the roof of the club;

MoS consider the advice provided by the Council's noise consultant has been inconsistent in that he advised in May 2010 that " future residents would find internal noise levels from the Ministry of Sound unacceptable even with sealed glazing" whereas he now advises that an acceptable internal sound level can be achieved with dual glazing and closed windows.

MoS also considers that the Council's internal noise criterion relating to average Leq noise levels does not go far enough to protect future residents from regular low frequency peaks of noise.

It further suggests that the glazing specification required to mitigate the noise will be impractical although it accepts that closed high-specification glazing may achieve the Council's required internal levels.

MoS submit that any resident buying a flat within the scheme in full knowledge of MoS is not a defence to any future noise nuisance claim. This point is dealt with in an email dated 5 August 2011 from Planning Perspectives to Councillors and Planning Officer

151 Planning Perspectives email attached a legal opinion from David Elvin QC in relation to the law of nuisance and the impact of a potential noise nuisance complaint on the Ministry of Sound

The legal opinion can be summarised as follows:

- It is likely that amplified music from MoS played constantly during the nightclub's normal operating hours would constitute an actionable nuisance.
- Noise from outside the MoS which is a consequence of the operation of the MoS may also constitute an actionable nuisance against MoS. This would

include people congregating/queuing to get into MoS and people leaving.

- A successful claim in nuisance would result in a court order that the noise nuisance be abated. This would happen irrespective of the Council's view about MoS's licence or the desirability of MoS and its noisy activities. The law is clear and it is not a defence to a nuisance claim to show that the claimant "came to the nuisance".
- The Council cannot control whether proceedings are taken to abate the nuisance. This is because the residents of the proposed developments could themselves bring claims in nuisance and seek injunctions. Also, if a statutory nuisance exists the Council has a duty to issue an abatement notice – it does not have discretion to do so (e.g. if it might harm economic activity in the Borough) and it would be unlawful for the Council not to act if a statutory nuisance were found to exist.
- The risk of nuisance claims being brought to abate what is currently a lawful activity is a material planning consideration to which weight ought to be given when determining the planning application.

152 *Officer's comment: The section headed "Noise" below covers the points raised in the legal opinion.*

153 MoS consider a further review of the socio-economic assessment in the ES is required in the light of the latest noise survey findings.

154 Officer Response

The September 2010 and June, July and September 2011 letters raise similar issues and to the extent that the points have not been covered elsewhere in the report the officer response is set out below.

155 Breaches of Planning Policy

MoS raised a number of policy matters in its representation dated 9 September 2010. The officer view is as follows:

Southwark Plan (UDP, July 2007) policies SP10 Development Impacts, SP11 Amenity and Environmental quality, 4.1 Density of residential development, and 6.1 Elephant and Castle Opportunity Area have been overtaken by the adoption of the Core Strategy and are not saved under the Core Strategy (2011). Members are advised that the relevant saved policies of the Southwark plan are listed in the body of the main report at paragraph 31 and the relevant strategic policies are listed at paragraph 32. Policy 4.1 is replaced by strategic policy SP5 – Providing new homes

The MoS representation suggests that Southwark Plan (UDP) policy 2.1 Enhancement of community facilities is relevant. Officers disagree. Policy 2.1 is not relevant and members are to have no regard to this policy as there is no community facility (Uses Class D) either lawful or unlawful established on the site of the proposed development. For clarity, the established uses are set out in the body of the main report in paragraph 3.

The relevant London Plan 2011 policies are set out in the main report at paragraph 14. Officers do not agree with the MoS representation that London plan 2008 policies 3.A.18 Protection and enhancement of social infrastructure and community facilities and 3D. 4 Development and promotion of arts and culture are relevant material considerations. Officers do accept that and members are to have regard to 5G.3 C Central Activities: Offices as a relevant consideration given that the application site does lie within the Central Activity Zone (CAZ). The scheme proposes a mix of uses

that includes replacement floorspace of protected office (B1) and cafe (A3) uses that results in a slight shortfall of 1.5sqm that is considered acceptable as previously set. The remainder of the 490sqm of existing floorspace has an established use as a bank (A2) which is not similarly protected by policy.

156 Regeneration and Housing Need

MoS argues that regeneration could be delivered in another way without high density housing. If high density housing is acceptable in planning terms, which officers consider to be the case, there is no requirement to look at alternatives.

If the proposed development were identified as likely to have an adverse impact upon MoS then the balancing exercise identified by MoS in its letter of 2 June 2011 would have to be undertaken. However, the advice is that MoS is likely to be able to operate without unacceptable impacts arising on future occupiers of the proposed development.

With regard to housing need, the MoS sets out on page 11 and 12 of its September 2010 representation that Southwark housing targets can be comfortably met without the Eileen House and Newington Causeway sites. Officers disagree with this for the following reasons:

The Core Strategy makes it clear that the housing targets contained within it are to be exceeded where possible. Further, there are two targets to which regard must be had: the Elephant and Castle target and the overall target for the Borough. The Elephant and Castle target in the core strategy and the draft replacement London Plan is 4000 net new homes to 2026. The Southwark housing target in the core strategy is 24,450 net over the 15 years (1630 net a year).

However, the draft replacement London Plan increases this overall target to an annual target of 2005 net a year (30,075 over 15 years). In the last 14 years for which figures are available, this is a level of growth that the Borough has only achieved in one year (2006/7) at the height of the construction boom. Officers consider that the Borough will struggle to achieve the housing targets anticipated by the draft replacement London Plan.

MoS has focussed upon the sites identified in the DCA but has failed to recognise that not all of the sites identified will come forward for housing. As a result of the above, officers consider that the proposed development would make a valuable contribution towards meeting housing targets. Weight should be given to this factor in favour of the grant of planning permission.

157 Noise

MoS disputes the validity of the surveys and rely upon earlier surveys.

The advice is that the recent surveys are reliable and corroborate one another. Earlier survey results, which indicated that mitigation may be required, have not been replicated however by the later surveys. The July 2011 survey which covered the full opening hours of the club revealed that noise levels do increase in the early hours of the morning but not to an extent that altered the conclusions in relation to internal noise levels of future residences with windows closed. The note below summarising the numerous noise surveys provides the explanation.

158 Human Rights Act

See amendments to human rights section to the report above. If the proposed development were identified as likely to have an adverse impact upon MoS then the balancing exercise identified by MoS in its letter of 10 September 2010 would have to be undertaken. However, the advice is that MoS is likely to be able to operate without

unacceptable impacts arising on future occupiers of the proposed development.

- 159 Online petition: MoS wishes to direct members' attention to the online petition running on Ministry of Sound's website, which at the time of writing has a total of 25,000 entries. The petition was submitted in person to the Council by representatives of MoS and their supporters.

Summary of noise surveys carried out

- 160 Note by Rupert Thornely-Taylor 8 September 2011

This note summarises the noise surveys and reports, together with the conclusions drawn from them and the advice given, that have been completed since the Eileen House and Newington Causeway Planning Applications were lodged.

- 161 *Surveys on behalf of the Eileen House Applicants*

The applicants for the Eileen House development first carried out a noise survey in November 2007 in line with the requirements of PPG24. This did not address noise from the Ministry of Sound (MoS). Southwark subsequently requested a night time noise survey which was carried out between Wednesday 27th May and Monday 1 June 2009.

My original advice to Southwark, given on 20 April 2010, was based on the results of this survey and associated data contained in the report of Sandy Brown Associates (SBA), acoustical consultants to the developers, dated 29 June 2009 and the associated raw data, together with a letter from SBA dated 11 January 2010. This report, under the heading "3.6 External noise levels during event" and the sub-heading "3.6.2 Maximum LAF_{max} noise levels" stated maximum night-time LAF_{max} noise levels of 86 dB LAF_{max}, peaking in the 63Hz octave band with an unweighted level of 87 dB. The 11 January letter repeats the reference to Music (max) LAF_{max} 86 dB predicted at 1m from Eileen House.

SBA then carried out measurements on Thursday 14 May 2009 to assess noise break-out from the Main Bar and Loft areas of the MoS Club. This was done during the day using pink noise (synthetically generated noise with equal sound level in all octave bands) and music as the source. The external microphone locations were at a position close to and overlooking the Main Bar roof (microphone on a mast at a height of approximately 3 metres above roof level), at an external position close to and overlooking the Loft roof (microphone on a mast at a height of approximately 3 metres above roof level) and on the roof of Lancaster House. No measurements were made at Eileen House or elsewhere during this survey. The report stated that there was significant breakout of music and pink noise from the Main Bar, primarily at low frequencies.

Data provided to Southwark by SBA in an email to Dipesh Patel dated 24 November 2009 included spectrum information down to the 31.5Hz octave band, in which levels were frequently over 4 dB greater than those in the 63Hz octave band.

(The 31.5Hz octave band contains the 25Hz, 31.5Hz and 40Hz 1/3 octave bands and the 63Hz octave band contains the 50Hz, 63Hz and 80Hz 1/3 third octave bands.)

Based on the measurements carried out by SBA, the sound insulation of the roof on the main bar at the MoS was considered by them to be weak, and that as part of the process of achieving acceptable conclusions for the grant of planning permission negotiations had taken place regarding the installation of an enhanced roof to the main bar. A specification was prepared by Sharps Redmore Partnership (SRP), acoustical consultants to MoS, and the SBA letter of 11 January contained an

assessment of external noise levels from MoS, including a theoretical assessment of the proposed new roof construction.

162 *Surveys on behalf of the Ministry of Sound*

A report dated 14 June 2010 was made available to Southwark in July 2011 containing a Noise Exposure Assessment in the context of the Noise at Work Regulations 2005, carried out by SRP. It found L_{Aeq} levels of 106 dB in the centre of the main bar and made recommendations for controlling the noise exposure of employees, including noise level reduction and hearing protection. Additional results from this survey were provided to Dipesh including five-minute L_{eq} and L_1 levels in octave bands from 31.5Hz upwards. The highest unweighted level was 127 dB in the 63Hz octave band (octave band levels are always higher than 1/3 octave band levels). The 63Hz level after 2.30am was about 5 dB higher than before 2.30am, but did not go on growing and declined slightly after 3.00am.

SRP prepared a further report dated 30 June 2011 entitled "Supplementary Noise Break-Out Testing and Response to Regulation 19 Submission" which gave the results of a repeat of the SBA tests in 2009 using some of the same measurement positions used by SBA, namely within the main bar and at an external position close to and overlooking the Main Bar roof (microphone on a mast at a height of approximately 3 metres above roof level). No measurements were made at Lancaster House (and none were made at Eileen House or Newington Causeway either in the SBA 2009 survey or the SRP 2011 survey). The results confirmed the findings of the SBA 2009 report regarding breakout of music noise through the roof structure of the Main Bar. For no explained reason, this was used to support a statement that "The findings of Southwark Council in January and April 2011 can be dismissed as unrepresentative of the normal, typical, worst-case operating conditions" although no measurements were made in the locations assessed by Southwark (see below).

163 *Noise Surveys by Southwark and Rupert Thornely-Taylor*

My initial advice to Southwark, based on these sets of data, was that consideration should be given to the 31.5Hz octave band, since sound at low frequencies is particularly difficult to attenuate in building design. Advice given in my letter dated 11 May 2010 concluded:

"A review of the proposed development leads to the conclusion that future residents would find internal noise levels from the Ministry of Sound unacceptable even with sealed glazing. The nature of the development precludes the use of a planning condition to require sufficient sound insulation to overcome the unacceptability, because of the necessity for access to balconies and the consequent impracticability of fixed, unopenable glazing. The assessment criteria considered by the applicants' consultants would be considered in the trial of any nuisance action, and would support a conclusion that complaints made were reasonable."

This paragraph has been quoted by MoS as recently as July 2011, although, as explained below, subsequent noise surveys have found that the underlying predictions of external noise levels on which the advice in the letter was based do not occur.

Having seen my advice, SBA considered that there was not an issue in the 31.5Hz Octave Band at least with regard to sound from the MoS. I therefore considered it would be desirable for me to attend a noise survey in order to be able to discover at first hand the relationship between measured sound levels at Eileen House and music from the Ministry of Sound.

That survey took place on 22/23 January 2011 between 12.30am and 2.00am. The noise measurements were made by SBA. SRP were also present. I was present as an

observer and I reported on it in an email dated 24 January. While there were wind speeds on the night which could have caused increased measured noise levels on occasions due to turbulence at the microphone, the outstanding observation on the night was that measured noise levels of music from the Ministry of Sound were much less than 86 dB LAF_{max}, and much less than 87 dB in the 63Hz octave band. If there had been no wind the measured levels may, if anything, have been lower (although the wind was not continuous and valid measurements were possible).

The MoS subsequently observed that the January survey did not begin early enough to include noise from the setting up of crowd barriers in the street at the start of the evening. A further noise survey was carried out on 16 April 2011 with an earlier start time of 9.30pm, ending just after midnight

The MoS then observed that the January and April surveys did not extend late enough into the night to take account of an increase in amplifier gain settings that are made as the club fills up to compensate for the sound absorption of the bodies of patrons. A further noise survey was carried out on the night of 23/24 July 2011, extending until 6.15am. The July survey included measurements inside the main bar as well as at Eileen House. Including four sets of equipment deployed by Southwark, logging measurements were also made at Eileen House by SBA and at Newington Causeway by the Equus partnership.

The conclusions on the three surveys were:

164 **January**

There was much less noise from music at the MoS than expected according to the SBA report. The music that was evident was predominantly due to the courtyard speakers. When they were switched off, the music that could just be heard was perceived as being emitted through the entrance doors.

The conclusions of the January Survey were

1. Noise from within the MoS was not observable, except at podium level where it appeared to be coming out of the doorways.
2. Noise from customers queuing in the street was minor.
3. Noise from customers within the courtyard, underneath the awnings was significant.
4. Noise from the courtyard speakers was significant.
5. Music noise coming from the MoS entrance doorways was significant.
6. There was no indication that music noise escaping from the interior of the MoS through the fabric of the buildings was significant, or even audible.
7. Because of (6) we could not know the relative contribution of sound in the 31.5 Hz octave band to the spectrum of sound coming from the main building.
8. The spectrum of the courtyard speaker sound was not particularly low frequency.

165 **April**

Without the courtyard speakers, as in January, sound levels due to MoS music were much lower than had been expected based on the SBA 2009 report, up until the survey ceased just after midnight. There was significant noise between 10.30pm and 11.00pm caused by dragging metal crowd barriers into position in the street.

The conclusions of the April Survey regarding music noise from the Ministry of Sound were the same as those of the January Survey.

166 **July**

Whereas MoS sound did not influence the overall ambient levels in terms of the dBA scale usually used for environmental noise assessment, the opportunity was taken to observe sound at Eileen House in a single 1/3 Octave Band, in order to provide some numerical quantification of the MoS sound. At Eileen House, the level in the 50Hz 1/3 Octave Band was found to be most sensitive to the music sound that was just audible in the absence of local traffic. Internal noise measurements showed a rise in low frequency noise as the night progressed, although noise levels reached at around 1.00am (i.e. within the time period of the January survey) were similar in level to the highest levels reached between 3.00am and 4.00am. When the sound levels due to music from the MoS were at their highest, the A-weighted sound level was in the 60s, very substantially lower than the supplied figure of 86 dB LAFmax on which my original advice was based.

The conclusion of the July survey were, for Eileen House:

“With open windows, music noise would be audible inside a dwelling, and may cause annoyance.

Noise from the courtyard and other activities in the street would significantly exceed the internal noise spectrum with windows open, but the spectrum would be achievable with dual glazing and closed windows.”

And for Newington Causeway:

“Music would be audible inside the building with windows open, but the required spectrum could be achieved with closed dual glazing. There was no significant noise from the courtyard or the street at Newington Causeway.”

167 **Conclusion**

The core feature of the outcomes from the above sequence of noise surveys and reports is that SBA extrapolated noise levels measured close to the roof of the Main Bar (by both SBA and later confirmed by SRP) to predict noise levels at Eileen House which significantly overestimated music noise levels from the MoS as received at the façade of Eileen House. My original advice was based on those overpredictions, and was changed once it was discovered that music noise levels from the Main Bar as measured at Eileen House are much lower than the SBA predictions.

In relation to the socio-economic impact assessment as part of the ES the applicant has reviewed both the ES and the ES addendum. In the light of the noise assessments carried out the view is maintained that the ES material assesses the likely significant impacts

168 Other Comments:

2 other comments were received, set out below:

169 Flat 3, Stephenson House, Bath Terrace- should be carbon neutral. Was unable to find Environmental Statement on website, so not convinced it is.

SE1 1PA- in this area the residents find it very hard to park our cars so if this development goes ahead they need to include parking for the residential use.

170 Letters of support:

15 letters of support were received, set out below:

171 Flat 22, Hugh Astor Court, Thomas Doyle Street- support the development in my area, it is good.

172 Flat 9 Trinity House, Bath Terrace- Development would bring significant improvements to the area- more housing, more residents in a de-populated area, new shops, and

new public space. Believe the development is close to Ministry of Sound nightclub- would this generate a lot of noise at night for residents?

- 173 72 Metro Central Heights- On balance support the application, which will bring forward regeneration of the area, provided that the developer provides a quantity of affordable housing as part of the development.
- 174 29 Trinity House, Bath Terrace- there is a shortage of housing in the area and this development may help to boost economy and kick start the housing market. Could not view on website so difficult to judge if it will improve the area.
- 175 Flat 10 Gibbings House Lancaster Estate- better than a disused office block. Have to ensure provisions for rubbish, security, are organised professionally to keep area from deteriorating. Looking now you can see rubbish/urine/sick in area due to Ministry of Sound.
- 176 SE1 6ET- agree that permission should be granted- I was very impressed with the plans including the green issues, all the bicycle spaces and the mixed use of the building. It will bring much needed jobs in these hard times in its construction and after in maintenance and services. It will match with great Strata tower and the 360 building at London Park Hotel, and will bring back much needed development to south east London as most development is north and east of Thames. It is ideally situated and not obstructing light or overlooking residents in the area. This grey area needs to be brought to life and the new Eileen House could do that.
- 177 Flat 40, 140 Southwark Bridge Road- On balance support the application
- 178 285 Metro Central Heights- Give full support for proposal, Eileen House is an eyesore, and E & C urgently needs more regeneration and redevelopment. Area will benefit from bold, high density mixed use developments such as this and Strata tower. This is an exciting new project that will benefit the local area.
- 179 52 Stephenson House, Tarn Street- surrounding area is very dated and this plan to redevelop the area is very welcoming, since it needs to be modernised along with the rest of E & C. Shame you are not doing anything to the building I live in.
- 180 58D St Georges Road- it is an ideal site for such a building, not affecting any other residences. I like the mix of flats and business, much needed in such a cosmopolitan and central area. Like the green issues and the cycle and disabled facilities.
- 181 475 Metro Central Heights: Proposal appears well thought out, considers wider public realm (which area is in need of) and is in line with wider developments for the E & C. Very much in
- 182 58A St George's Road- With a bit of luck it will improve the area, I might be able to sell my tiny 1 bed expensive to run flat and buy in the new development. Further letter of support following reg 19 consultation. No issue with noise from bars and discos opposite
- 183 Weller Street: Eileen House is a very grotty and depressing building and the new development is very much welcome.
- 184 London Southbank University: Application is generally supported by LSBU. It is appreciated that Phase I includes public realm works to Keyworth street but not those to the southern end of Southwark Bridge Road, this being Phase II. We request that any works to Southwark Bridge Road be included, any s106 should incorporate these works. Disappointing to see the timing for Phase II works is dependent on TfL, and

we feel Phase II should be delivered as soon as possible in order to enhance this key gateway to the University, and set the benchmark for future public realm improvements within the Enterprise Quarter.

185 Letter of concern

Building manager 237 Southwark Bridge Road

Largely concerned about potential vehicular and pedestrian restrictions during construction, impact on the fire assembly point for that building and the impact of shadowing from the new development.

PLANNING CONSIDERATIONS

Principle of the Proposed Use

General Policy

186 PPS1 and PPS3 all emphasise the benefits of creating mixed communities. PPS1 promotes the efficient use of land through high density, mixed use development on previously developed land. The application site is located within the Central Activities Zone, a Major Town Centre, Central London Sub-region, the Elephant and Castle Opportunity Area and a Transport Development Area and it is located within the boundary of Proposals Site 39P in the Southwark Plan.

187 Both London Plan and Council strategy is for a high density, high quality, mixed use town centre at the Elephant and Castle that will address local, sub-regional and London wide needs for new homes, provide an enhanced public transport interchange, employment and retail floor space and other social benefits. The London Plan establishes the need for regional growth in new homes and employment and identifies further development in the Central Activities and associated Opportunity Areas as a means by which this requirement for homes and employment can be accommodated. London Plan policy 2.13 requires development to maximise the potential of sites, create or enhance the public realm, provide or enhance a mix of uses, respect local context, character and communities and be sustainable. The new London Plan (2011) requires that 4200 jobs are identified and 6000 homes are provided within the Opportunity Area between 2001 and 2026, and that opportunities within the Central Activities Zone for local communities/businesses/ London as a whole to be identified as a strategic priority

Enterprise Quarter SPD and Proposed Mixed Use Development

188 Stemming from its designation as an Opportunity Area in both the Southwark Plan and the London Plan, the Enterprise Quarter SPD (September 2008) was formulated to provide details of acceptable types of development, including land-use and other aspects of urban form, within the area to the north-west of the core Elephant and Castle Opportunity Area. It provided further guidance on previous Policy 6.1 of the Southwark Plan, which pertains to the Enterprise Quarter and set out how the area would contribute towards the regeneration of the wider Elephant and Castle Opportunity Area. The vision for the area is to create *'a distinctive university quarter, part of a thriving and sustainable town centre, that supports a range of university related and other businesses, including recreation, entertainment and cultural uses, and also accommodates a variety of residents and local facilities and services. A place that is safe and convenient on foot, with attractive public streets and spaces and memorable buildings to enjoy'*.

189 The SPD identifies the potential for significant levels of new development over the next ten to fifteen years, which will contribute towards meeting London Plan targets for new homes at the Elephant and Castle, whilst having the potential to support

employment and economic function, and deliver a substantial amount of mixed-use floorspace and transform the quality of the environment. It identifies a number of development objectives, which will apply to any application for development within the Enterprise Quarter, which include:

- Supporting the economic and business function of the Enterprise Quarter (existing business and employment generating floorspace should generally be retained or replaced by new employment generating uses or town centre uses);
- Diversifying/ increasing the mix of uses within the area (mixed use residential development will generally be encouraged and is particularly appropriate towards the edges of the area);
- Bringing vacant or underused land and buildings into productive use through refurbishment or redevelopment;
- Extending the concentration of town centre activity proposed for the core area northwards to help revitalise the Enterprise Quarter;
- Introducing a variety of public open spaces, green links, roof gardens, public squares and promote/ support biodiversity;
- Creating a high quality urban place with an attractive and distinctive character and a more coherent townscape through the form and height of new development
- Ensuring street frontages are active and supervise the public realm with active town centre ground floor uses along the main arterial routes of Newington Causeway and London Road. Where tall landmark buildings are proposed, town centre ground floor uses, accessible to the public, should be incorporated to create a focus of activity, with a preference for social, community, cultural or leisure uses;
- Securing developments of high quality architecture and urban design;

190 The SPD also provides site specific guidance for the Eileen House site, which is identified as Site 5 'Newington Causeway- Eileen House', a 'key development site' within the SPD, with Figure 4.15 suggesting the site is suitable for a 'City Scale Landmark Tall Building'. In setting the context for development of the site, the SPD identifies some key considerations specific to the site, including:

- The site is identified as being a point of landmark significance and within the extended Secondary Cluster of tall buildings for the Elephant and Castle.
- The site is located at a point where major routes, Newington Causeway and Southwark Bridge Road, meet, and it will be the focus of views north along Newington Causeway from the extended Walworth Road high street when the redevelopment of the core area is completed.
- The north of the site is locally prominent when viewed south along Southwark Bridge Road, and lies at one of the key gateways into the heart of the area.
- Immediately to the south, Southwark Bridge Road is identified as being part of the proposed network of pedestrian priority/ pedestrianised public spaces, and there are a number of street trees, including one significant mature specimen, that contributes to the character of Southwark Bridge Road.
- Southwark Bridge Road and Gaunt Street currently have a number of bus stands that serve bus services from South London, terminating at Elephant and Castle.

191 The SPD contained errors in a map showing existing land uses in the area. Firstly, the key to the map reversed the colours on the map representing the preferred office locations (grey) and the location of the nightclub (maroon) secondly, the boundary of the nightclub site was incorrectly shown and should have shown it extending into a

neighbouring area adjoining the railway and thirdly, it did not recognise that the nightclub's offices are located in the adjacent office site shown blue on the map.

192 The SPD also identifies key opportunities for the site which are:

- To provide a mixed use development that contributes both towards meeting the increased London Plan target for new housing in the opportunity area and towards reinforcing the town centre/ commercial character of Newington Causeway.
- To create a city-wide scale landmark tall building that contributes to the proposed cluster of towers for the Elephant and Castle.
- To introduce town centre activities at lower levels so as to create a focus of activity.
- To improve the pedestrian environment around the site, in particular to create a pedestrian priority area for the key gateway into the university area, at the southern end of Southwark Bridge Road.
- To work with Transport for London to consider provision of an alternative arrangement or location of bus stands that meets operators' requirements but which has a reduced impact on environmental quality for pedestrians.

193 It is considered that the proposed scheme addresses all these opportunities adequately and responds well to the context described within the SPD.

194 The vision for the Elephant and Castle Opportunity Area in the Core Strategy (2011) sets out that we will use land at the heart of the area to stimulate 440,000 sqm of new development with of up to 45,000 sqm new shopping and leisure floor space and 25,000-30,000 sqm of business floorspace. We will meet our target of 4000 new homes and a minimum of 1,400 affordable housing units by working with the local community, registered providers and private developers to deliver new homes. We will also meet the London plan target of 5,000 new jobs by encouraging more offices, hotels, small businesses and developing the evening economy and cultural activities. The application proposals will play an important role in promoting a wider mix of uses and consolidating the role and function of the Elephant and Castle town centre.

195 The Core Strategy (2011) policies are based on a number of evidence studies including the Strategic Housing Market Assessment 2010, the Housing Requirements Study 2009 and the Affordable Housing Viability Study 2010. The council also has a Development Capacity Assessment (DCA) which estimates potential future housing capacity that may come forward across a number of sites in the borough. The Core Strategy (2011) sets out a 15 year housing target from 2011-2026 which is in general conformity with the London Plan. The DCA has identified potential housing sites for the future and the timescale in which they realistically may come forward. The application site has been identified in the DCA as a key site to contribute towards meeting the housing target in the Elephant and Castle Opportunity Area.

196 The draft NPPF requires local planning authorities to deliver a wide choice of homes and widen opportunities for home ownership. This includes planning for a mix of housing, identifying the size, type and tenure of housing, and setting policies for meeting this need on sites unless off-site provision or a financial contribution can be robustly justified. The application proposal includes a range of housing choice which is also in compliance with the Core Strategy (2011)

Public Realm

197 The public realm improvements proposed within the scheme centre on the area identified within the SPD as Project 4a 'University Gateway- Newington Causeway' and 'University Gateway-Southwark Bridge Road'. The SPD aims for developing the

public realm around the base of the Eileen House site are:

- Enhance the pedestrian environment around the gateway to the university from Newington Causeway, promote pedestrian links towards Bankside, and extend the existing public space design to link across to Eileen House, increasing the physical presence of the building.
- Reinforce the 'Boulevard' character of Southwark Bridge Road, in order to enhance the pedestrian environment and provide opportunities for seating.
- Maintain cycle routes and improve safety of cyclists using them and reduce impact of vehicles on the area. Provision of cycle racks that could be used for general cycle parking or a future cycle hire scheme.
- Reduce barrier effect and enhance east west permeability across the university.

198 The design principles that will assist in achieving these public realm improvements are also defined. In the area around Southwark Bridge Road, between Keyworth Street and Gaunt Street, there will be a need to work with Transport for London to find an innovative urban design and highways solution which meets the needs of all users including pedestrians, cyclists and buses, the aim being to create an attractive and useable environment, using high quality materials and providing cycle parking, street furniture and seating. Further, all parking should be moved, including bus stands and islands that currently define the contra flow cycle lane, and extend footways on both sides to define the narrowed carriageway and reinforce with tree planting. Relocate the seven bus stands from Southwark Bridge Road to Gaunt Street and/or further north on Southwark Bridge Road and improve layover facilities for drivers. The proposed public realm improvement offered by the scheme is considered to meet the aims and design principles set out within the SPD- full details of the public realm improvements are set out within the design section of this report.

Class B Floorspace

- 199 Southwark Plan saved Policy 1.4 and Core Strategy policy 10 requires that on sites within the Central Activities Zone there should be no net loss of Class B floorspace. The policy allows for the replacement of Class B uses with suitable town centre uses. Southwark Plan saved Policy 1.7 states that within town centres, developments will be permitted where they provide a range of uses, including retail, leisure, entertainment, community, civic, cultural and tourism, residential and employment. Therefore the inclusion of Class A and other town centre uses is considered to be acceptable, and in compliance with criterion iii) of saved Policy 1.4. In the context of a new build development, adequate evidence is therefore required to justify any loss of employment floorspace given the desire to maintain a broad range of uses in the opportunity area and Enterprise Quarter in line with saved policy 1.4.
- 200 The site currently has 6124sq.m of gross internal office floorspace (Use Class B1) and 152sq.m Use Class A floorspace, or 6,276sq.m employment floorspace. The applicant has advised that only 2541sq.m or 41% of the total floorspace is currently used as offices, with the remainder of the building having been now vacant for more than 4 years. The application proposes 285sq.m of gross internal floorspace in a Class A1-A5 retail use (287sq.m GEA) and 4488sq.m in a Class B1 use (4785sq.m GEA). The proposed commercial and retail floorspace will total 4773sq.m resulting in an overall loss of 1351sq.m (or 22%) of the existing Class B floorspace, contrary to Policy 1.4 of the Southwark Plan. As originally submitted, the application included an option for the Class B floorspace to be used for a D1 education or healthcare use. However, officers were concerned that if the applicant filled all the proposed commercial space with a Use Class D1 use, the entire loss of B1 floorspace would occur. Therefore, following negotiation, it was agreed that the application would no longer include an option for a D1 use.

- 201 The Southwark Employment Land Study (2009) identifies additional demand for 625,742sq.m of B1 floorspace up to 2026. While the majority of this demand is in the SE1 area, the report recognises that Elephant and Castle can help to meet local demand for smaller and medium sized office premises. It is likely that the reason the existing building is not fully let is due to the space being inappropriate for modern office use. The applicant submitted a Southwark Office Market report, (DTZ, 2009) which also identified a rising demand for office space, which is held back by lack of modern, purpose built accommodation and current market deterioration. There have been no significant modern office developments within the area in the past 10 years. Further, the report states that due to competition from the City and pipeline office schemes within Southwark, there is limited demand for office uses in the Elephant and Castle area.
- 202 The intent of saved Policy 1.4 is to encourage a range of uses in the Central Activities Zone and to protect employment opportunities for local people. In support of the loss of floorspace within the proposed application, the applicant provided a direct comparison of employment provision between the existing and proposed buildings in what they consider to be a more appropriate means of assessing compliance with the intent of the policy.
- 203 The existing building currently accommodates 72 employees within an area of 2,541sq.m, equating to a density of 1 employee per 35sq.m. The employment capacity of the existing building was considered using a number of different scenarios. By applying the Average Employment Density Figures from the Southwark s106 SPD, the applicant demonstrated that the existing building could potentially provide employment for up to 368 people. Based on the age and condition of the existing building together with the requirement to comply with current building standards such as existing lift capacity, the building could accommodate a maximum of 314 people, or based on existing toilet capacity, 235 people. The applicant suggests that the non-residential floorspace within the proposed scheme is likely to provide employment for 357 people based on current building standards such as existing lift capacity. Policy officers have advised that calculating re-provision in terms of numbers of employment spaces cannot be accepted as there is no guarantee how many people will be employed in each area or how the offices will be laid out or occupied.
- 204 Whilst the loss of approximately 1351sq.m of Class B1 floorspace would not generally be considered acceptable, a strong case has been presented by the applicant for the reduced re-provision. Their argument centres around the lack of demand within the area under the current economic climate, the poor quality of the existing building that would preclude its full occupation, and the likelihood that only a very limited amount of commercial B1 floorspace will be built within the Elephant and Castle area until the more significant regeneration of the core area is undertaken. The modernised building is more likely to provide increased employment opportunities to local people, which is broadly in accordance with the intent of Policy 1.4 of the Southwark Plan.
- 205 Despite this, policy officers maintained the view that the scheme should re-provide the Class B1 floorspace in accordance with saved Policy 1.4. The only real justification for the proposed shortfall would be the impact of the provision of additional commercial floorspace on the overall viability of the scheme. A full financial viability assessment was submitted for consideration by Southwark Valuers (full details provided under the affordable housing section of this report), which clearly shows that the scheme is currently unviable. An updated viability assessment has been carried out in August this year and the conclusion remains that the scheme is unviable. The building envelope cannot be increased- the tower having already been reduced by 3 storeys and therefore any increase in office floorspace within the tower would result in a reduction in the housing provision, most likely the affordable housing. The smaller

office building is designed to a maximum height given the localised impacts such as rights to light to surrounding properties, so an additional floor cannot be inserted therein. It is on this basis that in this case the shortfall in replacement floorspace is considered to be acceptable

Principle of the Proposed Use - Summary

- 206 The principle of introducing mixed use development onto the site is fully supported by the Southwark Plan and Core Strategy, London Plan and Enterprise Quarter SPD. The scheme will see the redevelopment of a currently underused site, providing 335 new homes in a high density, quality mixed-use scheme making a significant contribution to the provision of housing, including affordable housing, whilst maximising the opportunity to enhance the public realm on the site through creation of a University Square. This, combined with a retail element at ground floor, will enliven the street frontage, thereby creating a high quality urban place which is consistent with the requirements of Southwark and London Plan policies, and the development objectives of the Enterprise Quarter as set out above.
- 207 London Plan policy 3.3 and Southwark Plan saved policy 3.11 seek to maximise the potential of sites and the efficient use of land where a positive impact on local character and good design are achieved. There is no in-principle objection to higher density developments within the Central Activities Zone, particularly in areas that have high public transport accessibility levels and where a development exhibits an exemplary standard of design with an excellent standard of living accommodation and the scheme respects local context, character and communities, including contributing to the skyline and the streetscape. Very high density is not in itself an impediment and it is the resulting built form that is of most relevance.
- 208 The site is located within the 'Central Activities Zone' under the Southwark Plan which attracts a density range of 650-1100 habitable rooms per hectare, with development typically of 6-8 storeys high, though there will be sites where tall buildings are considered appropriate and densities may subsequently exceed these levels. The area also has excellent public transport links with a PTAL of 6

Density

- 209 The proposal consists of 40 three bed, 136 two bed, 143 one bed and 16 studios, equating to 874 habitable rooms. The density calculation set out under Appendix 2 of the Southwark Plan requires that a percentage of the non-residential area be included in the calculation, which in this instance is 174 meaning the total number of habitable rooms within the scheme is 1048 which, with a site area of 0.64ha (including the public realm area at the base of the tower), results in a density calculation of 1638 habitable rooms per hectare. The scheme represents a high density proposal which is in excess of the 1100 habitable room guidance figure. Whilst it is inevitable that a proposal for a landmark tall building will have a high density, due consideration must be given to whether there are any identified adverse impacts resulting from the higher density level and whether there is justification for the density though provision of an exemplary standard of design and accommodation across the entire scheme.

Mix

- 210 Southwark Plan saved Policy 4.3 and Core Strategy policy 7 require a mix of housing sizes, particularly flats of two or more bedrooms, to reflect the housing demands of the borough. At least 60% of units should have two or more bedrooms and at least 20% three or more bedrooms with direct access to private outdoor space. Studio flats should not exceed 5% of the total number of dwellings (private tenure only) provided and at least 10% of should be suitable for wheelchair users. The scheme, having been

designed well in advance of the Core Strategy does not fully comply. It met the previous standards but does not comply with Core Strategy requirements providing 16 studios (4.8%), 143 one bed (42.7%), 136 two bed (40.6%) and 40 three bed (11.9%) units. On this basis 2 beds and above are 52.5% instead of 60% and 3 bed units are 11.9% instead of 20%. In terms of wheelchair accessible units, 16 affordable (8 two bed, 8 three bed) and 22 private (20 three bed, 1 two bed) accessible units, or 11.3% are included which is in compliance with the standards. Dual lift access is available to all the accessible flats and all flats incorporate design features to meet Lifetime Homes standards. Notwithstanding the shortfall in terms of mix the scheme represents a balanced and sustainable mix of accommodation.

- 211 PPS1 and PPS3 emphasise the benefits of creating mixed communities. London Plan policies 3.4, 3.8, 3.10 and 3.12 set out housing targets in terms of tenure and mix and the promotion of mixed and balanced communities. Southwark Plan saved policy 4.4 outlines the requirements for affordable housing provision in the Elephant and Castle Opportunity Area, requiring the provision of 35% affordable housing on a 50:50 social rented: intermediate split in this location.

Tenure- Affordable Housing

- 212 The scheme provides a total of 255 private flats (16 x studio, 120x 1-bed, 86 x 2-bed and 33 x 3-bed or 646 habitable rooms) and 80 intermediate flats (23x 1-bed, 50 x 2-bed and 7x 3-bed or 224 habitable rooms). The intermediate flats are located over levels 3 (a half floor) to 11 (a half private floor). The Residential Design Guide SPD advises that for the purposes of affordable housing calculations, habitable rooms over 27.5sq.m should be counted as two rooms. The existence of some larger flats, including duplexes and penthouses at the top of the tower, must be taken into account. There are an additional 7 affordable habitable rooms and 30 private habitable rooms over 27.5sq.m, resulting in a total of 907 habitable rooms across the scheme (676 private and 231 affordable). A 35% affordable housing provision would equate to 317 affordable habitable rooms. Saved Policy 4.5 allows for a "discount" of 1 affordable habitable room for every affordable wheelchair unit provided (in this case a reduction of 16 affordable habitable rooms). Therefore, the affordable wheelchair discount means that a policy compliant scheme would need to provide 301 (or 33%) affordable habitable rooms. As the scheme only provides 231 affordable habitable rooms (25.46%), the scheme is considered to be contrary to saved policy 4.4 and represents a shortfall of 70 affordable habitable rooms (or 8.6%).
- 213 The Core Strategy requires a minimum provision of 35% private housing and the scheme is in compliance with this requirement which will be secured within the S106 legal agreement
- 214 The affordable housing will be provided as either shared ownership or intermediate rental. Intermediate rental is an alternative form of affordable housing that is usually RSL managed, and is let to households who cannot afford to buy or rent market housing in the borough. It is let at rents that meet the Council's affordability criteria for intermediate housing which is typically 30-40% below the cost of market housing. The shared ownership units would also comply with the council's affordability requirements. No social rented accommodation is provided.
- 215 The design of the tower, whilst incorporating a large floor plate, only allows for a single residential core, as the remainder of the ground floor is used for retail floorspace, commercial entrances and core, plus plant and waste facilities. Housing Associations have indicated that they require a separate core for social rented accommodation (to maintain separate control) and as such it was unlikely a Housing Association would take on any social rented accommodation in this scheme given the single residential core. Whilst this does not strictly conform to the Southwark Plan requirements, there

is some precedent from an appeal on a nearby site at 44-46 Borough Road, in which the Inspector supported the inability to provide social rented housing where a separate core was not possible.

- 216 Provision of a separate entrance and core for social rented accommodation was not considered appropriate because it would have resulted in a reduction or complete removal of the ground floor retail floorspace which was considered a priority on the scheme and would be contrary to the vision for the area which aims to create strong retail frontages and activity at the base of buildings. In addition, it is considered that the scheme will help to address the current imbalance of affordable housing evident in the area. This imbalance is acknowledged within the Elephant and Castle SPG which states that *'it is accepted that there is currently considerable imbalance in favour of social housing at the Elephant and Castle and hence it may be appropriate to reduce the London Plan target...in preference to the provision of more intermediate housing than might otherwise be considered appropriate...precise levels of affordable housing...will thus be subject to negotiation on a site by site basis.'*
- 217 Over and above the physical constraints outlined above, the provision of social rented accommodation was not considered to be financially viable. PPS3 requires that developers cannot benefit from not providing social housing. Southwark's SPG on Affordable Housing advises that the Sequential Approach must be applied meaning that where on site provision is not possible, off site provision is the next consideration, followed by an in-lieu payment. A number of 3 Dragons Financial appraisals were submitted, which were considered by the Southwark Valuer and independently by the District Valuer. This has been further reviewed in July this year. On balance the appraisal/s demonstrate that the scheme cannot support more than a 25% affordable housing provision plus public realm works, estimated by the applicant at around £2.3m (£1.45m for Phase I works), plus the full LBS S.106 Toolkit contribution. The toolkit shows a significant deficit when reflecting the Existing Use Value of the site. Even taking on board a higher end value for the sale of the units, the appraisal would still produce a deficit. Given the lengthy delays in bringing the application forward to planning committee for a decision due to issues associated with the Ministry of Sound and noise mitigation, the Southwark Valuer was asked to provide an updated response. Although there are factors that suggest that the scheme may be more viable than at the beginning of 2010, there is no evidence to suggest that the scheme can support more S.106 contributions/affordable housing than currently proposed. It is probable that the scheme still has a negative viability, albeit less negative than at the beginning of 2010. The safeguard for the Council is the review of viability to be included in the S.106 agreement- detailed below.
- 218 The reason the applicant is prepared to proceed on the basis of a negative appraisal may be attributable to either an expectation of an improvement in the housing market, or ability to drive down costs at tender stage, or a combination of both. Consideration therefore should be given as to whether the s106 agreement attached to the planning consent should make provision for future improvement in viability. It is recommended that a clawback provision be included to recover the shortfall of 70 affordable habitable rooms via an in lieu payment (or on site additional affordable housing if practical) in the case of a market improvement. As outlined above, the original appraisal was based on the 3 Dragons method, and this indicated a deficit. At the point of implementation of the scheme, the Council will carry out another full financial appraisal, (i.e. a 3 Dragons appraisal if that is still applicable), and if this shows that more affordable housing is viable then the quantum shown in the appraisal will need to be provided either on site or as an in lieu contribution. If the appraisal shows less than currently proposed then the current affordable housing provision remains in place. It is an option officers would favour since it clearly recognises the work done on the financial appraisals to date, and puts in place a relatively simple mechanism to address any uplift which occurs from the time of any planning permission being issued

and the implementation of the scheme. On the basis of a clawback being included, the affordable housing provision is considered to be acceptable in accordance with London Plan policies 3.4, 3.8, 3.10 and 3.12 and Southwark Plan saved policy 4.4.

Design and Layout

- 219 London Plan policies 3.5 and 7.1 set out design principles and requirements for quality of new housing provision. Saved Policy 3.11 of the Southwark Plan seeks to maximise the efficient use of land where a positive impact on local character and good design are achieved and saved policy 3.12 seeks to ensure that a high standard of architecture and design are achieved in order to create high amenity environments. Saved Policy 3.13 requires that the principles of good urban design are considered, in terms of context, height, scale, massing, layout, streetscape, landscaping and inclusive design and saved policy 4.2 requires that residential development achieve good quality living conditions within the development. The proposal has benefited from pre-application discussions with officers and a presentation to the Design Review Panel, whose views are presented earlier within the report.

Context

- 220 The townscape character and local context is extremely mixed, with a general increase in scale and density as one approaches the Elephant and Castle. The immediate context is one of medium to high rise development, with a mixture of uses. Opposite the site to the east across Newington Causeway is a 2 storey commercial development, currently occupied by the Salvation Army, which rises to 11/12 storeys. Adjoining this building further south is Metro Central Heights and the recently completed Metro Central Vantage, residential developments of up to 18/19 storeys at the uppermost point. Directly to the west and north of the site are buildings within the LSBU campus, ranging in height from 3 to 10 storeys (up to 42m AOD). To the north across Gaunt Street are a range of office buildings of up to 7 storeys and the Ministry of Sound nightclub.

Height: Tall Buildings Policy

- 221 Policies in the Southwark Plan, Core Strategy and the London Plan set out criteria to guide decision making on applications for tall buildings. It is clear that the main impetus of the London Plan policy is for maximising the potential for redevelopment in the Opportunity Area and ensuring that careful consideration is given to all the various criteria relating to the impact of a tall building. Core Strategy policy 12 and Southwark Plan saved policy 3.20 states that tall buildings (defined as one that exceeds 30m in height) may be suitable on sites which have excellent accessibility to public transport and are located in the Central Activities Zone (particularly in Opportunity Areas) outside landmark viewing corridors, where the building should:

- make a positive contribution to the landscape; and
- be located at a point of landmark significance; and
- be of the highest architectural standard; and
- relate well to its surroundings, particularly at street level; and
- contribute positively to the London skyline as a whole, consolidating a cluster within that skyline or providing key focus within views.

- 222 The 'Guidance on Tall Buildings' by CABI/ English Heritage, in addition to the criteria set out above, requires that a tall building should:

- meet the requirements of the View Management Framework;
- illustrate exemplary standards of sustainable construction, resource management and renewable energy generation and recycling;

- be sensitive to their impact on micro-climates in terms of wind, sun, reflection and overshadowing and consider privacy, amenity and overshadowing;
- be safe in terms of their own integrity and the safety of occupiers and have an acceptable relationship to aircraft/ telecommunication networks;
- be appropriate to the transport capacity of the area ensuring adequate, attractive, inclusive and safe pedestrian and public transport access;
- provide high quality spaces, integrate green spaces/ planting and support vibrant communities both around and within the building; and
- contain a mix of uses with public access, such as ground floor retail or cafes, interact with streetscape at ground floor level.

223 London Plan policies 7.4, 7.6 and 7.7 provide specific policy guidance on design and suitable locations and design of tall buildings. London Plan policy 7.7 generally encourages tall buildings and requires that tall buildings "should be limited to specific areas including sites in the Central Activity Zone, with good access to public transport, where the character would not be adversely affected by the scale, mass or bulk of a tall or large building, relate well to the form, proportion, composition, scale and character of surrounding buildings, urban grain and public realm (including landscape features), particularly at street level, individually or as a group, form a distinctive landmark that emphasises a point of civic or visual significance, and enhances the skyline and image of London ,incorporate the highest standards of architecture and materials, have ground floor activities that provide a positive relationship to the surrounding streets ,incorporate publicly accessible areas on the upper floors, where appropriate and make a significant contribution to local regeneration."

224 The Elephant and Castle Opportunity Area is identified as one where tall buildings may be appropriate. The Elephant and Castle Development Framework (2004) defined appropriate locations for tall landmark buildings in terms of a Core Cluster - the area suitable for the tallest 'city' scale buildings, and a Secondary Cluster - an area suitable for tall/ landmark buildings, lower in height and scale than the Core Cluster, which will complement and reinforce the central area and hence Core Cluster. The application site is located to the north of the area covered by the Elephant and Castle SPG, and as such lies outside of these core and secondary tall building clusters, in the area covered by the Enterprise Quarter SPD.

Height: Enterprise Quarter SPD

225 The Enterprise Quarter SPD extends the Elephant and Castle secondary cluster northwards, with the aim of creating a concentration of activity and define a zone for city scale tall buildings. The application site is located within this extended cluster, identified as being suitable for a landmark tall building. This tall building zone occupies a gateway from the north-south approach to the Elephant and it is considered that the site has the potential to support a prominent landmark building that will signify and reinforce the transition between existing and new development, forming part of a new cluster to the north of the Elephant and Castle which will potentially balance the cluster of towers already approved to the south in terms of form, scale and activity (Strata Tower and the former London Park Hotel London 360 development). There is an emerging relationship between this scheme, the tall building proposed at 89-93 Newington Causeway (opposite the site), and the gateway tall building proposed on the Newington Triangle site further to the north. When combined, these sites start to establish the gateway from the north of the Borough into the Elephant and Castle, forming part of a newly emerging regeneration cluster, a "local cluster" where tall buildings may be appropriate subject to further testing.

226 The proposal would need to meet the various criteria for tall buildings as set out above, and those more specific to the area as identified within the Enterprise Quarter SPD which requires tall buildings to:

- contribute to a coherent and dynamic skyline for the Elephant and Castle;
- form attractive elements within the city, particularly in terms of the profile of the building from all angles;
- be of the highest architectural and urban design quality and to be exemplars of sustainable construction;
- relate well to their surroundings, particularly at street level,
- contain active uses and frontages at lower levels;
- create a high quality public realm; and
- be appropriate in terms of impact on managed views/ the historic environment.

227 As outlined under Principles of Development section of this report, the Enterprise Quarter SPD provides site specific guidance for Site 5 'Newington Causeway- Eileen House', which is a 'key development site' within the SPD, with Figure 4.15 suggesting the site is suitable for a 'City Scale Landmark Tall Building'. The SPD identifies a range of design requirements relating to the height of the building, including:

- The appropriate height for a tall building in this location will be determined by consideration of its potential visual impact in relation to the Serpentine to Westminster Strategic Townscape View and to other long views from south and central London and an assessment of its other environmental impacts.
- Proposals must be of the highest quality of architecture and landscape.
- The roofline of the landmark tall building must contribute to the London skyline in a distinctive and elegant manner.
- A tall building in this location must create a focus of town centre activity through the proposed uses at lower levels. These uses must help to animate any additional pedestrian space to be created on the north side of Southwark Bridge Road.

Height - Summary

228 The tower is considered to fit well within both the existing and emerging context described above. In this way the development can be considered to make a positive contribution to the landscape and to the London skyline as a whole, consolidating (an emerging) cluster within that skyline and providing key focus within views, in line with Southwark Plan saved policy 3.20 and London Plan policy 7.7. These points will be addressed in more detail below. The remaining emphasis in terms of tall buildings policy relates to architectural and urban design quality, impacts on surroundings including skyline and views and sustainability, all of which are addressed elsewhere within this report

Quality of Accommodation

229 Within the tower, residential accommodation extends from the 3rd to 38th floors. Level 3 contains only 5 units across the western half of the floor plate, with the area fronting Newington Causeway containing various rooms reserved for residents' use, including a gym area. Over levels 4-17, each floor contains ten units; levels 18-21 contain nine units per floor, and levels 22-30 contain twelve units per floor. The upper levels start to see the cutting away of the buildings bulk, meaning a reduction in unit numbers, as well as the inclusion of larger units and penthouses. Levels 31-34 contain some larger 2 and 3 beds with only eight units per floor, level 35 has six units and level 36 has just four. Level 37-37 contains 4 duplex penthouse units connected by an inner staircase.

- 230 The Residential Design SPD expects that higher density residential developments will include a predominance of dual-aspect units. The design of the tower has resulted in only 41% of the apartments being dual aspect, with a significant number of single aspect flats provided, particularly below level 31. However, of the 197 flats which are single aspect, 66 include balconies of over 10.5sq.m, (including the only single aspect flat per floor which faces north-east), helping to improve the single aspect nature of the flats. In this case officers are of the view that the overall architectural quality and wider public-realm improvements will mitigate against this particular compromised aspect.
- 231 The Residential Design SPD sets out minimum space standards for dwellings. Studio flats should be a minimum of 35sq.m, 1 bed 45sqm, 2 beds 60sqm and 3 beds 75sqm. The London Plan has standards in excess of this with minimum requirements: 37 sqm, 50sqm, 61 sqm and 74 sqm respectively. The Council's standards are also in the process of being revised upwards in accordance with the London Plan and it is expected that an exemplary scheme would exceed the space standards, particularly where a high density is being proposed. A range of unit sizes are provided as follows:
- 1 bed affordable- from 46.61 to 47.95sq.m, many with a 10.5sq,m balcony;
 - 2 bed affordable- from 61.80 to 68.95sq.m, some with a 10.5sq.m balcony;
 - 3 bed affordable- 86.49 to 86.93sq.m, all with 10sq.m balcony;
 - Studios all private- 36.22sq.m, no balconies
 - 1 bed private- from 45.36 to 47.95, many with a 10.5sq,m balcony;
 - 2 bed private- from 64.01 to 70.42sq.m, some with 10.5sq.m balconies;
 - 3 bed private- from 82.59 to 87.71sq.m, all with 10sq.m balcony
 - 1 bed (above Level 31) - 46.32 to 72.40sq.m, most with balcony over 10.5sq.m
 - 2 bed (above Level 31) - 70.86 to 117.44sq.m, most with balcony over 10.5sq.m
 - 3 bed (above Level 31) - 115.27 to 216.30sq.m, all with a balcony of 20.0sq.m or greater.
- 233 Although these exceeded the relevant standards at the time of submission there is now a shortfall in relation to a number of the 1 bedroom units. In particular, other than the 1 bed flats above level 31, none of the 1 bed flats meet the new London Plan standard which requires a minimum of 50 sq ms the shortfall being in the range of 2 - 5 sq ms. .
- 234 With the exception of the 1 bed flats mentioned above the internal layouts of the flats achieve a high level of residential amenity across all tenures, with most units exceeding minimum standards in terms of unit and room sizes. All flats contain in built storage, the 3 bedroom affordable (and some private) units have kitchens with sliding doors to allow for separation from living rooms. Some of the 2 and all of the 3 bed units have dual bathrooms and/or ensuites. The standard of accommodation is therefore generally considered to be high and in line with the expectations for a higher density scheme such as that proposed, in accordance with the Residential Design SPD and London Plan policy 3.5, and Southwark Plan saved policies 3.2, 3.12, and 4.2.

Amenity Space

- 235 The Residential Design SPD sets out amenity space standards and advises it is particularly important for family housing in order to provide a safe outdoor area for children to play in. It can take the form of private gardens, balconies, terraces and roof gardens. There should be 50sq.m of communal amenity space per development, plus 10sq.m per unit, though for smaller flats a reduced amount (minimum 3sq.m balconies) is acceptable where the shortfall is added to the overall communal

provision. London Plan policy 3.6 also sets out that developments including housing should make provision for play and informal recreation, based on the expected child population generated by the scheme. Children's play areas should be provided at a rate of 10sq.m per child bedspace (covering a range of age groups) in this case up to 32 child bed spaces are likely. On this basis the scheme should provide up to 3400sq.m of amenity space, of which around 320sq.m should be dedicated to children's play

- 236 Over levels 3-30, balconies, all 10.5sq.m, are located in the same position throughout the tower, with 6 per floor distributed along the northern and southern 'ends' of the building, equating to 1701sq.m of balcony space. Of this, 3 balconies on Level 3 are for communal use, or 31.5sq.m. Above level 30 the balconies are much larger as the building starts to cut back and unit numbers are reduced. The balcony space across the upper floors totals approximately 631sq.m. Total private amenity space is therefore 2300sq.m from balconies, and of the total 335 units, 203 (over 60%) have direct access to a balcony of over 10.5sq.m.
- 237 Communal amenity space for residents' use (although publicly accessible) has been provided in the form of an approximately 458sq.m resident's garden located between the two buildings, offering a vibrant external space as well as a new route through the site during the daytime. In the evening, a gate will be closed at the northern end of the residents' garden to restrict the movement of people, such as those leaving the Ministry of Sound, from moving through the space during the night. Whilst full details will be sought via condition, this space is expected to satisfy the requirement for a playable space for children, providing an extended lawn area incorporating a large tactile sculpture, level changes and climbable elements, plus seating and landscaping. A green wall is proposed to the south-eastern facade of the office building facing onto the residents' garden, which will provide additional greenery to the space whilst enhancing biodiversity and assisting in climate control. The space should receive a reasonable amount of sunlight given its widest open aspect is to the south though a number of large trees are retained along the site boundary at this point. In addition, a communal amenity space (132.99sq.m 'gym' and 123.90 undesignated space) is provided within the tower at level 3.
- 238 Concerns remain about whether the proposal has adequate outdoor amenity space for future occupants, with the residents' garden being considerably less than the area of one tower floor-plate (with 35.5 floors of apartments above). This is to some extent balanced by the fact that almost 61% of the apartments have a large balcony. The reality of a tall-tower is that outdoor amenity space can be compromised by the high-density of the proposal and the practicalities of siting a high density building on a relatively small site. Therefore on balance the overall amenity space provision is considered to be sufficient when combined with the public realm works (detailed below) which will provide additional directly accessible amenity space for the residents, as well as Newington Gardens and Dickens Park, with open space and children's play areas, which are located a few hundred metres walk from the site. On this basis the amenity space provision is considered generous for a centrally London development and is in accordance with London Plan policies 3.5 and 7.6 and Southwark Plan saved policies 3.2, 3.11, 3.12, 3.13 and 4.2.

Public Realm

- 239 The Enterprise Quarter SPD identifies a range of requirements relating to the design of the public realm for the site, including:
- The Environmental Assessment must demonstrate that there will be no adverse impact on the environmental quality of the proposed pedestrian priority space to be created in Southwark Bridge Road and that it will be

comfortable to use.

- The site is an island with public realm on all sides. Whilst Newington Causeway and the southern end of Southwark Bridge Road are the key priority for active frontages, careful consideration must be given to the frontages onto other streets, so that they do not present a blank and inhospitable face to the public realm.
- Improvements to the gateway space must create additional pedestrian space along the south side of Southwark Bridge Road, the most heavily used pedestrian route, but it may also provide additional pedestrian space on the north side immediately adjoining the site.
- Development proposals must retain and protect mature street trees.

240 Eileen House is currently an uninspiring, impermeable building and its solid massing and construction on an angle to Newington Causeway offers no legible frontage to Southwark Bridge Road, which can be difficult to access due to the traffic and buses using the local streets. The site has a high number of inactive frontages presenting a blank and inhospitable facade to surrounding streets. The application proposes significant public realm improvements in this location, reflecting the aims set out within the Enterprise Quarter SPD (set out earlier within the report) and in response to the gateway status of the site and certainly its role as an entrance into the LSBU Campus.

The focal point will be the creation of a University Square in the area between Newington Causeway and Keyworth Street, which is dissected by Southwark Bridge Road. The Square will be landscaped and paved, with the southern section of Southwark Bridge Road to be closed up to the point where it meets Gaunt Street (apart from servicing and access to Keyworth Street and retention of the cycle lane). Longer term, the aim is to install a five sided pavilion structure central to this space, symbolising the convergence of a number of key routes from the north (Bankside), south and east (Elephant and Castle), and west (LSBU Campus). To the immediate north of the Square, a linear park, lined with existing mature trees, will extend north to south between the edge of Southwark Bridge Road and the western façade of the proposed office building. This is expected to be a sunny, landscaped green space that will benefit both local residents and students in the area. The public realm will enliven Keyworth Street and Southwark Bridge Road, establishing a sense of place, reinforced by new landscaping including planting, paving, and the retention of all existing mature trees. The new buildings will incorporate active frontages to all edges, animating the new public realm around the site.

241 A two phase public realm strategy is proposed. Phase I will include the implementation of the majority of the public realm works, with the completion of the residents' garden, linear park and University Square, but with bus movements and bus standing maintained on Southwark Bridge Road. Phase II will be delivered/ funded by the developer as an 'interim' solution, and would see the removal of all bus movements from the southern end of Southwark Bridge Road via Borough Road and the erection of the pavilion structure to complete the University Square. It is an 'interim' solution because ultimately, bus stands and routing will be reconfigured by TfL as part of a wider Elephant and Castle public transport strategy (in the form of a new bus facility in the Opportunity Area), but this is expected to be some time away. Therefore, the applicant has suggested an 'interim' solution to enable both Phases I and II of the public realm proposals to be implemented as part of the Eileen House redevelopment.

242 The interim solution has been costed by the developer and forms part of their s106 contributions. Should TfL provide a more permanent solution to the rerouting of buses and siting of bus stands prior to the implementation of the 'interim' solution, the applicant has agreed that the s106 moneys set aside for the delivery of the 'interim' solution can be redirected towards wider Elephant and Castle transport

improvements/projects within the Elephant and Castle.

- 243 Overall, the public realm proposals are considered to be in line with the vision for the area as set out within the Enterprise Quarter SPD, and with London Plan policy 7.5 and Southwark Plan saved policies 3.2, 3.11, 3.12 and 3.13.

Appearance

- 244 The local street geometry is not reflective of the current building on the site, which does little to reinforce the streetscape with its irregular form and asymmetrically positioned tower element. The two blocks of the proposal have been designed to fit more naturally within the boundaries of the site, strengthening the streetscapes to Newington Causeway and Gaunt Street whilst also allowing all existing trees to be retained and their setting enhanced with new landscaping.
- 245 Geometrically, the main tower has been designed as an extruded parallelogram in form (taking its angles from Newington Causeway and Gaunt Street-lines), whose top is faceted by two angled triangular slices, on diagonally opposing corners. This gives the building form a crystalline nature that varies the perception of the tower depending on the view-point, and provides a distinctive 'capping' that gives the building character and identity. It is also quite difficult to view the building in one single plane; there will almost always be two facades visible at any one point. Views of the tower will change dramatically as one moves towards it or around it, creating a dynamism of form within the local townscape.
- 246 The proposal is considered to respond positively to the local context and complies with policies relating to design; this is not so much the existing context however, but the regeneration masterplan for the Elephant and Castle area and subsequent extension plans such as for The Enterprise Quarter (as outlined above). Seen in isolation from this masterplan, it would be difficult to justify the scale and positioning of this tower, but viewed within the developing context it can be seen as part of a much larger high-density and large-scale town-centre. The now completed Strata Tower has surprised many people with the scale of its impact on South and Central London, with extensive longer distance visibility; consideration of this new proposal in terms of cumulative impact has been considered within the Townscape Assessment. Officers believe that the two towers (and any others that may follow) will relate to each other and form a cohesive and co-dependant grouping, identifying a specific place and establishing a regenerative character for the area. Such high-profile 'landmark' buildings are essential as catalysts to the wider regeneration masterplan, particularly within such a cautious and fragile economic climate.
- 247 In terms of proportions, officers were concerned by the consecutive reductions in the height of the proposed tower, which were not accompanied by any reduction in width. The full width view with two sides visible is proportionately 1:2.4 width: height which may be considered rather bulky and squat. When purely viewing the tower on its long-side, the proportion is approximately 1:2.9 which represents an improvement but is still rather low. The end-on proportions are much better, with a 1:5.25 proportion that is narrower and more elegant. The faceted nature of the building should ensure that a variety of proportions are experienced, although the elevation onto Newington Causeway will always appear rather broad relative to its height.
- 248 This basic form of the tower is modulated by the various treatments of bays and balconies that create rhythm and depth on the elevations. The projection of the balconies on the diagonally opposite outer-corners gives a lightness and transparency to the building's form and outline, helping to alleviate concerns of how the solid bulk is perceived and proportioned. The balcony support-structure which wraps up-and-over the top of the tower also adds a degree of lightness and transparency to the

silhouette's outline, softening the edges of the perceived bulk and adding interest to its skyline

- 249 The two longer facades are a dense pattern of identical window bays, splayed to give depth, with a basic grid that gives strong emphasis to both horizontal and vertical rhythms. The narrower end-elevations counter their strong vertical proportions with expressed balconies giving a strong horizontal rhythm. These end elevations are also sub-divided into 3 vertical bays, corresponding to the flats within; the right-hand third is expressed most strongly with a structural frame that wraps up-and-over the top of the tower, alluding to a continuity of form and a dynamic structural movement. The two sliced-triangles on the tower's top are characterised by the horizontal louvers which shield the glazed-surfacing and also incorporate photovoltaic cells on their upper surface.
- 250 The much lower office building at 8 storeys is something of a foil to the main tower, being triangular in nature and with each of its three sides expressing a different character of elevation. The treatment of the form and the modulation of the elevations is much simpler than on the tower. The north-east and west elevations are both predominantly glazed, but the latter has a strong pattern of vertical louver-fins to provide solar-shading. The south-elevation (above ground-level) is a solidly planted green-wall which will provide a rich boundary treatment and framing to the resident's garden; the appearance (and maintenance) of this green wall will be pivotal to the success of the office building and its contribution to the public realm, and as such a maintenance plan/ regime would be conditioned.
- 251 The design of the top of the building is of particular importance when considering the effect on the skyline, and it is considered that the form and detailing creates an interesting and varied termination to the top of the tower. This element is particularly important with a tall tower, to ensure a positive contribution to the city roofscape as well as establishing an identity and character for the building. While the form and articulation of this element has been assessed as acceptable, we should also consider its appearance in hours of darkness and the extent of illumination that it may have. This will obviously have a major impact on the night-time townscape of Central/South London, and a lighting/illumination strategy would be conditioned for approval. The crystalline nature of this topping should relate and contrast well to that of the Strata Tower, with its much more feminine curved form and wind-turbine features.
- 252 The base of the tower is also incredibly important as such a large building must have a strong grounding on the streetscape, where it is experienced close-up by pedestrians and passers-by. The proposal successfully creates an active frontage around its base with a retail unit and commercial lobby to the harsher environment of Newington Causeway, and residential lobby and entrances to the north-west courtyard garden (to which the lobby can actually open-up). The height of the base element/ openings is approximately 8.5m, double-height+, above which is the second floor office level with enlarged windows, all of which give a reasonably strong and prominent base (although it could potentially have been even stronger for a 40-storey tower). Large double-height+ window-openings should ensure a good level of activity is visible to the public realm, to enliven the streetscape and courtyard areas. The base of the office block is less successful however, with all of the Gaunt Street and over half of the southern facade devoted to servicing; the retail adds interest to the south-east corner but the office entry-lobby is obscurely positioned on the northern flank.

Materials

- 253 In terms of materials, the two long sides of the tower are characterised by the strong structural grid within which sit the repeating window-bays. This structural grid is formed by sections of reconstituted stone cladding, which should give an impression

of quality, interest and masonry-solidity to the structure. These cladding sections incorporate a considerable splayed-edge which gives depth to the openings and a rich texture to the elevations. Within the window bays there is a hinged glass-door/balustrade and a fixed full-height window, separated by a metal panel, above which is a ventilation strip. While this window-bay already exhibits interest and some complexity, 1:5 details and a mock-up sample would be conditioned to ensure the finished quality of the built element.

- 254 On the narrower flank elevations, a metal-clad framework defines the expressed outer-third (which wraps up and over the tower's top) while the remaining two-thirds have re-constituted stone cladding-sections to the glazed balconies. As noted above, the sliced top-triangles are clad with metal-framed glazing and screened by metal-louvers which incorporate PV cells on their upper-edge. Colour and surface-finishes will be extremely important for all material elements, given the huge bulk of this proposal and the visual impact it will have on its surrounding townscape. The material language for the office is more corporate and simply detailed than the tower, with glazed walls and metal cladding and louvers, and an exposed concrete frame. Conditioned details will be just as important for this building, to ensure that its treatment does not feel any less considered next to the tower.
- 255 The landscaping that surrounds these two blocks, creating the public and semi-private zones, is crucial to the success of this proposal, and indeed the contribution to the public realm is one of the major planning factors that can justify its height and impacts. This landscaping should ensure the preservation the existing trees and will create a new public square at the end of Keyworth Street with a considerable enhancement and inter-connection with the university campus. As with the detailing and material finishes, the landscaping (in its various phases) must be carefully controlled by condition and must be considered as an integral part of this development.
- 256 Overall, this design is considered to have the potential to display 'architecturally iconic' qualities and we consider that the proposal achieves a high standard in design. This location is appropriate for a building of this scale and height, and the architectural design is considered to be of sufficient quality to justify a building of this scale which will relate well in terms of height and design to its context. The proposal is considered acceptable and compliant with London Plan policies 7.4, 7.5, 7.6 and 7.7 and Southwark Plan saved policies 3.20 and 3.21 and Core Strategy policy 12.

Impact on Strategic and Local Views and on the Character and Setting of Listed Buildings or Conservation Areas

- 257 London Plan policies 7.11 and 7.12 establish the principles under which London's views should be managed, considered in greater detail within the London View Management Framework, which relates to the management of strategically important views (designated views). Saved Policies 3.21 and 3.22 of the Southwark Plan seek to protect and enhance both local and strategic views and Core Strategy 12 seeks the highest possible standard of design and the enhancement of Southwark's heritage assets. The Enterprise Quarter SPD requires that tall buildings contribute to a coherent and dynamic skyline for the Elephant and Castle. The impact on views and the buildings contribution to the skyline must be considered. Saved Policies 3.15 and 3.18 of the Southwark Plan require that permission will not be granted for developments that would not preserve or enhance the setting or views of a listed building or the setting and views into or out of a Conservation Area. In addition, PPS5 refers to 'Planning for the Historic Environment' and advises that developments must either conserve or enhance the borough's heritage assets including the setting of Conservation Areas and Listed Buildings.
- 258 The potential impact on views was considered within the ES Volume 2 'Townscape

and Visual Assessment' submitted with the application, which includes a range of panoramas, river prospects, townscape and local views, and night-time views. The application site is prominent in terms of providing a focal point for views from several directions, primarily looking south from Borough High Street and north from the Elephant and Castle roundabout, and the building will be more visible from localised viewpoints. The tower will be of sufficient architectural quality to stand as a landmark building, in many cases channelling the eye and terminating a vista- reinforcing the argument that the site is suitable for a prominent building on what is a gateway to the centre of the Elephant and Castle. The building will form part of an emerging cluster of tall buildings, and is well articulated at the top which means it can stand in its own right as a building of merit and is considered to make a beneficial contribution to local views and skyline as well as respond positively to the context of the area.

- 259 In terms of the View Management Framework, an important consideration is the impact of the proposed tower on Designated View 23, a townscape view from the Serpentine Bridge in Hyde Park which aims to protect the silhouette of historic buildings including the Palace of Westminster World Heritage Site, from visual intrusion caused by new buildings. The proposal as originally submitted was considered to impact detrimentally on this view and a reduction in height was sought by the GLA, to take the development below the tree line in order to minimise its impact. Whilst the GLA and English Heritage appear to be satisfied with the impact following the reduction in height, both Royal Parks and City of Westminster maintain concerns with the impact during autumn and winter when tree canopies will not be in place and the top of the tower may be seen where it emerges marginally above the tree line. The building will be a considerable distance from the viewing position, thereby being less distinct than the historic buildings of Westminster in the foreground of the view. As both Southwark officers and the GLA are satisfied with that the impact is acceptable, and the setting of the World Heritage site will be preserved, no further reduction in height is recommended and the application is considered acceptable in this regard.
- 260 Views indicate that the tower will be seen in immediate, local and distant views, thereby altering the setting of the Conservation Areas and any listed buildings within them. The nearest Conservation Areas are West Square, St. George's Circus and Trinity Church Square (to the SW, W and NE respectively) as well as the Renfrew Street and Walcot Square Conservation Areas within Lambeth, which will also be affected to some degree. English Heritage have commented on the various impacts set out within the ES on the various views and Conservation Areas. English Heritage raise a concern with the impact on the setting of the fly towers of the Grade II listed Royal National Theatre when viewed from Waterloo Bridge, which would cause modest harm to this view. Similar concern is the impact on the view from Walcot Square, where the impact of the tower would be a modestly harmful intrusion upon the view. Of greatest concern to English Heritage is the impact on the view looking south across St George's Circus, where the proposal rises dominantly over the roofline of the group which they believe will cause significant harm to the setting. English Heritage would like to see the application refused unless the harm is outweighed by other planning considerations, and this is considered to be the case in this instance, as the site is clearly earmarked for regeneration and is designation for a landmark tall building. Whilst the proposed scheme will be seen in views into and out of the proposed Conservation Areas, it is not considered that the impact will be of such a detrimental nature to outweigh the benefits offered by the scheme.
- 261 The nearest listed buildings are the Grade II Listed Inner London Crown Court (on the corner of Newington Causeway and Harper Road) 250m to the northeast and numbers 47, 49-60 and 62 Borough Road, which lie approximately 270m north of the application site. Other nearby listed buildings include the Faraday Memorial (Elephant and Castle northern roundabout) 128m to the south and the Grade II Listed

Metropolitan Tabernacle, some 260m south. Equidistant at around 280m are also the listed building groups around West Square and St George's Circus/ London Road.

- 262 It is acknowledged that there will be some impact to both listed building's wider settings and to views into and out of the Conservation Areas, by reason of the proposal's height. However it is not considered that these impacts will be detrimental to the character and appearance of the Conservation Areas/ listed buildings as the articulated massing and height of the proposal will (in the distant views) be of limited impact on heritage character. St George's Circus will perhaps have the most open views of the proposed tower, and had it been positioned any closer we would have had serious concern; the distance however does mitigate the impacts to some degree and we are satisfied that the architectural quality will create a landmark building that has a positive impact on its local and wider townscape

Impact on Strategic and Local Views and on the Character and Setting of Listed Buildings or Conservation Areas - Summary

- 263 The overall strength of the design and in particular its ability to establish a gateway from the north are considered to be positive townscape benefits which will assist in the successful regeneration of the Newington area. The development should make a positive contribution to the London skyline, and the impact on localised views is considered to be acceptable as the building will contribute positively to the emerging cluster of tall buildings within the Elephant and Castle town centre. The design is considered to have the potential to display 'architecturally iconic' qualities and the proposal is of sufficient quality to justify a building of this scale, and it relates well in terms of height and design to its context masterplan. The scheme will make a positive contribution to the Elephant and Castle regeneration area in compliance with London Plan policies 4B.1, 4B.9, 4B.8 and 4B.10 and Southwark Plan policies 3.20 and 3.21.

Impact on the Amenities of Neighbouring Residents and Occupiers

- 264 London Plan policy 7.6 requires that all large scale development should not cause unacceptable harm to the amenity of surrounding occupiers in terms of microclimate, overshadowing and wind. London Plan policy 7.7 requires that tall buildings should not affect their surroundings adversely in terms of microclimate, wind turbulence, overshadowing, sunlight, reflective glare and noise. Southwark Plan saved policy 3.2 relates to the protection of amenity, including disturbance from noise, to present and future occupiers in the surrounding area or on the application site.

Sunlight/ Daylight

- 265 A Daylight, Sunlight and Overshadowing Assessment was included as a chapter within the ES submitted with the application. It assessed the impact of the proposed development on the daylight and sunlight of adjoining residential occupiers and future occupiers against the guidance provided in the BRE Report 209 "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice" (1991). An assessment was made of the Vertical Sky Component (VSC), which assesses loss of daylight entering existing rooms by considering the amount of sky light reaching a window and No Sky Line (NSL), which considers the change in the visible sky line from existing and proposed situations i.e. the impact on the daylight distribution within a room.
- 266 There are a limited number of residential properties located in proximity to the application site that might be affected by the proposed development. The Ontario Street Hostel is the closest, located adjacent to the site to the south-west; though this is temporary accommodation suggesting the requirements are reduced. Residential properties within the Rockingham Estate are located at least 100m to the east and

Metro Central Heights, of which the nearest north facing windows are 60m to the south. Hugh Astor Court, a Peabody Trust-owned block of 32 flats located to the west of the proposal within the LSBU campus is some 200m from the application site and there are residential developments on the northern side of Borough Road which are approximately 200m to the north.

- 267 The Ontario Street Hostel would see all but one of its rooms meeting at least 1 of the day lighting criteria and the impact was seen as minor adverse. On the Rockingham Estate properties, the elevations contain long external access balconies along their length limiting the amount of daylight entering many of the windows in the existing situation. The ES states that the impacts are unlikely to be noticeable to these properties, with only a minor adverse impact predicted. The daylighting effects of Metro Central height are considered to be negligible. It is therefore considered that no significant daylight infringements would occur from the proposed development.
- 268 Sunlight Assessment need only consider the annual probable sunlight hours (APSH) for windows facing within 90° of due south. The impact on any windows falling into this scenario in proximity to the proposal was negligible in all cases.
- 269 In terms of overshadowing, the movement of any shadowing caused by the tower would be constant and would not overshadow a single point on the ground for an extended period of time. On the 21 December, the proposed tower would cause a long shadow to the north of the scheme; though it is considered that there should be little perceived difference from the existing situation as the extremity of the shadow which distinguishes the existing and proposed situations will tend to be diffuse and largely unnoticeable. The nearest residential properties located to the north or west are some distance away, with some overshadowing limited to late afternoon towards the east, all of which would not be so significant as to warrant refusal of the application.
- 270 Within the proposed development, the tower is oriented such that all units include a living room frontage to either the north-west, or the south-east, meaning all units will receive either morning or afternoon sunlight. The design of the residential garden between the tower and office building allows for the maximum penetration of light from the south-west to residential units on the lower floors, with those on the south-east benefiting from the openness provided by Newington Causeway. Obviously in winter, taller buildings surrounding the site across Newington Causeway and within the LSBU campus will mean that lower level units will received more limited sunshine and daylight, but overall the scheme is considered to provide adequate levels of internal daylighting.
- 271 Whilst it is certainly the case that in dense urban environments there will inevitably be some adverse impacts from a development of this scale, particularly on a site which is designated for high density development in a major town centre location, it is considered that only very limited daylight or sunlight infringements would occur from the proposed development in this case.

Outlook and Privacy

- 272 As the proposal includes a tall building, the scheme has the potential to impact on the outlook of many residents within the near and wider vicinity. In order to prevent against harmful overlooking, the Residential Design Standards SPD requires developments to achieve a separation distance of 12m at the front of a building and any elevation that fronts a highway and a minimum of 21m at the rear. The nearest residential occupiers are located within the Rockingham Estate, at least 100m to the east, and Metro Central Heights, of which the nearest north facing windows are 60m to the south. Hugh Astor Court, a Peabody Trust-owned block of 32 flats located to

the west of the proposal within the LSBU campus is some 200m from the application site. In terms of overlooking potential and privacy, it is considered that the significant separation distances between the proposal and the nearest residential development is such that there will be a negligible impact. Objections were received from residents of Metro Central Heights in terms of overlooking and loss of views, however given the closest distance from the edge of the proposed building and the nearest north facing window is some 60m, such impacts cannot be considered so significant as to warrant refusal of the application, and loss of a distant (City) view (as suggested by objectors in this case) is not considered to be a valid planning objection. In addition, the outlook from surrounding developments should be improved in terms of public realm improvements which will improve the overall impression of the site. Overall the proposed development is considered to adequately protect the amenity of adjoining occupiers consistent with the outcomes sought by saved policy 3.2 of the Southwark Plan.

Noise and Air Quality

- 273 Planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise, to present and future residents and occupiers in the surrounding area or the present or future occupiers on the application site. A Noise Survey was carried out in accordance with PPG24: "Planning and Noise" where it was found the site falls into Noise Exposure Category (NEC) C (daytime) and NEC D (night-time), where development is generally precluded unless noise can be mitigated through the use of appropriate sound insulation measures.
- 274 Due to concerns about the amenity of future occupiers because of the proximity to Newington Causeway, the residential accommodation was raised to level 3 (west side facing into the residents garden between the proposed buildings) and to level 4 fronting Newington Causeway. Following the submission of various clarifications, the Environmental Protection officer is satisfied with the validity of the extensive noise assessments undertaken and the mitigation measures proposed.
- 275 As described above strong objections to the scheme have been raised by the Ministry of Sound nightclub (located opposite the site to the north) who commissioned an independent assessment of the ES Noise chapter to consider the specific threat of introducing a sensitive noise receptor in the form of a residential development directly opposite the club, a major noise source. The review found that the survey information was insufficient to conclude that the future occupants of the building would be adequately protected from noise generated by the club. In the light of all the subsequent noise surveys the applicant has reviewed the socio-economic chapter in their ES and ES addendum but has concluded that as no adverse impact is anticipated from the MoS within the proposed development the original conclusions in this chapter remain valid.
- 276 In order to address issues when first raised by MoS, the applicant's acoustic consultants (Sandy Brown Associates) undertook further survey work and assessment, with the cooperation of MoS. The measurements were undertaken in order to more fully assess music and activity noise from within and outside the club when operating. As a result, and following ongoing negotiation and recommendations by the Council's Environmental Protection officer, it was agreed at that time to explore the abatement of the noise at source (i.e. at the MoS) rather than insulating the receptor (i.e. the proposed development). This would require the noise escape from the building fabric of the club to be ameliorated through installation of a new acoustic ceiling and acoustic doors, at an estimated cost of £60,000. The MoS consultants were not satisfied with this and requested that the roof should be replaced in addition to the acoustic ceiling at a total cost of £100,000. On this basis the developer then agreed to contribute £100,000 (secured via the s106 agreement) to the MoS for the

provision of additional acoustic insulation to the existing building. However further concerns were raised by MoS and it became apparent that more substantial works would be required at greater cost and that would involve an extended period of closure of the club. Such a closure was not to be countenanced by MoS.

- 277 PPG24 advises that local planning authorities should consider carefully in each case whether proposals for new noise-sensitive development (including new housing) would be incompatible with existing activities. Such development should not normally be permitted in areas which are subject to unacceptably high levels of noise. PPG24 goes on to advise that noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00).
- 278 PPG24 advises that mitigation to reduce potential noise impacts should be considered. A number of measures can be introduced to control the source of, or limit exposure to, noise. Such measures should be “proportionate and reasonable”.
- 279 Where it is proposed to grant permission for noise-sensitive development in areas of high ambient noise, planning conditions should be imposed to ensure that the effects of noise are mitigated as far as possible. Further, it should be remembered that the sound level within a residential building is not the only consideration: most residents will also expect a reasonable degree of peaceful enjoyment of their gardens and adjacent amenity areas. This would include the balconies of the proposed development.
- 280 PPG24 advises that local planning authorities should have regard to “noise exposure categories” in determining an application for planning permission. This is considered further below.
- 281 The London Plan 2011 policies are intended to enable Londoners to live in well designed, high quality homes, limiting disturbance from noise. Policy 7.15 of the London Plan 2011 provides that development proposals should seek to reduce noise by:
- a) minimising the existing and potential adverse impacts of noise on, from, within, or in the vicinity of, development proposals
 - b) separating new noise sensitive development from major noise sources wherever practicable through the use of distance, screening, or internal layout in preference to sole reliance on sound insulation
- 282 Southwark Plan saved Policy 3.2 seeks to protect the amenity of future occupiers from disturbance from noise. UDP Policy 4.2 seeks good quality living conditions for future occupiers including high standards of protection from noise pollution. Core Strategy Policy SP13 also indicates that a high standard of protection from noise pollution is expected.
- 283 The Sustainable Design and Construction SPD explains that existing sources of high and frequent noise near the site need to be considered when planning the layout of a site and the form and massing of buildings. Noise sensitive uses, such as hospitals, schools and residential developments, and amenity areas should be separated from noise sources. The SPD also advises that dwellings that only have windows that open onto busy roads or railways are not supported by the council. Double glazing should be used on windows to reduce noise levels inside buildings.
- 284 The Sustainable Design and Construction SPD provides that residential development should be designed to so that preferred noise levels for indoor spaces are below – LAeq 16hr 30dB (07:00-23:00) and LAeq 8hr 30dB

– LAFmax 45dB (23:00-07:00).

- 285 The SPD also advises that mechanical systems of ventilation should only be used as a complement to natural ventilation to ensure a constant standard of indoor air quality. In other words, developments which propose sealed windows and which rely upon mechanical systems of ventilation for the provision of fresh air to a residential property are not supported. The Residential Design Standards SPD 2008 (and the draft replacement SPD) seeks a high standard of accommodation and in particular requires that all habitable rooms should have access to natural daylight and rooms should be designed to take advantage of natural sunlight and ventilation.
- 286 It is therefore necessary to consider whether
- i) future residents of the proposed development would be disturbed by noise to an unacceptable degree;
 - ii) if so whether, it would be practical to use distance screening or changes to the proposed internal layout to reduce that level of disturbance;
 - iii) if not whether sound insulation or other mitigation may be required by condition to reduce that level of disturbance.
- 297 In addition to the general level of background noise in this area there are three main specific sources of noise in proximity to the application site:
1. road traffic noise from Newington causeway; and
 2. noise related to the Ministry of Sound nightclub.
 3. noise from trains passing on the railway viaduct;
- 298 It is not appropriate to apply the noise exposure category approach advocated in PPG24 to noise related to the Ministry of Sound. That noise source requires particular consideration. Regard should be had to the noise exposure category approach in relation to the rail and road noise sources however.
- 299 The noise survey submitted by the applicant with the planning application found that the application site falls into Noise Exposure Category C for daytime and Noise Exposure Category D for night-time. PPG24 advises in relation to NEC C sites that planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise. In relation to NEC D PPG24 suggests development should normally be refused. However it does allow for situations where in noise sensitive developments in areas of high ambient noise development can be allowed provided planning conditions are imposed to ensure that the effects of noise are mitigated as far as possible.
- 300 Further the noise exposure categories are based upon assumptions regarding the noise insulation properties of single glazing windows undertaken in the late 1980s. The noise insulation properties of glazing have considerably improved over the last twenty years and as a result officers do not consider that it is appropriate to give significant weight to the application of the noise exposure categories within PPG24. It is necessary for Members to have regard to the high specification of glazing that is available and which would be required by condition for the proposed development.
- 301 The noise survey submitted by the applicant with the application for planning permission identifies road noise as the primary environmental source of noise affecting the development. In order to mitigate this impact high specification acoustic glazing will be incorporated within the design which will mitigate noise from MoS in

addition. On this basis internal noise levels in line with the SPD requirements would be attained internally. Other possibilities of mitigating the noise from MoS in terms of screening are not considered practical given the design of the building. Enclosing the recessed balconies would result in a different appearance and the building would lose articulation. Given the width of the Gaunt Street elevation it is unavoidable to have units facing this street frontage. However only 1 bedroom units on this facade have their sole aspect to this street. The units on the corners are dual aspect fronting as well either Newington Causeway or the residents' garden.

- 302 The noise survey submitted by the applicant with the planning application also provides guidance on the sound insulation measures that would be required for the facades such that appropriate internal noise levels can be met. The scheme incorporates an alternative means of ventilation to minimise the need to open windows. This would accord with the SPD which allows for mechanical ventilation to be provided in conjunction with openable windows. Sound levels on balconies will exceed the 50dB LAeq, 16hr (07:00-23:00) referred to in the preferred standard of the SPD. This is not however an unusual scenario for a city location and while sound levels on balconies may cause annoyance to some residents, this must be balanced against the substantial benefit of private outdoor space.
- 303 Overall in relation to the noise from transportation sources, Officers have concluded that provided sound insulation measures and alternative means of ventilation are provided and required by condition, the likely effects of transport noise will have been appropriately minimised and are not likely to give rise to unacceptable disturbance to future occupiers. Future occupiers would have the ability to close their windows and obtain a quiet internal environment which fresh air provided by means of alternative mechanical ventilation. It is considered that road and rail noise will not give rise to unacceptable living conditions for future occupiers and that the relevant policy standards are attained.
- 304 In relation to the potential impact of the Ministry of Sound nightclub, there has been a considerable amount of work undertaken on behalf of the applicant, the Ministry of Sound and the Council. The Council has sought advice from an external acoustic consultant Rupert Taylor.
- 305 Rupert Thornely-Taylor is a Fellow of the Institute of Acoustics and has headed the international acoustics, noise and vibration consultancy practice Rupert Taylor for 43 years. He has been an expert witness in over 100 cases in courts, planning inquiries and the Houses of Parliament. He has been President of the Association of Noise Consultants in the UK and a Director of the International Institute of Acoustics and Vibration. He is author of the Pelican book "NOISE", and of many other publications on the subject. He is an examiner of the Institute of Acoustics Diploma. He has extensive experience of the acoustics and noise aspects of clubs, studios and theatres, both from the design and enforcement points of view. He has been expert witness in many planning inquiries involving clubs and music venues.
- 306 The Ministry of Sound night club is located on the opposite side of Gaunt Street. It has registered a long-standing objection to the proposed development due to the possible impact of noise related to its activities upon future residents. The MoS is an internationally established business which has been located in Southwark for almost 20 years. MoS's current premises in a former bus garage sited between the railway viaduct and Gaunt Street operates 3 to 4 times a week (with potential to operate more frequently) from 7 pm through to the following morning.
- 307 a) break out noise i.e. noise from music playing within the night club which passes through the fabric of the building and travels to the proposed development;

b) noise from patrons utilising the external courtyard; and

c) noise from persons in the street outside the Ministry of Sound i.e. those queuing, entering and leaving the night club.

- 308 **a) Break Out Noise:** The Applicant produced an assessment that examined the potential impact of break out noise dated June 2009. This identified the possibility of low frequency noise break-out from the Ministry of Sound which if not mitigated would be likely to cause an unacceptable level of amenity for future occupiers
- 309 Further noise survey work was then undertaken in January and April 2011. These surveys appear to reveal that noise levels associated with break out noise were not so significant as to require the provision of noise mitigation
- 310 However, the reliability of these surveys has been challenged by MoS. After the committee meeting in June at which the application for the proposal at 89-93 Newington Causeway was considered MoS submitted a further noise survey which contained results over a different time period and with different measurement locations to those in the January and April 2001 surveys. As a result, it was agreed that a further joint survey would be undertaken.
- 311 That further survey was conducted on the night of the 23/24 July 2011. Representatives from the Council, the applicant and MoS attended. The Council representative took measurements within the club itself and at 2 positions on Eileen House: the podium level and at 7th floor level.
Those results indicate that break out noise from MoS does indeed increase during the night reaching a peak between 02:00-04:00. Low frequency noise is the main source of noise heard and measured at the application site. Music from MoS would be audible within the proposed development with windows open but an acceptable internal sound level could be achieved with dual glazed windows closed and alternative ventilation.
- 312 As a result, noise mitigation in the form of a glazing specification is required. The proposal has been designed to an appropriate specification in order to achieve an acceptable level of noise within the development and in accordance with the Council's standards as set out in the SPD
- 313 Mechanical ventilation will be required in any event for reasons stated above and is incorporated within the scheme.
- 314 **b) Noise from the Courtyard:** There is a courtyard which is currently used by patrons of MoS. Patrons gather here to talk and smoke. Music is played via external speakers. The surveys undertaken indicate "noise from the courtyard and other activities in the street would significantly exceed the internal noise spectrum with windows open but the spectrum would be achievable with dual glazing and closed windows". Hence with windows closed this noise would not impact on future occupiers of the proposed development
- 315 It should be noted that there are questions as to the lawfulness of the use of the courtyard in planning terms. It has been suggested to the Ministry of Sound that an application for a Certificate of Lawfulness be submitted in order to establish whether or not the use is lawful. This is likely to take some time to resolve and consequently, without prejudice to the Council's position in relation to this matter, Members should consider the use of the courtyard and its potential impact on future residents, as it currently operates regardless of its planning status.

- 316 It is also worth noting that loudspeakers within the courtyard are not authorised under the club's license for public entertainment. This means that music played through these speakers must be at background level only.
- 317 **c) Noise from patrons in the Street:** This has the potential to affect future residents at the lower levels of accommodation. At the upper levels there is unlikely to be disturbance from this source with windows open or closed. At the lower levels of residential accommodation on the north facade onto Gaunt Street windows would need to be shut to avoid disturbance from this source.
- 318 It has been suggested by MoS that noise related to the setting up of barriers related to the control of queuing will give rise to noise problems. However, whilst this activity does currently create noise, given the level of back ground noise in this vicinity and given that for relatively little cost barriers can be given rubber footings to reduce the noise caused when dragged across the ground, Officers do not consider that this is likely to give rise to unacceptable impacts upon future occupiers which could not be easily and cheaply mitigated.
- 319 It should be noted that activities associated with the Ministry of Sound are by no means the sole source of noise in the street, which contains bus stands and a cabin containing facilities for drivers. Patrons queuing to enter the Ministry of Sound have been observed on the three surveys attended by the Council's noise consultant to be relatively quiet. On one occasion an inebriated bystander was shouting for some time (he did not appear to be a patron of the club). There were other isolated cases of shouting and the arrival of a police car. These shouting events would cause annoyance to a future resident occupying one of the lower floors of the proposed development with windows open.
- 320 It follows that absent a condition requiring sealed windows to be provided, future residents will be able to choose whether they have their windows open or closed. If they open them then when the MoS is operating there will be times when they may be disturbed. At such times if residents close their windows they are unlikely to experience disturbance and they will be able to obtain fresh air via that mechanical ventilation proposed.
- 321 Members will therefore need to consider:
- a) whether the provision of openable windows results in an acceptable level of amenity for future occupiers given the potential impact of break out noise;
 - a) if not whether it is necessary to require windows to be
- 322 If Members consider that with openable windows the proposed development provides a level of amenity which accords with the Council's standards, then in relation to the impact of rail/road noise and of MoS upon future occupiers there will be no breach of policy.
- 323 If, however, Members consider that the provision of openable windows results in an unacceptable level of amenity for future occupiers, members will have to consider:
- a) whether it is necessary to require that windows are sealed
 - b) if so, whether the provision of sealed windows would provide an acceptable level of amenity for future occupiers in accordance with the Council's standards
- 324 Looking at the noise issues overall even without the effects of the MoS operation

residents would have to close their bedroom windows at night in order not to be disturbed due to the noise levels generally in this area. The presence of MoS does not therefore affect this basic position in terms of the amenity of future residents because its operation similarly would result in the need to close bedroom windows to avoid disturbance.

Officers have considered the potential impact of the operation of MoS upon the amenity experienced upon balconies. As the MoS activities do not give rise to noise until relatively late in the evening when balconies are unlikely to be used it is not considered that the MoS operation would be likely to have a significant impact upon the use of balconies.

Officers have concluded that provided that sound insulation measures and alternative means of ventilation are required by condition, the likely effects of MoS will have been appropriately minimised and are not likely to give rise to unacceptable disturbance to future occupiers. Future occupiers would have the ability to close their windows and obtain a quiet internal environment with fresh air provided by means of alternative mechanical ventilation. It is considered that the activities of MoS would not give rise to unacceptable living conditions for future occupiers and that the relevant policy standards are attained.

- 325 If however, Members take a contrary view, Officers believe that the provision of sealed windows would result in a conflict with the Council's Sustainable Design and Construction SPD which requires natural ventilation even where mechanical ventilation is proposed. Thus, the level of amenity that would be provided to future residents would not meet the council's standards if windows were sealed.

It follows that, if Members conclude that openable windows do not provide an acceptable level of amenity, there will be a conflict with Policy 7.15, Policy 3.2 and 4.1 of the UDP and Policy SP12 of the Core Strategy. This conflict could not be remedied in a way which would be consistent with policy through the imposition of a condition requiring sealed windows. Accordingly unless other policies in the Development Plan pull in favour of the grant of planning permission sufficiently to outweigh such a policy conflict, Members would have to refuse to application.

326 Impact upon Ministry of Sound

The concern raised by the Ministry of Sound is that complaints could be made by future residents. MoS contends that such complaints could lead to proceedings against it in nuisance. If those proceedings were successful they would result in a requirement for MoS to abate the nuisance. MoS has indicated that any steps that would require a reduction in noise levels within the club would compromise the club's unique selling point (USP). This would impact upon MoS's ability to trade. MoS contends that ultimately this would lead to the closure of the club and the Borough would lose a significant and important local business.

- 327 It is therefore necessary to consider:

- a) whether it is likely that an actionable nuisance could be established in proceedings;
- b) if so what steps would be likely to be taken
- c) What would the impact of such abatement steps be upon the economic viability of the MoS

- 328 A nuisance action could be commenced by a future occupier of the proposed

development. In addition, under the Environment Act 1995, the Council has a duty to take enforcement action against nuisances arising in its area. If the Council considers that a nuisance is being caused to future occupiers of the proposed development by MoS it will have to serve an abatement notice upon MoS.

It is no defence to an action in nuisance to argue that the person complaining of the nuisance knew of your activities before they moved in. Thus, even if future residents knew of the MoS activities prior to moving into the proposed development they would not be prevented from bringing a claim in a nuisance.

A nuisance is an undue interference with the comfort and convenience of living according to the standards of the average person. Consideration of nuisance involves consideration of the give and take that is expected between neighbours. No-one can expect to live in a way which means they are completely undisturbed by their neighbours activities. The question is whether the level of disturbance is beyond that which is reasonable.

In relation to a noise nuisance there is no absolute standard to be applied i.e. a noise does not have to reach any particular defined level in order to cause a nuisance. In considering the standard of comfort or convenience that a reasonable person might expect regard must be had to the character of the neighbourhood. A person who lives in a large manufacturing town cannot reasonably expect the same purity of air or freedom from noise as one living in a secluded countryside location.

- 329 As has been set out above, disturbance is only likely to arise to a future occupier if they have their windows open. The purpose of opening a window is to obtain fresh air for ventilation. It follows that if apartments that might be adversely affected by noise from MoS are provided with mechanical ventilation the need to open windows at night may be mitigated or removed.

To succeed in any action in nuisance a future resident would have to establish that the average person would expect to be able to sleep without disturbance with his window open in an inner city London location. Officers consider that it is reasonable to conclude that there may be real difficulty in establishing this in this location given the level of sources of noise other than MoS. However, it is not possible to rule out the possibility of a successful claim in nuisance against MoS by a future occupier or the potential for the Council to take action pursuant to its powers.

If a claim in nuisance were to succeed the Court would require MoS to take steps to ensure that nuisance does not recur i.e. to abate the nuisance. In relation to the potential impact of MoS upon future residents this would require steps to be taken to reduce the amount of break out noise.

- 330 MoS have explained that "for a nightclub that has built its reputation for bringing the world's biggest dance music DJs to London and being able to attract them in large part due to its reputation for delivering the highest quality nightclub experience, particularly in the area of sound reproduction (it's the name of the business), it is a fundamental requirement that the experience that both clubber and DJ receive is one of excellence in sound. Clubbers come to Ministry of Sound primarily to dance. Other nightclubs may have a business model which is built on socialising and selling alcohol, but the Ministry of Sound business model is based on music and dancing first and foremost.

As a venue fills, more people absorb the sound and it is necessary to increase system levels to compensate for that absorption. If levels were not increased then the noise of conversation would become more apparent, the effect of the music would lose its power and the clubber would have a significantly less satisfactory experience. Patrons

would inevitably seek to get a better experience elsewhere and DJs would choose to perform in venues where they believed their craft was better exploited, Such an outcome would be disastrous for Ministry of Sound's reputation. A simple Google search for DJ comments on Ministry of Sound will reveal many of the world's most prominent DJs talking effusively about the quality of sound reproduction in the venue. Put bluntly, it is simply inconceivable that Ministry of Sound be expected to turn the volume down. If it were compelled in whatever way to contain its noise levels to a certain level, business would inevitably be lost putting the future of the club and the business as a whole at risk of closure."

- 331 *Comment Council's noise expert does not agree with this suggestion as this is not an acoustically acceptable argument. More people would indeed absorb sound but the increase in 'output' from the sound system would only need to compensate for this adsorption. For example, if a full room reduces the sound levels in the room by 3dB, and increase of only 3dB will be required to bring sound levels back to their previous level. Overall sound levels would therefore remain constant)_except in limited areas relatively close to the loudspeakers. Furthermore, the sound in the club that is radiated to the surrounding area is very strongly concentrated at low frequencies at which human bodies are not efficient sound absorbers).*"

What is notable about this argument is that no distinction is made between the different areas within the club.

- 332 The club has 4 distinct areas:

1. the box;
2. the baby box;
3. the bar; and
4. the loft.

- 333
1. The box is the main dance area where the "headline" DJs perform/operate. This area is effectively acoustically sealed and it is unlikely that any material noise break-out occurs from the box through the fabric of the building. Hence in this key area it is unlikely that any reduction in volume would have a material impact upon break out noise. Thus even a successful action in nuisance would be unlikely to require any change in the operation of the box.
 2. The baby box similarly has no material noise break-out through the building fabric largely due to its location within the club. Again, therefore it is unlikely that that any reduction in volume would have a material impact upon break out noise.
 3. and 4) It is the case that there is noise breakout through the roof of the bar and the loft area. One possible response to a successful nuisance action would be to lower noise levels in the bar and loft areas. There is no evidence to suggest that these are areas which are critical to the MoS business model of "music and dancing". It should be noted that the loft contains both a bar and a "chill out area". Similarly there is no evidence to suggest that such action would be fatal to the business or lead to the club's closure, bearing in mind that the main music and dance areas could operate unconstrained in this regard. The USP of the club is therefore unlikely to be affected even if a nuisance claim was upheld.

- 334 Abatement might also take the form of works to be undertaken to insulate the premises further, although this really only relates to the bar and loft area. Although clearly this would have a financial implications for the club, there is no evidence that the costs of such works would be so prohibitive that they would render the club

financially unviable.

- 335 It follows from the above that if the proposed development does not have sealed windows there is the potential for claims in nuisance to be made. Officers believe that it would be difficult to establish such a claim. If such a claim were established any steps that MoS might be required to take to reduce disturbance would be unlikely to result in the closure of the business although it may affect the profitability of the business to a degree.
- 336 These are matters to which Members should give some weight in determining whether or not to grant planning permission.
- 337 Whilst clearly consideration must be given to the concerns raised in this regard officers are of the view that the benefits of the development, in terms of the contribution it makes towards the delivery of housing, the regeneration of the Elephant and Castle area and the positive contribution made to the public realm in terms of urban design, outweigh the potential impact on the operation of the MoS, an existing and established business. London Plan policy 4.1 recognises the contribution made by central London and its businesses, such as MoS, to London's economic success. Taking this into account together with all other considerations set out elsewhere in this report it is considered that planning permission should be granted.

Air Quality

- 338 The site is located within an Air Quality Management Area so an Air Quality Assessment was submitted as part of the ES. Following submission of additional details and subject to the implementation of proposed mitigation measures and inclusion of conditions, no objection has been raised by the Councils Environmental Protection officer. As a large number of people within the final development will be exposed to high levels of pollution from the quality of the air in the vicinity, the applicant has agreed to make a £60,000 towards air quality monitoring in the area

Transport Issues

- 339 Public Realm and Bus Routes: The Phasing of public realm works has been outlined earlier within this report. Phase I will include the implementation of the majority of the public realm works but with bus movements and bus standing maintained on Southwark Bridge Road. Phase II would see the removal of all bus movements from the southern end of Southwark Bridge Road and the completion of the University Square, which will result in the closure of the southern section of Southwark Bridge Road up to the point where it meets Gaunt Street (apart from servicing and access to Keyworth Street and retention of the cycle lane). The northern section of Southwark Bridge Road will become 1-way in a northerly direction, with Gaunt Street connecting to this with existing 1-way traffic flow reversed to a northerly direction. Bus stands on the closed section of Southwark Bridge Road will be relocated further north, and a servicing bay will be installed in Gaunt Street. The timescale for the implementation of Phase II is dependent upon Transport for London agreeing a public transport strategy for the Elephant and Castle area as a whole, which is some time away. Phase II is however fully funded by the developer such that implementation can occur as soon as possible.
- 340 Car Parking: In line with national policies, the Council is seeking to encourage reduced car dependence particularly in areas with good accessibility to public transport and thus encourage the use of more sustainable transport modes. The proposal is situated in close proximity to Elephant and Castle with its overland and underground rail lines and the area is well served by local buses. The site falls within the Congestion Charging Zone and all roads in the immediate vicinity of the site are within a

Controlled Parking Zone. Accordingly, the site has a very high public transport accessibility rating (PTAL) of 6. 34 disabled car parking spaces, 44 motorcycle spaces are provided within two basement floors, access via a car lift from Gaunt Street. A car lift waiting bay and an on-street disabled bay will be sited along Gaunt Street adjacent to the development. Access to electric vehicle charging points will be possible from all spaces. Given the very high accessibility of the site the parking levels (for disabled users only) are acceptable. Further to this, existing traffic orders would be amended to prevent future occupiers (excluding disabled occupiers) from obtaining parking permits. This would prevent overspill car parking in the surrounding street by occupiers of the development. Furthermore, the low volume of additional traffic from the development is not expected to have a negative impact on the existing road network. The Council has negotiated with a car club operator for the installation of car club spaces across the Borough and there are at least 3 spaces proposed that would be accessible to local residents as well as the future occupiers of the proposed development. More spaces are likely to come forward in the future.

- 341 Travel Plan: A draft Travel Plan was submitted which suggests a number of practical measures and travel initiatives to reduce car dependency of future occupiers and visitors to the site. The plan seeks to actively promote the use of non-car modes of transport, including walking, cycling and the use of public transport. Included will be the establishment of a car club, allowing residents and businesses to have access to a car in their neighbourhood without having to purchase and subsequently store one. A full Travel Plan will be required via condition prior to occupation of the development. The Section 106 Agreement will cover the Travel Plan monitoring within which time necessary adjustments can be made in accordance with the success and evolution of the scheme.
- 342 Access/ Deliveries: Gaunt Street provides the vehicular access to the basement parking area, and provides a loading bay for service and refuse vehicles. Domestic deliveries are made to service bays on Gaunt Street and Newington Causeway. A deliveries storage room opening off the entrance lobby gallery will allow for efficient and rapid drop-off of items. Resident mailboxes are arrayed across the wall to the rear to the rear of the lift core and stair core and will be easily accessible from the entrance lobby.
- 343 Cycle Parking: The Southwark Plan requires cycle parking at a rate of 1 cycle space per 250sqm A or B1 floorspace (i.e. 19 spaces) and within the Central Activities Zone, a minimum of 1 space per unit plus 1 visitor space per 10 units (i.e. 369 spaces). The scheme provides 4 separate lockable cycle parking rooms within the second basement of the development which contain Sheffield Stands and some cycle stackers. Within the basement, 335 residential cycle spaces are provided and 9 commercial cycle spaces with a cycle lift allowing for easy transportation between levels. 34 resident visitor spaces provided at street level adjacent to the residential entrance lobby with a further 20 spaces provided at street level for other general visitor cycle parking. Within the office building, 13 cycle spaces are provided for commercial and retail users in a secure cycle room at ground floor level. The scheme provides cycle parking in accordance with the Southwark Plan. The comments from Southwark Cyclists are noted; however in the absence of a local or London-wide policy to support their suggested level, it would not be reasonable to refuse planning permission on this basis. Southwark Bridge Road forms part of the London Cycle Network and whilst it is a public access carriageway, following Phase II of the public realm improvements, the southern portion will no longer be a through route for vehicular traffic but will maintain cycle access.
- 344 Refuse and Servicing: Servicing from the on-street loading bay, located on Gaunt Street, has been agreed by transport officers. Further, full details of servicing operations will be sought through the submission of a Servicing Management Plan.

The tower has an interim waste room (residents refuse drop off) at ground floor which will be transferred by the building management service to a central waste storage area in the basement of the tower prior to collection. Adequate refuse storage space has been incorporated for the commercial and retail floorspace within the basement. The waste strategy for handling residential waste is considered satisfactory. Within the office building, a dedicated refuse store is provided at ground floor with direct access to Gaunt Street for collection. Whilst the proposals for waste storage are considered generally acceptable, final details will be sought via condition of any approval to ensure adequate provision is made

- 345 Overall, the proposal is considered consistent with saved policies 5.1, 5.2, 5.3, 5.6 and 5.7 of the Southwark Plan. It would help promote non-car modes of transport, provide an acceptable level of car parking and bicycle storage, and a suitable refuse and servicing arrangement.
- 346 The site is located within Flood Zone 3a which is considered to be an area of high risk of flooding due to the proximity of the tidal River Thames. However the site is protected by the Thames Barrier and related defences. A flood risk assessment has been submitted with the application and confirms that the site has the potential to be inundated in the event that the flood defences fail. As the residential accommodation will be located above ground floor, it will be protected from flooding even in the unlikely event of the river defences being breached. It is for the applicant to demonstrate that the proposed development can be made safe through measures set out in the submitted FRA. The Environment Agency has raised no objections to the scheme subject to conditions. The proposal is therefore considered consistent with Planning Policy Statement 25.
- 347 Due consideration must be given to the sequential test, advocated in Planning Policy Statement 25 "Development and Flood Risk" which requires Local Planning Authorities to direct development towards lower flood risk zones and within development sites the highest vulnerability uses should be located on parts of the site at lowest probability of flooding. However a significant part of Southwark Borough is within Flood Zone 3 and there are no sites at a lower risk of flooding for some distance. It is acknowledged therefore there are no alternative sites in the locality. Whilst the application site is not designated within the Southwark Plan, the development of brownfield sites such as this is encouraged in order to maximise the efficient use of land with the provision of much needed housing as well as promoting mixed use development within the locality. The site is located on previously developed land and there are strong sustainability reasons why the site should be redeveloped and it has excellent accessibility to public transport. The proposed scheme therefore meets the Planning Policy Statement 25 sequential test.

Environmental Impact Assessment

- 348 As detailed above, a voluntary Environmental Statement was submitted with the application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999. The Environmental Statement included the following documents:
- Volume I: Main Report
 - Volume II: Townscape and Visual Assessment
 - Volume III: Technical Appendices
 - Non- Technical Summary
- 349 Following the changes to the scheme Addendums to all Volumes were submitted, and the Non-Technical Summary was replaced. A second addendum relating to socio-economic impacts upon MoS was also submitted. The original ES Volumes together

with the ES Addenda constitute the environmental information submitted under the Environmental Impact Regulations.

350 The ES details the results of the EIA and provides a detailed verification of potential beneficial and adverse environmental impacts in relation to the proposed development, including the following areas of impact (in the order they appear in the ES): The ES provides an assessment of the likely significant effects (both beneficial and adverse) upon the environment arising from the proposed development, including the following areas of impact (in the order they appear in the ES):

- Demolition and Construction;
- Sustainability;
- Socio Economics;
- Traffic and Transportation;
- Ground conditions and Contamination;
- Water Resources and Flood Risk;
- Noise and Vibration
- Air Quality;
- Archaeology;
- Wind;
- Daylight, Sunlight and Overshadowing;
- Ecology;
- Electronic Interference;
- Cumulative Impacts
- Residual Impacts
- Townscape Assessment

351 In terms of assessing the likely environmental effects of a scheme the ES must identify the baseline (existing) environmental conditions prevailing at the site, the nature of the impact, both direct and indirect, whether they are temporary/ short-term or permanent/ long-term impacts and measures to mitigate any adverse impacts in each case. Each individual environmental impact must also be assessed for its potential to impact upon another, for example an increase in the volume of traffic along a road will have implications for noise levels in the vicinity, and therefore such 'combined effects' must also be addressed. The ES must also identify the residual effects after mitigation as well as the cumulative effects of the development in relation to other known developments in the area

352 The potential and residual impacts have been classified as being of adverse, negligible or beneficial significance, with magnitudes of the impact set out below:

353	Minor	Impacts are a slight, very short, or highly localised of no significant consequence
	Moderate	Impacts are limited, by extent, duration or magnitude, which may be considered significant
	Major	Impacts are likely to be considerable, by extent, duration or magnitude which may be considered of more than local significance or in breach of recognised acceptability, legislation, policy or standards

354 The individual areas of impact listed above and addressed within the ES are generally considered elsewhere in this report. Where mitigation of effects though the design process has not been possible, it will be achieved by one of the following means:

- Mitigation through controls on demolition and construction activities;
- Mitigation through on-going management and monitoring once development commences; and

- Mitigation through use of conditions and Section 106 provisions.

355 Subject to the incorporation of mitigation measures, it is considered that the submitted ES is acceptable and in accordance with the Regulations and responds to London Plan, Southwark Plan policies and supplementary planning documents.

Alternatives Assessment

356 The EIA Regulations 1999 require an assessment of the 'main alternatives' that have been considered by the developer. Accordingly the ES sets out the various alternatives that have informed the development proposal. The ES outlines that the 'no development' alternative refers to the option of leaving the site in its current state. This was considered to constitute a negative impact, by reason of the under-utilisation of the site, the loss of opportunity to deliver housing across London and to enliven the area through the development of retail and cafe uses within the development, and the general loss of public realm benefits offered by the scheme. The development opportunity is a direct result of the location of the site within the Elephant and Castle Opportunity Area covered by the Enterprise Quarter SPD, and therefore the site is identified as being suitable for redevelopment and therefore consideration of an alternative site was not believed to be necessary. The ES describes the design evolution following a series of consultations and design briefs. The design factored in key issues such as Rights of Light and the need to provide a form of development that would fall within an acceptable range of environmental effects.

357 The Council considers that the applicant has adequately addressed this aspect of the EIA Regulations.

Demolition and Construction

358 The ES sets out a construction methodology, which outlines that demolition and construction activities are programmed to last for around 51 months, with 6 months for demolition, 16 months for substructure, and a further 31 months for the main build. The ES includes details such as foundation strategy, hours of work, potential impacts and mitigation. A Demolition and Construction Method Statement (DCMS) is proposed to be developed by the Principal Contractor which will include measures such as a considerate contractor's scheme, management of trade contractors, traffic management, access and egress, temporary road closures, road cleanliness, management of noise, vibration, and dust, site waste management.

Sustainability

359 The ES advises that the Sustainability Assessment was structured around the Mayor's SPG on Sustainable Design and Construction. Further details of the Sustainability Assessment, in particular the Energy Strategy, are provided elsewhere within this report. The ES states that the scheme will make the best use of this previously developed land by providing a carefully designed mix of public space, amenity, office and residential dwellings, and this is agreed by the Council.

Socio Economics

360 The ES details the effects of the development on the local population and economy. The assessment considered that range of effects that may result from the development, including effects during the construction period. The chapter concludes that the development will have a positive effect (on the local and regional economy) by creating more employment opportunities than the existing activity on the site and by meeting the demand for high quality office accommodation within Southwark. The provision of affordable housing is discussed, which will contribute towards achieving

the Boroughs housing targets. The impact on local services was also considered, for example the impact the local GP services, with the impacts considered to be acceptable. The inclusion of amenity space and public realm works was considered to assist in the mitigation of the impact of the new population and provide new space for local residents.

In addition, an addendum to the ES was received in May addressing the potential impacts upon the Ministry of Sound. Officers take the view that, whilst an impact upon MoS arising from potential claims in nuisance from future occupiers cannot be ruled out, such an impact cannot reasonably be viewed as likely. As a result, the likely significant socio economic impacts of the proposed development have been adequately considered within the ES.

Traffic and Transportation

- 361 The EIA included a full assessment of the impact of the scheme on the surrounding road network and public transport facilities, including consideration of impacts during demolition and construction. The methodology used is based on relevant guidance on traffic impact assessment and this is set out in the ES. Existing baseline conditions in respect of the highway network, road safety, facilities for pedestrians and cyclists, public transport and traffic flows are identified
- 362 The scheme is considered to be in line with national, regional and local transport policies, in particular its' location in a highly accessible area and it is expected that 90% of all trips would be non-car based. The scheme will have a travel plan that will be implemented by future occupiers to encourage sustainable transport modes, and this will have a minor beneficial impact on promoting sustainable modes of travel. In addition, an addendum to the ES was received in May addressing the potential impacts upon the Ministry of Sound. Officers take the view that, whilst an impact upon MoS arising from potential claims in nuisance from future occupiers cannot be ruled out, such an impact cannot reasonably be viewed as likely. As a result, the likely significant socio economic impacts of the proposed development have been adequately considered within the ES.
- Public transport services were considered within the ES, including the impact of the development on these services. Adverse impacts associated with HGV movements during the demolition and construction stage were identified but were considered to be temporary and reversible, occurring at a local level and therefore being of a minor adverse significance, as long as mitigation measures recommended within the Demolition and Construction Method Statement are followed. The Council concurs with the ES that impacts will be of a minor adverse nature (though in some cases beneficial such as the pedestrian environment) and conditions can be imposed to ensure environmental impacts are kept to a minimum. The Council also agrees that approval of the Highway Authority will be required in relation to the implementation of Phase I public realm works.

Ground Conditions and Contamination

- 363 This chapter assesses the impacts associated with potentially contaminated soils and groundwater, both in the context of the existing site, during construction and following completion of the development. Assessment included a desk based geotechnical assessment. The ES states that the anticipated impact on groundwater flow would be negligible if appropriate design measures and an Environmental Management Plan (EMP) are correctly implemented during excavations. Disturbance of contaminated soils during construction may adversely impact on groundwater quality, as the historical use of the site suggests that some contamination may exist. Areas of the site not affected by excavation will have appropriate remediation, and earthworks will have due regard to a Waste management Plan. Any hazardous waste will be pre-

treated prior to disposal in accordance with current waste legislation. If any significant contamination were identified, its removal would result in a moderate beneficial impact to ground resources in the area. The storage of any fuels and plant in the basement of the completed development will be designed to meet the statutory requirements established by the EIA, and as such the potential impact is considered to be negligible.

Mitigation measures designed to either alleviate or limit impacts are set out and taken into account in the assessment. With the incorporation of the recommended measures, adverse impacts from the development relating to land contamination and groundwater conditions are not anticipated. The Council considers the ES has appropriately dealt with this area of impact.

Water Resources and Flood Risk

- 364 The ES considers the impact of the proposal on surface water, hydrology and hydrogeology of the surrounding area and potential for floor risk. The application site is located within the Environment Agency's 1 in 100 year indicative floodplain: Flood Zone 3 where the site is considered to be at high risk from fluvial and tidal other flooding, although it benefits from established floor defences. The ES states that the demolition and construction phase surface water and groundwater may occur, however no significant impacts to water resources are expected as long as the mitigation measures detailed within the ES are implemented. The construction of 2 basement levels may result in contact with perched shallow groundwater; however it is expected that the impact of this may be mitigated through waterproofing of the basement to relevant British Standards and through increased pumping rates from the basement void to the drainage network. The inclusion of landscaped areas in the form of a resident's garden and linear park will result in a slight reduction in surface water runoff at the site, but in addition the use of on-site storage will be implemented in the basement which should attenuate peak flows to 50% of the existing runoff. Once the mitigation measures that have been incorporated into the design are implemented, the ES states that there would only be a negligible impact on flood risk. Operational impacts are limited to the capacity of the foul sewerage system and water resource availability. The ES concludes that the residual impact on this receptor is expected to be of a minor adverse, short-term significance.

Noise and Vibration

- 365 The noise and vibration impacts of the development have been assessed in terms of the likely impacts during the construction and operational phase of the facility, and the impact of traffic movements associated with its implementation. The ES sets out the existing (baseline) noise levels on the site and identifies a number of potential noise sources (road traffic, construction noise, road works) and daytime and night-time noise monitoring surveys were undertaken to define baseline noise level conditions.
- 366 During the 51 month demolition and construction phases, the ES recognises that there is the potential for demolition activities to result in an impact of moderate to major adverse significance at local noise sensitive receptors and during substructure works an impact of minor adverse significance. Mitigation is proposed through the preparation of Demolition and Construction Method Statement (DCMS) and Environmental Management Plan (EMP) to minimise environmental impacts including those due to noise and vibration. The ES also considered the effects of construction traffic and the potential impact is considered to be negligible given the existing high traffic flows in the area. The Council believes that no significant adverse impacts would arise on the local road network from noise associated with construction traffic.
- 367 Within the development, the ES sets noise limits for new building services plant associated with the development, and if mitigation measures are in place the residual impact on nearby sensitive receptors would be negligible. The proposed

amendments to highways arrangements resulting from the scheme is predicted to result in noise level increases of 1-2 decibels, however the ES indicates this to be of a minor adverse impact, as the increases are at least in part due to general increases in traffic flows combined with the proposed development impacts. The Phase II public realm (and associated traffic) works are predicted to reduce road traffic noise levels in the immediate vicinity by up to 6 decibels, and the ES indicates this to be a moderate to major beneficial impact. Within the building itself, the building facade has been designed to control noise ingress and mitigation methods such as enhanced facade glazing specifications adjacent to the Ministry of Sound, are included. The ES indicates the scheme will achieve the BS 8233 standards for residences.

Air Quality

- 368 This part of the Borough is an Air Quality Management Area (AQMA) where concentrations of nitrogen dioxide (NO₂) and fine particulate matter (PM₁₀) are already high, exceeding the Air Quality Standard objectives. The ES assesses the impact of the proposed development during demolition, construction and operational phases. The ES acknowledges that the main effect of dust emissions during construction, if unmitigated, would be moderate adverse at the site boundary, but would be short-lived. Mitigation measures are therefore proposed based on London Councils and LBS codes for construction, which should significantly reduce any impacts. The ES predicts that following mitigation, the impacts from construction plant emissions will be of a minor adverse significance and construction road traffic of negligible significance. The submission of an Environmental Management Plan will be submitted prior to commencement of construction works for the Council's approval which will incorporate appropriate mitigation measures. The Council considers this to be an appropriate level of mitigation to ensure impacts are minimised, and the matter will be secured by condition(s).
- 369 Road traffic effects from the completed development during Phase I have been predicted to have a minor adverse impact at a majority of the receptors modelled, and of a major adverse impact at receptor 6 (University Academic building near Borough Road), however this represents a 'small' magnitude of change due to concentrations already exceeding the air quality strategy objectives and this receptor is not a residential environment meaning people will not reside there 24 hours a day. Impacts at all other receptors were considered negligible or minor beneficial. During Phase II, the road traffic impacts are predicted to have a major adverse impact on 4 receptors (Borough Road, Newington Causeway, Gaunt Street) since traffic flows are expected to increase significantly on the eastern boundary of the site, when the scheme becomes operational. Mitigation measures for control of additional road traffic are presented in the ES under the Traffic and Transportation chapter. All other receptors were considered to be impacted to a minor adverse or negligible level (Southwark Bridge Road, Keyworth Street). Some receptors actually indicate an improvement in air quality (of a negligible to minor beneficial significance) following implementation of public realm works which would see a redistribution of some traffic within the local road network. The ES indicated that the heating plant is predicted to have only a minor adverse impact on local air quality at ground level. The applicant has proposed a means of on-site mitigation with respect to air quality, to mitigate against PM₁₀ and NO₂ for the floors affected by exceedances of the national objectives for these pollutants. This proposal has been accepted by the Councils Environmental Protection Team who consider the extent in terms of height for the mitigation to be acceptable. Additional information is to be submitted with respect to the effectiveness of the means for NO₂ filtration, which will be addressed via condition.
- 370 The Council notes that PPS23: Planning and Pollution Control – Annex 1: Pollution Control, Air & Water Quality advises that for all developments within or adjacent to

AQMA's "it is not the case that all planning applications...should be refused if the development would result in a deterioration of local air quality..."(Appendix 1G). The Council notes that although the proposal will result in increased levels NO₂ at some receptors, the increases are mostly of a negligible or minor beneficial for the majority of receptors.

Archaeology

- 371 The site is located within the Borough, Bermondsey and River Archaeological Priority Zone, against the boundary of the Kennington Road and Elephant and Castle Archaeological Priority Zone. A desk-based archaeological assessment of the likely effects of the development on the archaeology and built heritage of the area has been undertaken. A review of the baseline conditions and potential for further discovery of archaeological remains is provided in the ES which is based on relevant literature and documentary sources. The building occupying the site has an existing basement which will have had an impact upon archaeological remains.
- 372 The ES indicates that there is a low potential for archaeological remains from the pre-historic period, but with a high potential for remains dating from the Roman period, as the line of a major Roman road is likely to have run through the centre of the site. There is again low potential for remains during the Medieval period, with some evidence of agricultural features. There is high potential for remains from the Post-Medieval period in the form of forts or defensive ditches from the Civil War. There are also below ground remains of the mid-19th century terraced housing along the perimeter of the site. It is therefore proposed that a programme of archaeological investigation is undertaken, with the aim of achieving preservation by record (trenched evaluation). The ES suggests that the evaluation would result in an overall negligible residual impact. The Council considers that subject to an archaeological investigation being undertaken, further archaeological evaluation and works may be required. This matter can be secured by appropriate conditions.

Wind

- 373 The ES sets out the results of an assessment of the potential wind effects of the proposed development, including wind tunnel testing to provide a quantitative assessment of the effects. Baselines wind conditions were established through wind tunnel tests, which found the site conditions to be relatively calm. The ES included two scenarios for assessment- a worst case in windy conditions and summertime. Under worst case conditions, nine locations were identified as suitable for sitting in the immediate area (the majority within the residents garden close to the tower residential entrance), and 29 locations were suitable for standing/ entrance use within the immediate surroundings (mainly in the public realm areas of the scheme and close to building entrances) and ten locations were suitable for leisure walking (mainly Gaunt Street). The ES sets out mitigation methods that will reduce the impacts to negligible significance, including the use of recessed entrances, removal of the entrance in the south-west corner of the tower, recessing the entrance at the north corner of the office block, use of landscaping to enhance the micro-climate.

Daylight, Sunlight and Overshadowing

- 374 The ES considers the impact of the proposed development on the daylight and sunlight of existing properties and amenity areas surrounding the site. No amenity areas are located within 90 degrees of north so no sensitive receptors in terms of overshadowing are considered to exist. In terms of daylighting impacts on other sensitive receptors, the ES indicates that on Metro Central Heights the impact is negligible, and on Ontario Street Hostel, Stephenson House and Telford House, minor adverse impacts are predicted. All other impacts, including sunlighting, are

considered to be negligible.

Ecology

- 375 There are no statutory or non-statutory nature conservation designations over the site, though The River Thames and Tidal Tributaries, a Site of Metropolitan Importance for Nature Conservation is within 1.2km north of the site. The existing site is entirely built up with associated hardstanding. It is, however, within a 'known key area' for Black Redstarts, though without a suitable habitat, the ES indicates that the site is unlikely to be used for foraging and nesting. The birds are known to inhabit building sites, and where they are found during demolition and construction the ES suggests that Natural England will be contacted to ensure appropriate action can be taken to avoid any impact on the species. During demolition, the impact on ecology in terms of dust and noise will be of negligible significance due to the lack of sensitive receptors of ecological value near the site. The proposed public realm improvements and overall landscaping strategy are considered to have a positive impact on local ecology, considered to be of a minor-moderate beneficial significance. The Council considers the ES to be an accurate assessment and overall, subject to the habitat creation measures outlined in the ES, the impacts on ecology are considered to be acceptable and any temporary adverse impacts will be mitigated.

Electronic Interference

- 376 The ES included an assessment on what effects the tower will have for broadcast radio, terrestrial television and satellite television signals. These operate at different transmission frequencies and possess different transmission wave properties. The effects of tall buildings (and other large structures) on signals are principally in the following ways: (a) Shadowing effects, where an area behind the structure is effectively screened from the transmitter preventing reception of the transmission or reducing signal strength; and (b) Ghosting effects, where the transmission signal is reflected and scattered by a conducting surface on the structure. Signals arrive at the receiver out of synchronisation with the 'direct' signal and created second ghost images on television pictures. In addition, like light, any electromagnetic signal can be reflected or diffracted around objects, particularly with low frequency radio transmissions.
- 377 The ES indicates that there is likely to be some impact on coverage immediately to the north of the site, with the likely shadow area similar to the width of the proposal which will diminish in width for more northerly receiver locations. In terms of incremental interference to TV and radio reception, mitigated measures may be introduced to ensure satisfactory reception is restored and as such any residual impact of the proposed scheme will be negligible. The Council is satisfied with the assessment set out in the ES, subject to a planning obligation being included which will require appropriate surveys to be carried out before and after development to assess the likely impacts, and the implementation of mitigation measures to rectify any problems that occur.

Cumulative Impacts

- 378 The ES considers the cumulative impacts of the development, including those impacts that result from incremental changes that are caused by past, present and reasonable foreseeable future actions combined with the proposed scheme. Two types of impacts have been considered, the combined effect of individual impacts, such as noise, dust, or traffic, on receptors, and the likely impacts combined with those of several development schemes. The assessment includes a summary of other developments that are proposed (focussing on those with extant planning permissions or those under construction) within the surrounding area in relation to the demolition,

construction and operational phases of the proposed development.

379 The ES identifies that most of the cumulative impacts are negligible, with those adverse impacts being primarily of minor significance, being short-terms and of a localised nature. The following is a summary of the likely adverse cumulative impacts:

- Foul Drainage- when combined with consented development in the area, there could be a temporary minor adverse impact on downstream sewage treatment works if capacity is limited and assuming all foul drainage is directed to the same treatment plant;
- Air quality impacts during Phase I are of a minor adverse significance in most receptor locations, with improvement (or a minor beneficial impact) in air quality in one location (corner of Gaunt Street and Southwark Bridge Road). Dust impacts are however considered to be negligible. During Phase II the air quality impacts on NO₂ are increased to be of a major adverse impact (due to the concentrations being above the standard without the scheme to start with) in most receptor locations, with one indicating a minor beneficial impact. The applicant has proposed a means of mitigation with respect to air quality, which has been accepted by the Council, subject to conditions of approval.
- The removal of potentially contaminated soil from the site and the immediate area would have a minor-moderate beneficial significance.
- The microclimate/ wind conditions are considered to be improved by the identified cumulative schemes.

Residual Impact Assessment

380 The ES outlines residual impacts, those that remain following the implementation of any mitigation measures. In the Construction phase, there are identified minor adverse impacts from noise and vibration during superstructure construction and fit-out and some temporary adverse impacts of minor-moderate significance on air quality and electrical interference, during construction. In terms of Operational Impacts the ES identifies that a number of beneficial impacts will occur. The key positive benefits offered by the scheme include socio economic impact, noise and vibration, and ecology. Permanent adverse impacts are seen in terms of air quality, noise and vibration (road traffic), traffic and transport (highways impact on closure of Southwark Bridge Road). The Council is satisfied that the residual impacts of the scheme have been fully considered within the ES.0020

Townscape, Conservation and Visual Impacts

381 A separate ES Volume has been dedicated to the Townscape, Conservation and Visual Impacts. The size and scale of the proposed development will mean that there will be a varied and, in certain locations, a significant visual impact on local views and the townscape. A visual assessment has been carried out to establish the existing townscape and visual baseline conditions, including 33 views (some the same location but summer/ winter provided) taken at selected points in the vicinity of the site (Conservation Areas, key viewing corridors) as well as views taken from various designated views as set out within the Mayor's London View Management Framework SPG. A series of photomontages showing existing views from sensitive receptors looking towards the site have been included alongside photomontages depicting the cumulative view (i.e. a view incorporating the proposed scheme and other consented schemes within the vicinity). Each of the views is then assessed in terms of the significance of the potential impact, which in the majority of cases is considered to be of a neutral, negligible or minor-major beneficial significance.

382 Whilst the Council is satisfied with the assessment provided in the ES, there is some contention over a number of views from English Heritage, Royal Parks and the City of

Westminster. EH raise a concern with the impact on the setting of the fly towers of the Grade II listed Royal National Theatre when viewed from Waterloo Bridge, which they consider would cause modest harm to this view. Similar concern is the impact on the view from Walcot Square, where they consider the tower would be a modestly harmful intrusion upon the view. Of greatest concern to EH is the impact on the view looking south across St George's Circus, where the proposal rises dominantly over the roofline of the group which they believe will cause significant harm to the setting. The ES includes an assessment of St George's Circus at View L11, however the location from which the photographs are taken do allow the building to be partially hidden by the existing tree canopies, and the impact is considered to be of major beneficial significance. The Council believes it is more likely to result in a minor adverse impact but one which is not so significant to outweigh the other benefits of the scheme. The City of Westminster and Royal Parks maintain concerns about the impact of the development on views from the Serpentine Bridge in Hyde Park, shown in View D2B. The ES identifies the impact as being of a negligible significance, as the reduction in height of the tower by 3 storeys has resulted in the majority of the tower being below the existing tree line. The Council and the GLA have accepted this position. The Council considers the assessment to be generally satisfactory with potential impacts on the townscape and local views towards the site identified.

ES - Conclusion

- 383 The ES its addendum and the Regulation 19 Responses provide an assessment of the likely significant effects of the proposed development during both construction and operational phases. The documents comply with the relevant Regulations in terms of their scope and methodology for assessment and reporting. As a major development of this nature there are potential environmental impacts and, where appropriate, mitigation has been identified to address any impacts. The general impact of the development is considered to range from negligible to minor beneficial throughout most of the site. There are some adverse residual effects as a result of the development and these have been identified in the assessments and taken into account in the consideration of the application together with the representations made by third parties.

Planning Obligations [S.106 undertaking or agreement]

- 384 Saved Policy 2.5 of the Southwark Plan advises that planning obligations can be secured to overcome the negative impacts of a generally acceptable proposal. This policy is reinforced by the 'Supplementary Planning Document' (SPD) on Section 106 Planning Obligations, which sets out in detail the type of development that qualifies for planning obligations, and Circular 05/05, which advises that every planning application will be judged on its own merits against relevant policy, guidance and other material considerations when assessing planning obligations. The applicant has submitted a proposed Heads of Terms based on the Council's Planning Obligations SPD. Full details are provided below.
- 385 Affordable Housing: The proposal provides 231 affordable habitable rooms resulting in an overall provision of 25.46% of the total habitable rooms being affordable, representing a 70 habitable room shortfall in provision. As discussed earlier in this report, it is recommended that a clawback provision be included to recover this shortfall in the case of a market improvement.
- 386 Education Contribution- £222,756 in line with s106 toolkit;
- 387 Employment and Training: comprising: Employment in the development £27,000 (toolkit requires no contribution for this as no uplift in office space occurs). The

applicant is providing their own Workplace Coordinator during Construction, which will be acceptable only if terms can be agreed within the s106 for the functioning of the WPC. A clause will be included within the s106 such that should the developer not employ a WPC or there is under performance on behalf of the WPC then a contribution of £309,086 should be paid (in addition to the Management Fee). Management Fee of £23,828 to cover costs in association with WPCs;

388 Public Open Space, Children's' Play, Sports Development: See Public Realm and Community Facilities Contributions.

389 Transport Strategic: £214,143 in line with s106 toolkit;

390 Site Specific Transport: £2750 towards amending the Traffic Management Order to restrict future occupiers from obtaining parking permits. Relocation of pay and display parking bays, the introduction of a disabled parking bay, the installation of a loading bay on Gaunt Street and a car lift waiting area will be provided by the applicant.

391 Transport for London: £486,000 comprising:

- £136,000 towards additional bus running costs associated with the temporary re-routing of buses associated with the relocation of bus stands associated with the delivery of Phase 1 (£13,600 per annum, and includes fuel, tyres, engineering costs)
- £250,000 towards the delivery of the proposed interim (Phase 2) bus solution and any associated works to ensure full implementation of the Eileen House public realm package (Phase 2). If by the time the developer is in a position to deliver Phase 2 and a new bus facility/solution has been identified and agreed by TfL and the borough, the 'interim' facility is not likely to be required. TfL will then expect the contributions secured to be directed towards transport improvements in the wider Elephant and Castle area.
- £100,000 towards transport studies that can be used to inform the wider transport solution for the Elephant and Castle. TfL have advised that the surface transport situation at Elephant and Castle presents a number of challenges and these need to be addressed to improve pedestrian access, cycling, bus access and provision in terms of bus standing/stopping and driver facilities and highways alterations. TfL has been working with Southwark Council for some time to identify a preferred transport solution. The costs of delivering both the underground and surface transport enhancements deemed necessary to support the on-going and longer term growth of the E&C Opportunity Area are significant, current estimates are in the region of c£120 million for improvements to the Northern Line Ticket Hall and c£20million update for the surface works which include replacement of pedestrian subways with at-grade pedestrian crossings at northern roundabout, and highway and public realm improvements. The applicant has agreed to make a contribution towards the 'wider transport solution', beyond the specific TfL requests outlined above.

392 Public Realm: Works in lieu of payment equivalent to £2,392,240 (above the s106 toolkit which suggests £327,330 for public realm and £360,655 for open space/ children's play/ sports development). This is the estimated cost for the developer to deliver Phases I and II of the public realm improvements immediately surrounding the site, which includes the creation of a resident's garden, a linear park along Southwark Bridge Road, and a University Square to the east where Keyworth Street meets Southwark Bridge Road at the entrance to the LSBU campus.

393 Archaeology: £10,199 in line with s106 toolkit;

- 394 Health: £343,507 in line with s106 toolkit;
- 395 Community Facilities: £116,000 (toolkit suggests £43,540) comprising:
- £25,000 towards the Newington Gardens Project Banks (e.g. Sustainability and Habitat Initiatives and Creating a Matrix of Wildlife Habitats Projects)
 - £50,000 towards the Dickens Square Park Improvements
 - £5,000 towards the Rockingham Community Centre
 - £15,000 towards the Rockingham Estate Open Space Improvements Project Bank
 - £21,000 towards the Scovell Estate Improvements Project Bank
- 396 Other Contributions: £85,000
- £25,000 towards Partnership Schemes in Conservation Areas for the Saint George's Circus Conservation Area, which comprises an English Heritage grant scheme valued at £300,000, of which LB Southwark has agreed to contribute £150,000
 - £60,000 towards Air Quality Monitoring within the Elephant and Castle
- 397 Total Contributions:
- Cash contribution with TfL requirements: £ £1,531,183
 - Administration fee of 2%: £30,623
 - Total financial contribution: £1,561,806
 - Total Equivalent in Kind contribution: £2,701,226 (£2,392,240 estimated for public realm, £309,086 for provision of a workplace co-ordinator in lieu of contribution)
 - Total of S106 Package: £4,263,032. A standard toolkit compliant scheme would be required to make minimum contributions of £2,304,914.
- 398 Other matters for inclusion in the s106 agreement:
- Commitment to the future connection to ESCO and to investigating the value of the proposed energy efficiency measures to ensure maximum performance;
 - Commitment to developing, implementing and monitoring a travel plan including the appointment of a Travel Plan Co-ordinator;
 - The applicant will be required to enter into a s278 agreement with the Highways Authority in relation to public realm improvements to the pavement fronting the site.
 - Commitment to providing a signalled cycle crossing across Southwark Bridge Road;
 - Commitment to undertaking a consultation process with the Counter Terrorism Unit of the Metropolitan Police prior to finalising public realm and landscaping plans, which will be subject to Local Planning Authority approval;
 - Commitment to ensuring that any adverse impacts of the development on reception of residential properties is identified and resolved satisfactorily, through detailing how the impact of the development on television, radio and other telecommunication services will be assessed, the method and results of surveys to be carried out, and the measures to be taken to rectify any problems identified (which will be subject to Local Planning Authority approval);
 - Commitment that the system of air quality mitigation will be part of lease agreements, to ensure that on-going maintenance is undertaken by the building management and is not the responsibility of individual leaseholders through their lease agreements.
 - Confirmation that twice weekly collection of waste by private contractor will occur for the life of the development without additional charges being

imposed on residents.

399 The proposed Heads of Terms are considered acceptable and appropriate for the nature and scale of the development and will ensure that identified environmental impacts from the development can be adequately negated or minimised. This is consistent with the requirements of saved Policy 2.5 of the Southwark Plan concerning Planning Obligations.

400 In accordance with the recommendation, should an acceptable Section 106 Agreement not be signed within the specified time (31 December 2011), the following reason for refusal would apply:

“In the absence of a signed Section 106 Agreement, there is no mechanism in place to avoid or mitigate the impact of the proposed development on the public realm, public open space, the transport network, health facilities and employment and the proposal would therefore be contrary to saved Policy 2.5 of the Southwark Plan and Policy 8.2 of the London Plan.”

Conclusion

401 The application will see the physical regeneration of a currently unattractive, brownfield site, improving the immediate urban environment, and providing much needed private and affordable housing and employment opportunities. Further, the scheme will create a vastly enhanced public realm, improving the relationship to the adjacent LSBU campus and soon to be revitalised Elephant and Castle core area. The principle of the proposed uses are considered acceptable. Whilst the loss of B1 floorspace is regrettable, it is considered that the overall benefits offered by the scheme will outweigh this loss to an acceptable extent. The traffic impacts, car and cycle parking provision are also acceptable. The height and design of the building is considered acceptable, particularly given its siting within the Central Activities Zone and the Elephant and Castle Opportunity Area.

402 A high density tall building proposal will inevitably have some impact on the local and wider context. On this basis the applicant chose to voluntarily submit an ES in accordance with the EIA Regulations 1999. The ‘Guidance for Tall Buildings’ advises that *‘to be acceptable, any new tall building should be in an appropriate location, should be of excellent design quality in its own right and should enhance the qualities of its immediate location and wider setting. It should produce more benefits than costs to the lives of those affected by it.’* The ES has demonstrated that the identified environmental impacts are acceptable either because they are negligible or of no significance or that mitigation measures can address these impacts. There are some adverse residual effects as a result of the development and these have been identified and taken into account in consideration of the application.

403 The scheme is in accordance with local and national policies and will contribute towards the regeneration of the Elephant and Castle area, in particular within the Enterprise Quarter. Further, the proposal will deliver a sustainable mixed-use scheme that would bring about a marked improvement in the local environment and its appearance which is considered to outweigh any negative impacts. Planning obligations will be secured to offset the impact of the development in accordance with the Supplementary Planning Document on Planning Obligations. The proposal is recommended for approval.

404 Consistent with the objectives set out in the draft NPPF, the application proposal ensures the effective and most efficient use of land and buildings, will help meet Southwark’s housing needs, will promote the vitality and viability of the town centre and will promote prosperity. Consistent with the national policy approach, the

application accord with the principles of sustainable development, is located on an appropriate site, in a sustainable location within the Elephant and Castle town centre, and with access to facilities and services.

- 405 Officers consider the proposed development to be sustainable and not to give rise to significant adverse impacts that would rebut the presumption in favour of the grant of planning permission in the draft NFFS. Thus, that draft policy weighs in favour of the grant of planning permission.

COMMUNITY IMPACT STATEMENT

- 406 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process. In addition to this, the applicant has undertaken their own consultation prior to lodging the application, which is described in the consultation section of this report. The impact on local people is set out above, including aspects covered by the ES.

HUMAN RIGHTS

- 407 The application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with convention rights. The term 'engage' simply means that human rights may be affected or relevant. Few rights are absolute in the sense that they cannot be interfered with under any circumstances. 'Qualified' rights, including the Article 6, Article 8 and Protocol 1 rights, can be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority providing a mixed use development for 335 new residential units combined with a commercial/retail use against potential interference with individual human rights. Public bodies have a wide margin of appreciation in striking a fair balance between competing rights in making these decisions.
- 408 This approach has been endorsed by *Lough v First Secretary of State* [2004] 1 WLR 2557 and clearly shows that human rights considerations are also material considerations in the planning arena which must be given proper consideration and weight. It is acceptable for the Council to strike a balance between the legitimate aim of the provision of a mixed use development against potential interference with some individual rights. Officers advice is that MOS is likely to be able operate without unacceptable impacts arising on future occupiers of the proposed development.
- 409 In the case of this application, a number of rights may be engaged including: -
- *The right to a fair trial (Article 6)* – giving rise to the need to ensure proper consultation and effective engagement of the public in the application process.
 - *The right to respect for private and family life (Article 8)* - Relevant considerations may include impacts on amenities or the quality of life of individuals by prospective development.
 - *Article 1, Protocol 1 (Protection of Property)* – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property / homes. Article 1 provides that: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law". Ministry of Sound being a legal person is therefore entitled

to the protection offered by this article. If the proposed development were identified as likely to have an adverse impact upon MoS then the balancing exercise identified by MoS in its letter of 10 September 2010 would have to be undertaken. However, the advice is that MoS is likely to be able to operate without unacceptable impacts arising on future occupiers of the proposed development.

SUSTAINABLE DEVELOPMENT IMPLICATIONS

410 Saved Policy 3.3 of the Southwark Plan asserts that development will not be granted unless the economic, environmental and social impacts of a development have been addressed through a Sustainability Assessment. Saved Policies 3.4 and 3.5 of the Southwark Plan seek energy efficient development and renewable energy technology in new development. Saved Policy 3.6 seeks to maintain air quality. Policy 3.9 advises that all development should incorporate measures to reduce the demand for water supply. Policy 5.2 of the London Plan requires that major development schemes should provide an assessment of their energy demands and demonstrate how they have taken steps to apply the Mayor's energy hierarchy. Policy 5.7 of the London Plan seeks a reduction in carbon dioxide emissions from on site renewable energy generation. The scheme is predicted to save 52% in carbon emissions compared to the baseline.

411 A Sustainability Assessment was submitted with the application which followed the energy hierarchy as follows:

- 1) 'Be Lean' (Reduce carbon dioxide emissions through use of energy efficiency measures to produce a new energy efficiency baseline): The reduction in energy consumption can be achieved through various energy efficiency measures. A range of energy efficiency measures are proposed, including centralised plant i.e. the future MUSCO connection, also providing non-potable 'green' water services for use in the WC's, washing machines and dishwashers, low energy lighting, high efficient boilers, optimised facade and enhanced thermal insulation, building energy management system, whole house ventilation. In addition, water efficiency measures are proposed which will limit consumption to 105 litres per day. Biodiversity- The site is currently entirely hard surfaced, so the intention to provide a green wall will promote biodiversity by allowing flora and fauna to populate it and it will assist in localised climate control. The linear park and resident garden will assist surface water drainage as well as improving biodiversity. Overall these measures will result in the proposed development achieving a reduction in total CO₂ emissions of the development will be 15% (120,292 kWh per annum) from these Be Lean measures, though the GLA suggest the figure is closer to 18%.
- 2) 'Be Clean' (Further reduce carbon dioxide emissions from CHP connection to provide a new energy baseline): the development proposes connection to the Elephant and Castle MUSCO network and plant room space has been provided in the basement to allow for this. The proposal to connect to the MUSCO results in a 32% reduction in total CO₂ emissions of the proposed development.
- 3) 'Be Green' (Reduce (by 20%) the energy supply baseline through renewables installation): The design of the tower, having a high building efficiency (i.e. a high number of dwellings to a small building footprint) restricts the ability to generate renewable energy from on site installations. Whilst a range of different options were considered, the best option was considered to be the installation of 644sq.m of photovoltaic panels on the roof, which could further reduce emissions by 5% (36,566 kWh per annum).

412 Whilst the development may not reach the full 20% renewables target, it is considered

that under the circumstances given what appears to be a substantial CO2 saving of 52%, there is no objection in terms of the approach to energy, and it is considered that the Energy Hierarchy has been followed appropriately.

- 413 Core Strategy policy 13 sets a target to achieve Code for Sustainable Homes Level 4 for all residential units. A preliminary Code for Sustainable Homes assessment was submitted which estimated that the scheme should achieve a Code for Sustainable Homes Level 3. However the applicant has agreed to a condition requiring level 4 as the development is capable of meeting this through additional measures which will become evident as the detail of the scheme develops. A preliminary BREEAM assessment was submitted in relation to the commercial element, which indicated that the scheme should achieve a 'Very Good' rating, which is below the new standard of excellent set by Core Strategy 13. Again the applicant is confident that excellent can be achieved and has agreed a condition to that effect is acceptable. The required standards will therefore be secured by condition and will be in compliance with sustainability policies of the London Plan, Core Strategy and Southwark Plan.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/1396-A Application file: 09-AP-0343 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020-7525-5527 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Images

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Brídín O'Connor, Development Management	
Version	Final	
Dated	27 September 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Strategic Director of Regeneration and Neighbourhoods	No	No
Strategic Director of Environment and Leisure	No	No
Date final report sent to Constitutional Team	30 September 2011	