

## **Introduction**

This Statement has been prepared on behalf of the Department for Health and Social Care ('DHSC') and Barts Health NHS Trust ('Barts'). It follows duly-made representations at the Regulation 18 and Regulation 19 stages of plan preparation that were made on behalf of Barts. Since those representations were made DHSC has acquired an interest in the land and is now working in partnership with Barts.

## **Statement of Common Ground**

The Council addressed many of the minor comments in our Regulation 18 representations in its Regulation 19 draft, as acknowledged in our Regulation 19 representations.

In respect of outstanding matters we have entered into a Statement of Common Ground with the London Borough of Tower Hamlets. This sets out areas of agreement and continued disagreement. Where matters set out in our Regulation 18 and Regulation 19 representations have not been addressed by the Council, we ask that the Inspector also pays full regard to those representations in her examination of the draft Local Plan.

## **Outstanding Matters**

### **1. Requirement for Healthcare Provision in Site Allocation**

As currently worded and in respect of healthcare, the proposed site allocation says:

*"Delivery of a health facility should be a NHS-funded primary care and re-provide the existing sexual health facility."*

Both DHSC and Barts welcome recognition that the healthcare needs of the population should be addressed through the Local Plan, including by way of site allocations. However, it is not for the NHS to be subsidising development by funding new buildings / facilities that are needed because of additional development in an area; if the Council wishes there to be a new health facility from which the NHS will deliver primary care services, the proper route to fund a facility must be by way of section 106 or CIL receipts.

NHS / DHSC estates and land are key assets that can improve the long-term financial sustainability of the NHS. Services must be located in fit for purpose, modern and multi-functional healthcare facilities. This requires the support of local planning systems to ensure that new facilities optimise site capacity through new delivery methods, whilst also allowing for the rationalisation of the existing estate, in order to release land for alternative uses. The planning system should work to balance the long-term planning and sustainability of healthcare infrastructure and finances.

There is an existing sexual health facility on the site on Plot B (12b) that would need to be relocated if redevelopment of that site were to take place. We note, however, that this is a commissioned service and therefore its future location and future more generally is beyond the control of landowners including DHSC and Barts; in England other bodies (Clinical Commissioning Groups, NHS England and local authorities) have comprehensive statutory obligations regarding to the commissioning of healthcare services. Large trusts such as Barts Health NHS Trust may run services that are commissioned by a variety of different bodies, however.

**London Borough of Tower Hamlets Local Plan**  
**Statement on Behalf of Barts Health and the Department of Health & Social Care**

In this case Barts is currently commissioned to operate a sexual health facility on the land that is the subject of the proposed allocation. Redevelopment of this land would necessitate relocation of the sexual health facility in the event that Barts is still operating the facility at the time of redevelopment.

When the local authority re-commissions this service it may decide that it wants a party other than Barts to deliver the service. In such circumstances that party would have to find premises that are affordable for the provider, and which meet commissioners' requirements in terms of location and specification. There is no guarantee that such premises would be within the area of the proposed site allocation.

In any event, if Barts was still operating the service when redevelopment took place, it would have to agree a new location that was to the commissioners' satisfaction. Again, this may well be in a location away from 'Whitechapel South'; it could, for example, be within the main Royal London Hospital which is outside of the proposed site allocation.

In summary delivery of the service is not a matter for planning policy and is not a matter that is within the control, or even under the influence, of the landowner. To require such through the planning system would be *ultra vires*.

Instead, all that can be required is for a suitable space to be provided for this service, but only in the event that it has not already been re-provided elsewhere or if there are no firm plans in place for its relocation. If relocation has already taken place or is planned then any requirement to provide space for such a facility should fall away to enable other suitable land uses to be delivered.

## **2. District Heating Facility**

Whilst energy centres are becoming more and more common, they are usually associated with flatted residential or commercial developments where a common energy supply is administered by a management company or where large single users can justify the cost because of their power requirements (eg large hospitals).

Because there is a free market for energy supply, it is anti-competitive to require parties to buy / draw energy from a particular source; one can only require the ability to make a connection (for example by creating conduits between an energy centre and a development). Even then it will be up to the occupiers of a development to make a deal with the energy centre operator, and they may never want to.

This presents a fundamental problem for the approach proposed by the Council. To serve all of the Whitechapel South proposed allocation the developer of the energy centre would have to have certainty that all developments would contract with the energy centre operator. If such agreements were in place it could 'right size' the energy centre and energy generation equipment to suit.

However, if all developments do not align in such a way (which would require alignment both in terms of timescales for development and intentions) it is unlikely that any single developer would provide sufficient spare capacity to serve other developments on the off-chance that at some time in the future the developers might want to draw energy from the energy centre.

For this reason we believe that this aspiration is set to fail – all developments in the Whitechapel area are unlikely to come forward at the same time. Some developers (eg LBTH itself) will say that an energy centre is unfeasible of their land and others may want to draw power from the National Grid. Furthermore, careful feasibility work would be needed in relation to the precise location of such a facility because of, for example, the distance decay effect in the transmission of heat and power and

**London Borough of Tower Hamlets Local Plan  
Statement on Behalf of Barts Health and the Department of Health & Social Care**

the existence of significant below-ground infrastructure that could complicate energy and / or heath transmission.

If such an aspiration is to succeed, an alternative model needs to be pursued, such as Citigen (where E.on operates a commercial decentralised power station near Smithfield Market, to which developments can connect if they want to do so).

### **3. 'Green Spine' / Open Space**

Our client has objected to the so-called 'Green Spine' at each stage of the plan preparation process and strongly maintains those objections.

The London Borough of Tower Hamlets has recently provided us with a map showing what it says is approved public open space in the Whitechapel South area. The Council has also referred us to other 'evidence base' documentation that we have not previously been given an opportunity to comment on to date but which, the Council says, also supports the delivery of open space in the form of a 'Green Spine'.

At **Appendix 1** we attach an explanation of our clients' continued and very strong objection to the Council's proposals as they currently stand.

### **Other Matters**

#### **Necessary Flexibility for Healthcare Providers**

In relation to draft **Policy D.CF2** (*Safeguarding Community Facilities*) we encouraged the Council to include the necessary flexibility to enable providers to work within other regulatory regimes. We noted that in relation to health services it could be that case that facilities are no longer required and therefore the land should be put to a more effective use; or that services are commissioned from another party and from other premises elsewhere. We also sought recognition that for organisations with large estates there may also be opportunities to rationalise the amount of space without compromising service delivery.

This is particularly the case in the healthcare sector. For example where patients were once treated in hospitals, many more can now be treated more effectively in community settings. Some patients also benefit from new technology, eg patients with implanted pacemakers or defibrillators can have their conditions monitored wirelessly via the internet. These and many more innovations all have an implication on the amount of healthcare space that is needed.

In his 2017 draft London Plan the Mayor of London has recognised that better use can be made of the public estates. At draft **Policy S1** (*Developing London's Social Infrastructure*) the Mayor *inter alia* says that:

- development proposals that seek to make best use of land, including the public-sector estate, should be encouraged and supported. This includes the co-location of different forms of social infrastructure and the rationalisation or sharing of facilities; and
- development proposals that would result in a loss of social infrastructure in an area of defined need should be refused unless the loss is part of a wider public service transformation plan which requires investment in modern, fit for purpose infrastructure and facilities in order to meet future population needs or to sustain and improve services.

**London Borough of Tower Hamlets Local Plan  
Statement on Behalf of Barts Health and the Department of Health & Social Care**

Both of these provisions are incredibly helpful to the public healthcare sector and, provided that they are applied as intended, should not give rise to any harm to the aims of the development plan to, where necessary, protect and to ensure the sufficiency of social infrastructure.

In respect of healthcare development, and as we have noted elsewhere, the responsibility for the specification and delivery of services sits outside of the planning system and is secured by statute. Because of continued innovation in treatments and care the physical needs of the healthcare sector can also rapidly change and a decrease in healthcare floorspace does not correlate with a change in treatment or care. In fact, reconfiguration can often be the agent of improvement given that redevelopment or disposal of surplus land or buildings can generate funds to enable innovation to occur.

As such we strongly advocate that the abovementioned provisions of draft London Plan **Policy S1** be mirrored in draft Local Plan **Policy D.CF2** (*Safeguarding Community Facilities*).

**Montagu Evans LLP  
1 August 2018**

on behalf of  
**Barts Health NHS Trust and the Department of Health and Social Care**

## Appendix 1 – Barts Health’s and DHSC’s Objection to the ‘Green Spine’

In the draft Statement of Common Ground the Council noted that:

- The principle of the Green Spine has been set out in the Open Space Strategy (2017), Green Grid Strategy (2017) and the Whitechapel Vision Masterplan Supplementary Planning Document (2013).
- The Council will measure the consented spaces which will contribute towards the 1 hectare requirement of the strategic open space [in Whitechapel South].

We will begin these additional representations by discussing the documents that the Council says support the ‘Green Spine’ concept.

### Documents Referred to by the Council

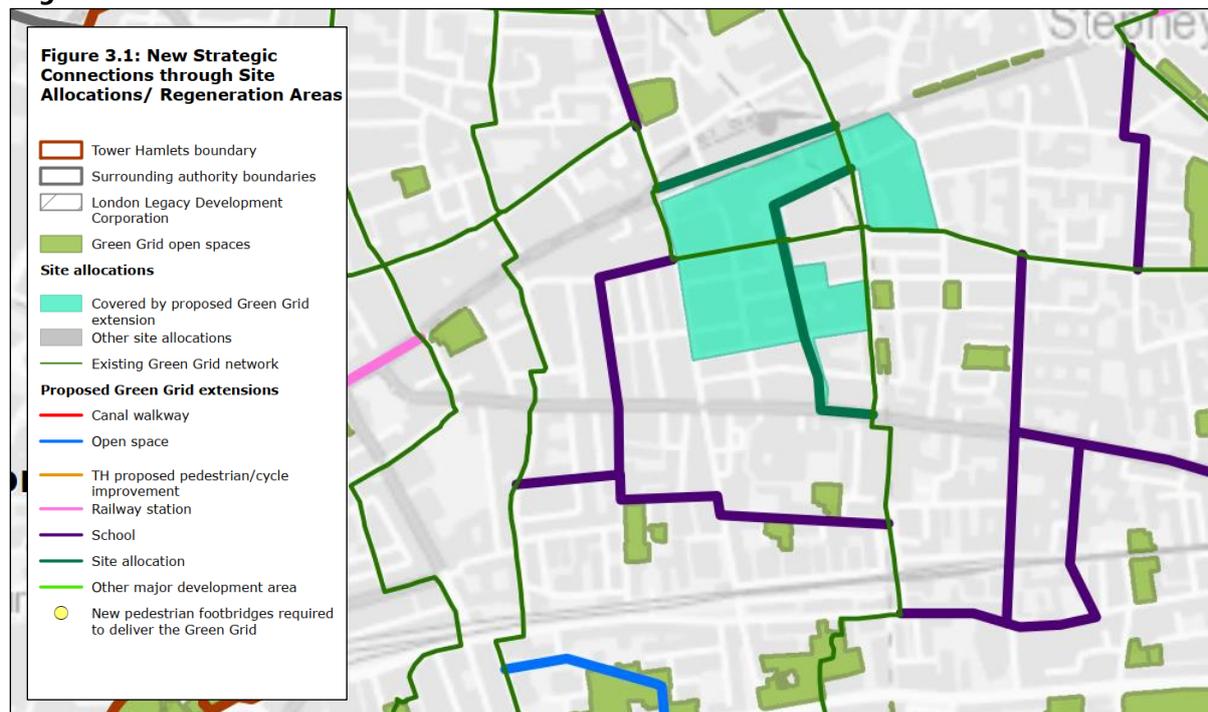
#### **Green Grid Strategy (June 2017)<sup>1</sup>**

In our December 2016 Regulation 18 representations we noted that the Green Grid Strategy, referred to in the Regulation 18 draft Local Plan, had not been published. Whilst a document was published in June 2017, and as far as we are aware, no consultation was ever undertaken on this document. In our opinion consultation is imperative where proposals affect a party’s interest in land. Furthermore, we are unaware of our clients’ views on the Green Grid Strategy ever being directly canvassed.

The June 2017 document says that the aim of the Green Grid Strategy is to create a framework for the design and delivery of appealing walking routes and associated green infrastructure across Tower Hamlets, to secure a healthy and attractive environment for residents, workers and visitors.

An extract from Figure 3.1 of the Strategy is below.

#### **Figure A1 – Extract from Figure 3.1: New Strategic Connections through Site Allocations / Regeneration Areas**

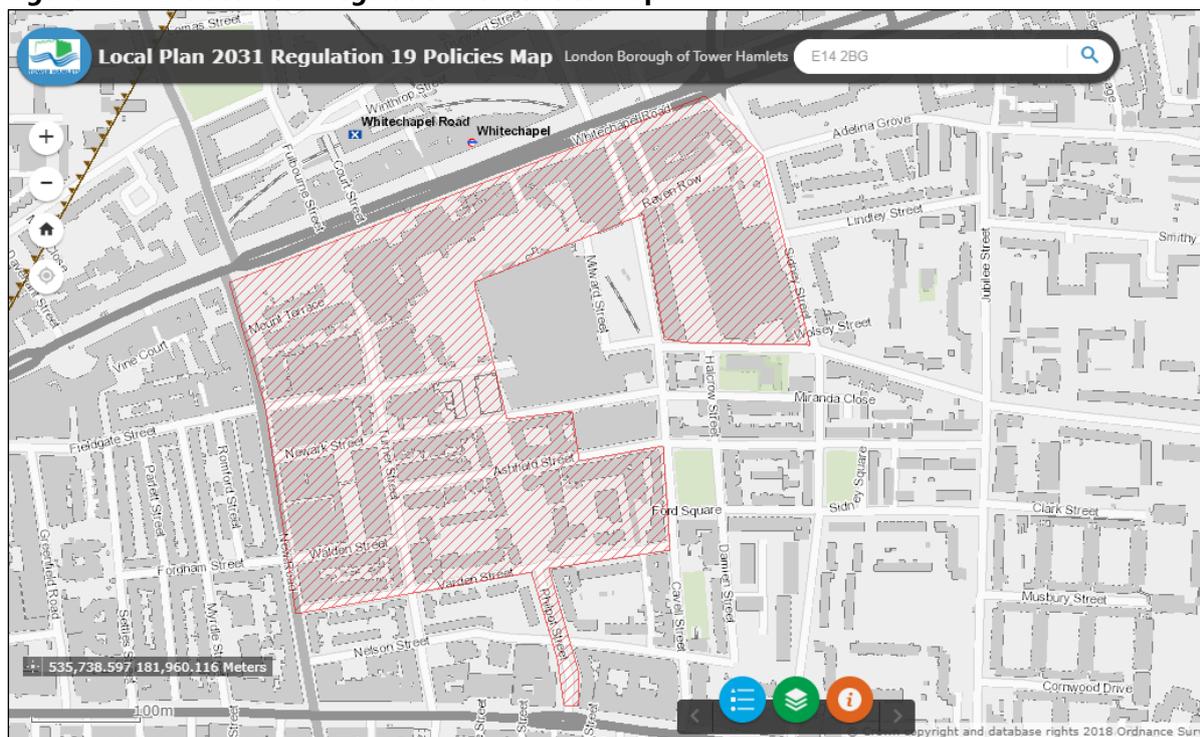


Source – London Borough of Tower Hamlets.

<sup>1</sup> [https://www.towerhamlets.gov.uk/Documents/Planning-and-building-control/Strategic-Planning/Local-Plan/Green\\_Grid\\_Update\\_2017.pdf](https://www.towerhamlets.gov.uk/Documents/Planning-and-building-control/Strategic-Planning/Local-Plan/Green_Grid_Update_2017.pdf)

The green 'site allocation' area covers the same area as the proposed Whitechapel South allocation, indicated below.

**Figure A2 – Extract from Regulation 19 Policies Map**



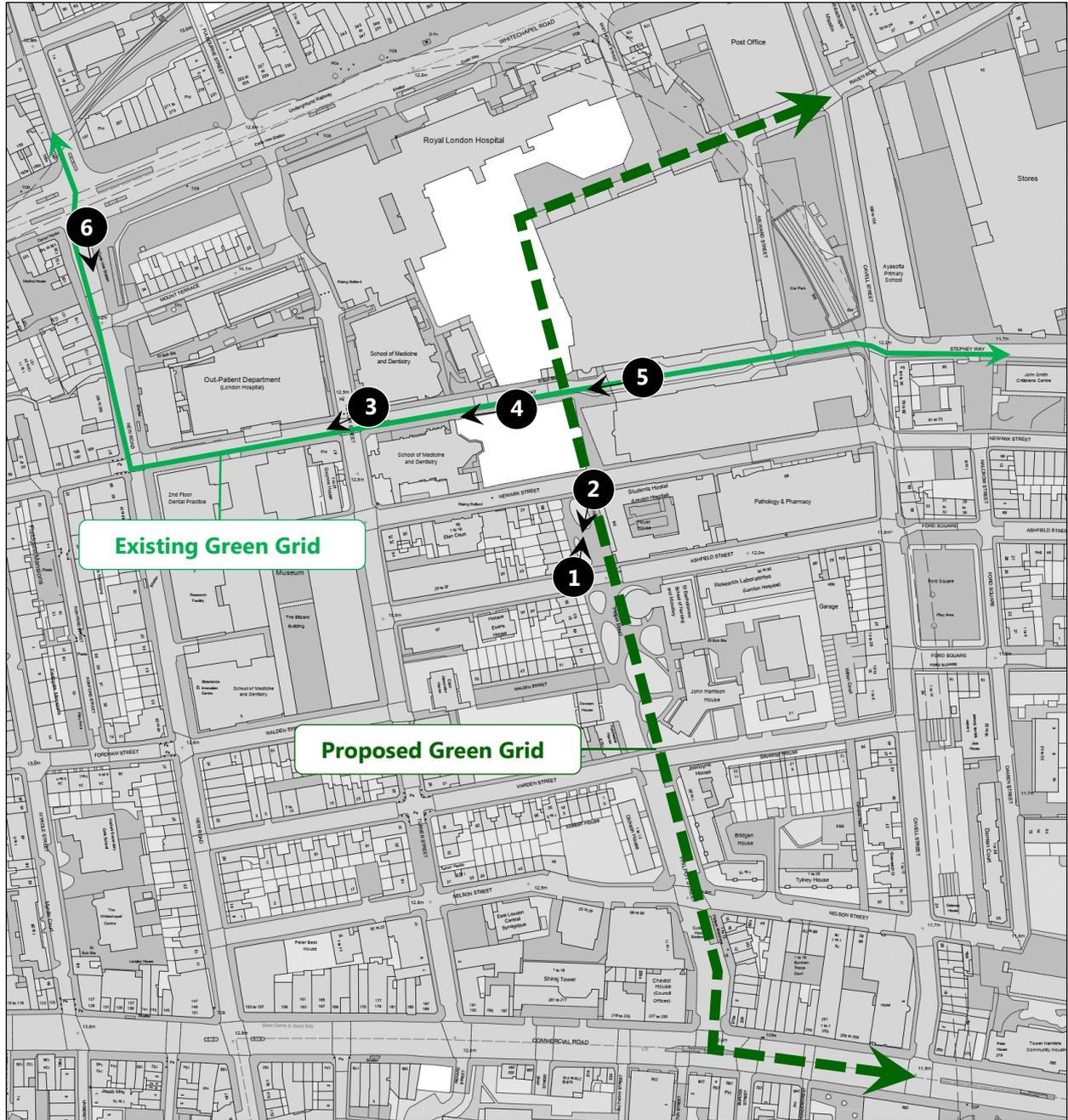
Source – London Borough of Tower Hamlets.

Within the proposed site allocation area is part of the existing Green Grid which runs along Stepney Way. There is also a proposed extension to the Green Grid (illustrated with a thicker green line) running through proposed site allocation via Philpot Street. For clarity we have marked these on an Ordnance Survey-based map below (**Figure A3**).

We also provide photographs to illustrate the character of the Green Grid in this area, the viewpoints for which are marked on **Figure A3**.

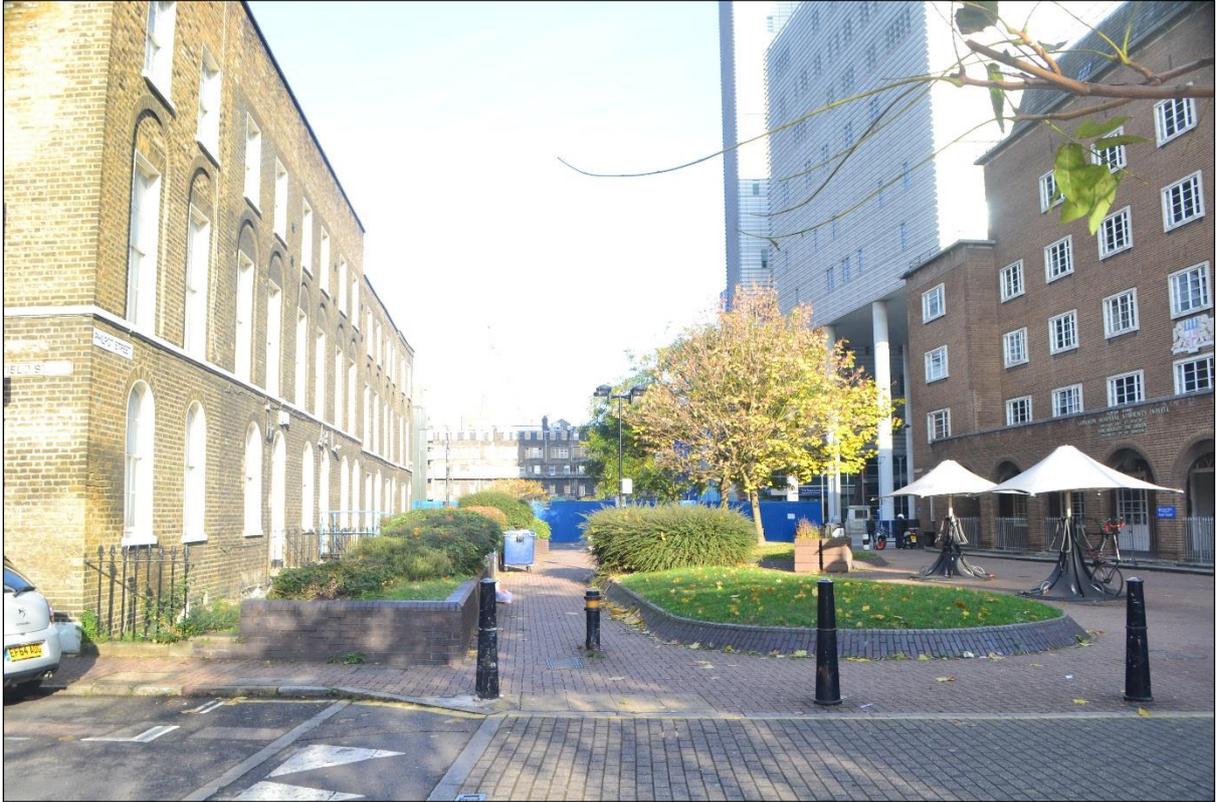
We note that large parts of this are not green spaces but traditional 'streets' (see subsequent photographs).

Figure A3 – Ordnance Survey-based Map Showing Existing and Proposed Green Grid in Site Allocation Area and Photograph Viewpoints



Source – Ordnance Survey © Crown Copyright. Licence Number 100022432.

Photograph 1 – Looking North along Philpot Street



Photograph 2 – Looking South along Philpot Street



Photograph 3 – Looking West along Stepney Way



Photograph 4 – Looking West along Stepney Way



Photograph 5 – Looking West along Stepney Way from Hospital



Photograph 6 – Looking South along New Road



The 2017 Green Grid Strategy says on pages 20 to 21 that there is a need for the Green Grid to take into account new strategic routes and green spaces set out in site allocations and adopted SPDs. It notes that the Bromley-by-Bow Masterplan and Whitechapel Masterplan (which we assume refers to the 2013 Whitechapel Vision SPD) both contain guidance which allocate parcels of land for green space that can be incorporated into the Green Grid. We will discuss the Whitechapel Masterplan / Whitechapel Vision below.

In respect of the 2017 Green Grid Strategy it seems clear to us that, contrary to the Council's assertion that the principle of the Green Spine has been set out in the Green Grid Strategy, the Green Grid Strategy merely refers to the 'Green Spine' as proposed in the Whitechapel Masterplan.

With regard to implementation the executive summary of the 2017 strategy says that: *"following this update [to the Strategy] and incorporation in the Local Plan, implementation will be secured through planning obligations, the Community Infrastructure Levy and direct implementation through major developments, thereby creating a cohesive network."* We will return to issues relating to implementation below.

### **Open Space Strategy (September 2017)<sup>2</sup>**

As with the Green Grid Strategy, and as far as we are aware, no consultation was ever undertaken on this document. Again, it is our opinion that consultation is essential where proposals in a document that may be used in the development control process, or as evidence in support of a statutory development plan, affect any party's interest in land. We are also unaware of our clients' views on the Open Space Strategy ever being canvassed.

On pages 37 and 38 it is noted that Whitechapel is outside of the catchment area of a park that is larger than 1 hectare, 2 hectares, or 20 hectares.

On page 79 the areas that are beyond five minutes' walk from parks that are larger than 2 hectares are noted. Whitechapel is one such area and it is also highlighted as an area that is expected to see particularly high levels of population growth. It notes that: *"It is expected that more people in these areas, in particular, need to travel far to access parks over 2ha, unless additional open space between 1ha and 2ha is created."*

Figure 49 of the Open Space Strategy summarises 'Projected open space deficiency, catchment areas and proposed measures (by ward)' and the measures for Whitechapel (on page 83) are reproduced below. On page 82 the following is noted:

*"Specifically, the mitigation distinguishes between (a) areas of search for **new strategic open space (1ha and above) in the wards of highest need** and (b) wider measures to provide a well-connected network of smaller open spaces across the borough. Areas of search for new strategic open space will inform the site allocations element of the emerging Local Plan."*(our emphasis)

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<sup>2</sup> [https://www.towerhamlets.gov.uk/Documents/Planning-and-building-control/Strategic-Planning/Local-Plan/Open\\_Space\\_Strategy\\_2017.pdf](https://www.towerhamlets.gov.uk/Documents/Planning-and-building-control/Strategic-Planning/Local-Plan/Open_Space_Strategy_2017.pdf)

Figure A4 – Extract from Page 83 of the Open Space Strategy

Ward	Projected open space issues			Strategic response				Delivery mechanism
	Projected deficiency in 2031 (ha per 1,000 people)	Catchment for access to Local Parks as per London Plan	Very strong lines of severance	Proposed typology of new space	Rationale & purpose	Location within ward	Other measures to provide accessibility to open space	
Whitechapel	High	Mostly out of catchment area	No	Pocket park through Green Grid Strategy  Green spine as part of Whitechapel Vision	Provide connectivity to existing spaces, limited ability to create new space within development sites	Along Green Grid  Along green spine identified in Whitechapel Vision	Improved connectivity to existing sites	Green Grid Strategy  Whitechapel Vision

Source – London Borough of Tower Hamlets.

This does not specify the amount of open space that should be provided but recommends a ‘pocket park’ as part of the Green Grid Strategy and a ‘Green Spine’ as part of the Whitechapel Vision.

No other evidence is provided in this document to justify the ‘Green Spine’. Once again, therefore, it seems clear to us that, contrary to the Council’s assertion that the principle of the Green Spine has been set out in the Open Space Strategy, the Green Grid Strategy merely refers to the ‘Green Spine’ as proposed in the Whitechapel Masterplan.

In respect of implementation it is stated on page 82 that:

*“It is expected that new publicly accessible open space will be owned and maintained by the respective land owners, with public access to the space secured through legal agreements as part of the planning process. Such an approach will secure new publicly accessible open space whilst recognising the council’s financial position in years to come. Legal agreements will be required to secure the widest possible access to these new spaces.”*

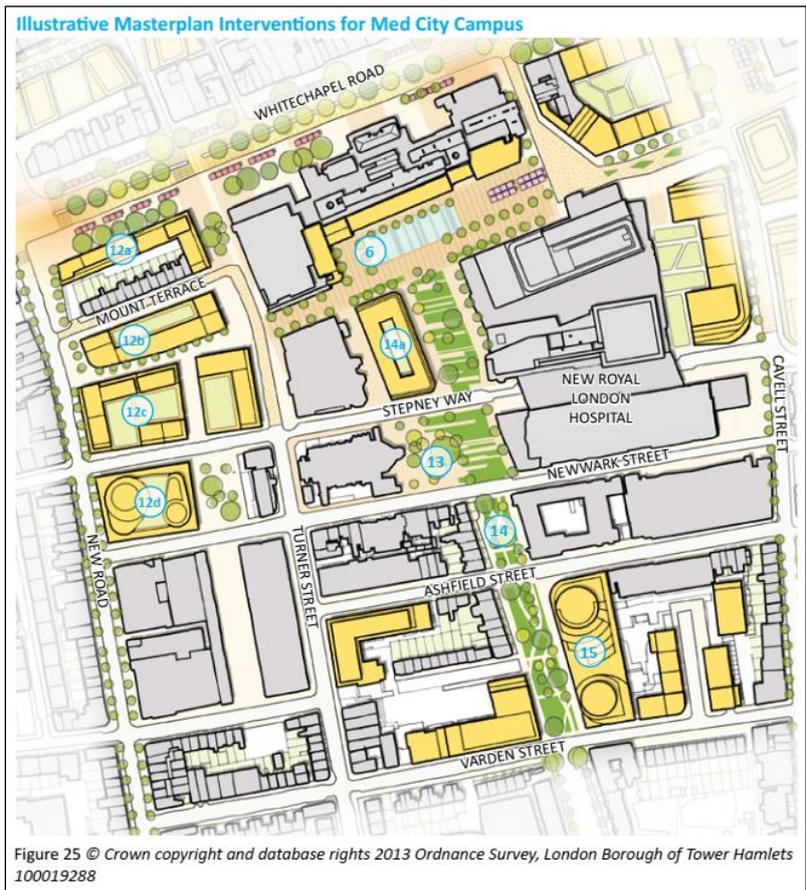
**Whitechapel Vision SPD (December 2013)**

In the Whitechapel Vision SPD it is noted on page 13 that: *“The green spine creates a pedestrian-friendly green space through the heart of the Med City Campus with new direct connections to Whitechapel Road.”* The proposed ‘Green Spine’ is illustrated on Figure 25 which is reproduced below for ease of reference (**Figure A5**). We also reproduce the accompanying notes which set out the Council’s expectation of the type of development that may take place on various parcels of land in this part of Whitechapel. This figure covers all of the land owned by DHSC as well as land owned by Barts.

We also reproduce the accompanying Figure 24 which sets out the ‘Key Urban Design and Planning Principles’ for the area.

Both of these show a linear open space running north from Varden Street, a ‘square’ to the east of the Grade II\* listed St Augustine with St Philip building, and a large public open space to the south of the Grade II listed former Royal London Hospital building (which is set to become the London Borough of Tower Hamlets’ new civic centre). The aim of this ‘Green Spine’ is to connect Commercial Road with Whitechapel Road even though, as has been noted verbally to us by Council Officers, little can be done to improve Philpot Street to the south of Varden Street because of the narrow width of the public highway.

Figure A5 – Extract from Whitechapel Vision SPD and Associated Annotations



**Masterplan Initiatives**

**12: Creation of a Med City campus**

- Academic, research and health service facilities of RLH, QMUL and other accredited education and research institutions to be primarily clustered in this area to create a campus improving educational attainment and job opportunities for the local community especially among younger people.
- Opportunities for QMUL and other accredited education and research institutions to significantly increase their presence in the area with a comprehensive range of academic, office, student facilities and new housing particularly in the sites fronting onto New Road (12a, 12b, 12c, 12d). While this will primarily consist of new buildings the potential to restore the historic Outpatients Building (12c) should be explored.
- Range of complementary uses to support the campus and new housing will be required, including: retail, community infrastructure, cafes/restaurants, start up business space, accommodation associated with QMUL and other accredited education and research institutions, and ancillary parking to support RLH.
- Potential to provide a new Council leisure facility for the local community in Whitechapel.
- Due to the conservation areas and listed buildings within the area any new development will need to be of the highest quality, and enhance and protect these heritage assets.

**13: Enhance Heritage Assets**

A new church square (13) will sit along the green spine to create a unique space that frames the Grade II\* listed Church of St. Augustine with St.Phillips.

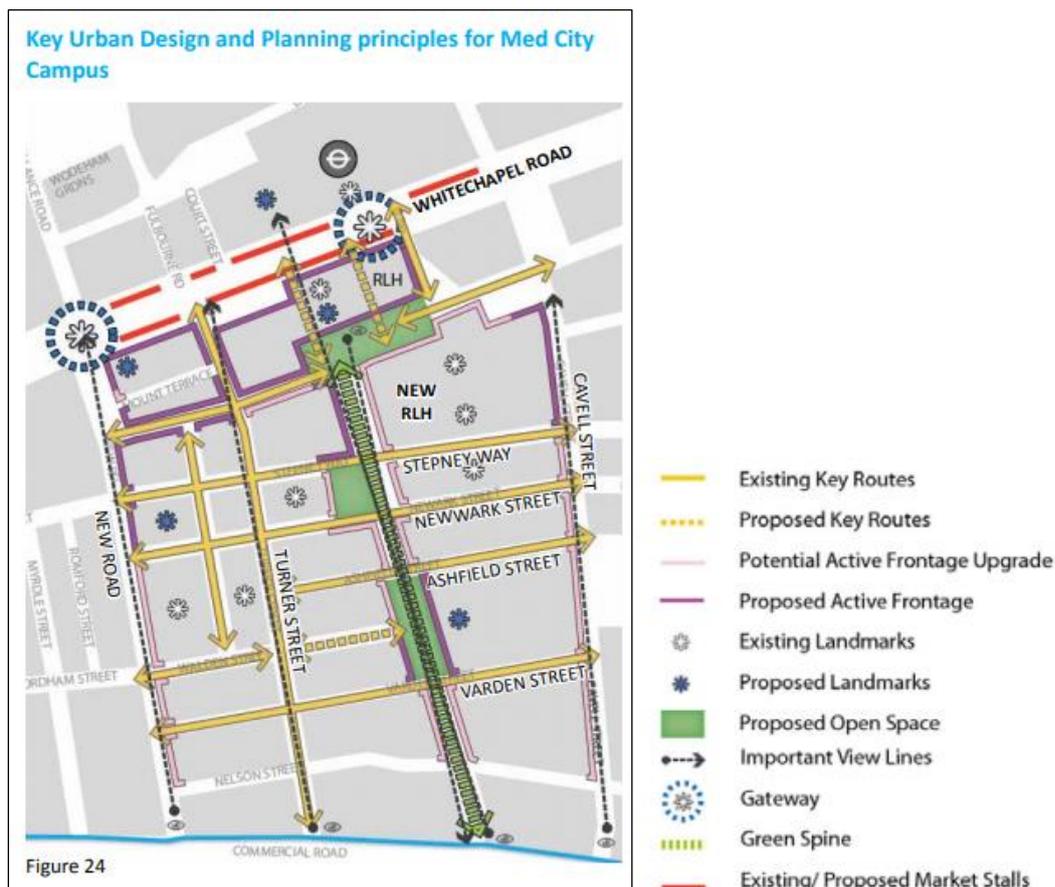
The new square will also enhance the setting of the Grade II listed 43-69 Philpot Street, and the London Hospital Conservation Area.

**14: Creation of a Green Spine**

A defining feature of the campus area is the new Green Spine that runs from Commercial Road up along Philpot Street, through to the new civic square at the Civic Hub (6) and beyond up to Whitechapel Road. The Green Spine will:

- Create a convenient north-south pedestrian route improving permeability and movement links through the area
- Create an active green space for social interaction, events and spill out space for surrounding uses
- New buildings (15 & 14a) fronting onto the green spine should contribute to the Med City campus and provide active frontages at the ground floor

Figure A6 – Extract from Whitechapel Vision SPD



On page 29 of the Whitechapel Vision SPD a 'Delivery Schedule' is set out (reproduced below as Figure A7).

Figure A7 – Extract from Whitechapel Vision SPD

DELIVERY SCHEDULE						
The delivery schedule below sets out how this key place transformation into a Med City Campus will be delivered over the lifetime of the SPD, setting out the individual projects, their priority, timescales, potential delivery agents/partners, funding streams, and key next steps.						
Plan Ref	Project Description	Project rationale	Delivery Partners	Funding streams	Priority	Timescale
13 14	<p><b>Green Spine:</b> Creation of new north/south central green linear park between Whitechapel Road and Commercial Road across the 'Med City' new campus</p> <ul style="list-style-type: none"> <li>Refurbishment of existing green space.</li> <li>New lighting and street furniture</li> <li>New church square with public art and entertainment</li> </ul>	<ul style="list-style-type: none"> <li>Create a much needed active green space for Whitechapel with a range and diversity of places for the community to enjoy, relax and socialise within.</li> <li>Enhance the setting of existing heritage assets including important listed buildings</li> </ul>	<ul style="list-style-type: none"> <li>Developers</li> <li>QMUL</li> <li>Other accredited education and research institutions</li> <li>Barts Health NHS Trust</li> <li>LBTH</li> <li>English Heritage</li> </ul>	<ul style="list-style-type: none"> <li>S106 / CIL</li> <li>Private Sector</li> </ul>	High	Short-term (2013-2018)
12a 12b 12c 12d 14a	<p><b>Barts Health NHS Trust owned sites (New Road) Regeneration of New Road</b> and surrounding streets to include buildings and public realm running south from Whitechapel Road to Newark Street:</p> <ul style="list-style-type: none"> <li>Mix of educational/office space and residential uses above (potentially related to QMUL and other accredited education and research institutions) in blocks to the south of Whitechapel Road, along New Road.</li> <li>Complementary town centre commercial and community uses with active frontages at lower street levels</li> <li>Accommodation associated with QMUL, other accredited education and research institutions and new market and affordable housing</li> <li>Creation of iconic buildings, structures and high quality public realm at the western gateway north of the listed Mount Terrace with the potential to provide a new pedestrian link to Whitechapel Road</li> <li>Potential for the scheme to have capacity to accommodate new leisure and community sports centre</li> <li>Some ancillary car parking associated with RLH</li> </ul>	<p>Parts of the Barts Health NHS Trust are available now for redevelopment due to the provision of a new hospital.</p> <ul style="list-style-type: none"> <li>Create a more legible and coherent series of development blocks to form a new 'Med City' campus for Whitechapel</li> <li>Increase permeability and connectivity through this large site</li> <li>Renew this key area of Whitechapel</li> <li>Increase the presence of QMUL, other accredited education and research institutions and RLH in the area</li> <li>Increase job opportunities within the education and health sectors and provide enhanced educational opportunities</li> <li>Increase residential density</li> <li>Enhance the setting of the Grade II listed 18-34 Mount Terrace</li> </ul>	<ul style="list-style-type: none"> <li>Barts Health NHS Trust</li> <li>QMUL</li> <li>Other accredited education and research institutions</li> <li>Developers</li> <li>Registered Providers</li> <li>TL</li> <li>LBTH</li> <li>English Heritage</li> </ul>	<ul style="list-style-type: none"> <li>Private sector funding</li> <li>Landowners</li> <li>Developers</li> <li>S106/CIL</li> </ul>	Medium	Short-term (2013-2018)

As is clear the Council envisages in this document that the funding streams for the 'Green Spine' will be S106 / CIL contributions and the private sector.

### **What the Regulation 18 and Regulation 19 Draft Local Plans Say**

#### **Regulation 18 Draft**

In the 2016 draft Local Plan one of the 'Site Development Requirements' for the draft Whitechapel South allocation is Open Space. No amount of open space is prescribed, however. Under the heading 'Design Principles' it is stated that:

*"Development would need to be in accordance with the guidance set out in the Whitechapel Vision SPD (2012) and reinforce key strategic routes east-west and north-south by providing high quality linear open spaces and increase permeability to the existing surrounding street network. New developments should relate to this street pattern, for instance the formation of perimeter blocks and the reinforcement of corners."*

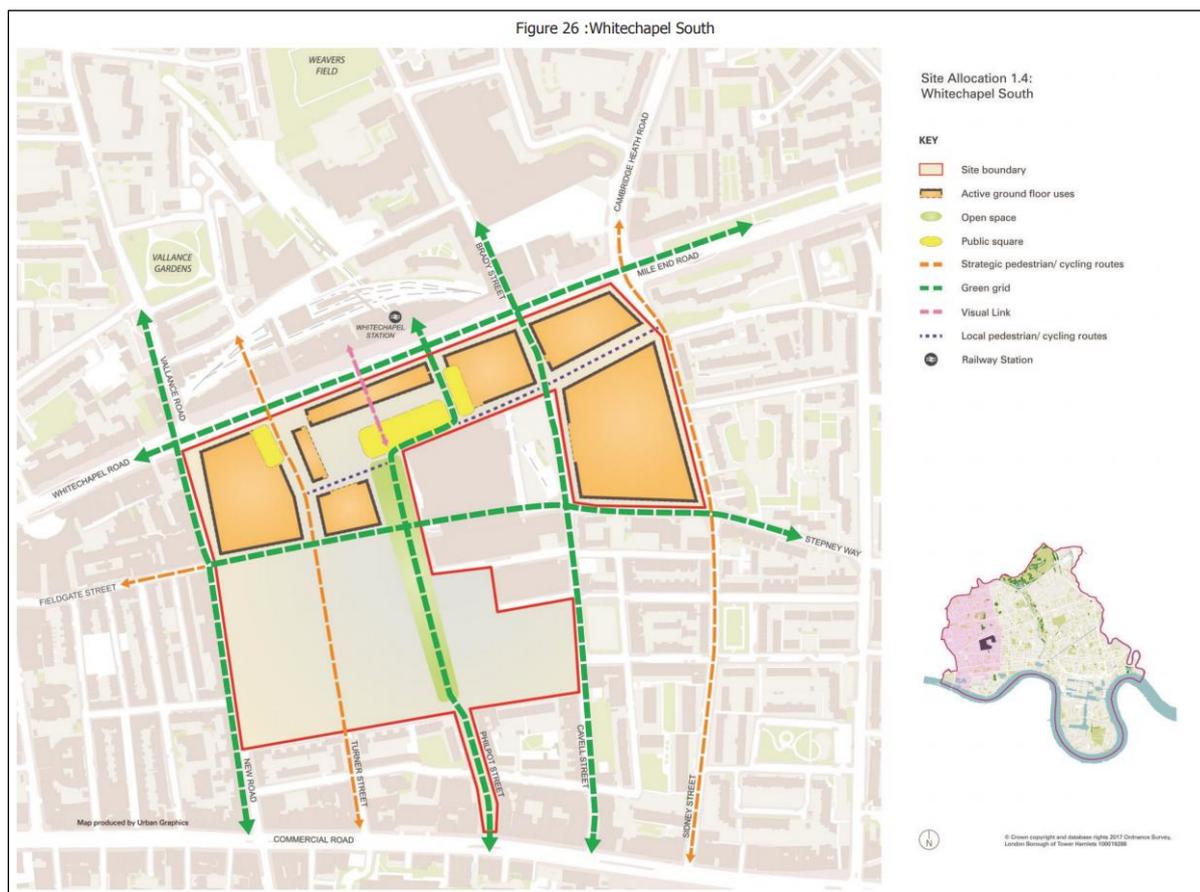
#### **Regulation 19 Draft**

In the 2017 Regulation 19 version, which post-dates the Open Space Strategy, one of the 'Infrastructure Requirements' is "*Strategic open space (1 hectare)*". Under the heading 'Design Principles' it is stated that development will be expected to *inter alia*:

- create a sense of place set around a public square being the former Royal London Hospital building and new public square immediately to the east of St Augustine with St Philip's Church to positively integrate the life sciences and research hub with the new civic centre and the green spine; and
- facilitate the delivery of consolidate interconnected open spaces which link Whitechapel town centre to Commercial Road through the following:
  - a. Provision of new and improved open space should stretch from Philpot Street to the new civic centre. It should be linear in nature and provide a direct visual link across its length.
  - b. Buildings in alignment with the green linear open space should make a positive contribution to reinforce north-south legibility with permeable routes and visual links through the new development.
  - c. Existing consented open space which has yet to be implemented on site is an integral element to the provision of the 1 hectare of strategic open space should be re-provided. Where opportunities exist, development will be expected to consolidate and integrate the consented open space with the new green linear open space (known as the green spine) to maximise its multi-functional use.

Accompanying the draft site allocation is the following diagram.

Figure A8 – Extract from Draft Local Plan



Source – London Borough of Tower Hamlets.

### Discussion

We have noted in our previous representations that it seems unlikely that a ‘green spine’ connecting Commercial Road and Whitechapel Road can be delivered in its totality, not least because its alignment would be interrupted by the Grade II listed former Royal London Hospital building which fronts Whitechapel Road. On that basis we requested that the Council be less prescriptive in the form of open space that it is seeking, recognising always that the Council would require open space to be provided to address the needs arising from certain types of development, particularly residential (ie in accordance with emerging **Policy D.OWS3 (2)**, with which our clients do not have an issue as a proposition on its own).

### Amount of Open Space

In the Regulation 18 version the draft Local Plan the Council did not specify any requirement in terms of the physical extent of open space.

Between the Regulation 18 and Regulation 19 versions of the emerging Local Plan the Council published the Open Space Strategy which says that there is a deficiency of open space in Whitechapel. It then says that open space that can meet a ‘strategic’ need (which is defined in the Open Space Strategy as 1 hectare or more) is needed.

A ‘requirement’ for 1 hectare of open space in the Whitechapel South allocation then appeared in Regulation 19 version of the Local Plan. When we sought clarification from the Council as to the provenance of 1 hectare requirement we were told that:

*"The evidence for the 1 ha requirement is embedded in the Open Space Strategy (2017) (especially the following page numbers: 27.-28. – classification of open spaces, 81.-83. – mitigation measures and new strategic new open space) and the Infrastructure Delivery Plan (2017). Also, the delivery of the Green Spine has been envisaged as part of the Whitechapel Masterplan Vision (2013)."*<sup>3</sup>

Having reviewed those references it appears to us that the specific 1 hectare requirement is not based on a location-specific requirement but, rather, on a borough-wide *per capita* open space target. It appears that 1 hectare is being required because this area is beyond a certain walking distance from existing large open spaces.

### **Open Space Typologies and Urban Morphology**

On page 79 of the Open Space Study it is stated that:

*"Map 11 indicates five minutes walking distance (400m) from all parks above 2 ha in Tower Hamlets. The map shows that the area where a park over 2 ha is located within 400m is fairly limited. The areas that are beyond five minutes distance from parks above 2ha are found in the following localities. Areas shown in bold are expected to see particular high levels of population growth. Smaller parks and open spaces in these wards may have more users too. It is expected that more people in these areas, in particular, need to travel far to access parks over 2ha, unless additional open space between 1ha and 2ha is created."*

Whilst it does not say as much we think it safe to assume that such new space should perform at least some of the roles performed by the existing open spaces to which people in areas of deficiency would currently have to travel; if it didn't then the new space would not be a realistic alternative.

The Open Space Strategy also sets out expectations for new public space of >1 ha, noting on page 103 that an aim of the Strategy is to *"Inform Local Plan site allocations to ensure sites are identified to bring forward new strategic open space of 1 ha and over which can cater for a range of uses including physical activity."* It also states: *"Local Plan policies set principles for the design of on-site publicly accessible open space, to ensure it supports physical activity, including inclusive play, and healthy lifestyles."*

In the Regulation 19 draft Local Plan it is noted at paragraph 8.12 that:

*"For the purposes of the Local Plan, open space means all land that offers opportunity for play, recreation and sport or is of amenity value, whether in public or private ownership, and where public access is unrestricted, partially-restricted or restricted. This includes all open areas consisting of: major parks (e.g. Victoria Park and Mile End Park), local parks, gardens, local parks, squares, playgrounds, ecological spaces, housing amenity land, playing fields (including playing pitches), allotments and burial grounds, whether or not they are accessible to the public. This definition does not include water bodies."*

The so-called 'Green Spine' would not fall within any of those definitions and, even though the areas shown by LBTH would total 1 hectare, they would amount to little more than a disparate collection of spaces rather than a usable park / public open space. Furthermore, and apart from walking, it is unlikely to make a significant contribution to supporting physical activity, including inclusive play and sports.

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<sup>3</sup> Email from Council on Mon 16/07/2018 16:52 to Paul Burley of Montagu Evans; a copy can be provided if needed.

There is also the question of whether it is realistic to apply a standard open space multiplier across the whole of Tower Hamlets which has a range of urban morphologies.

For example, some areas have low-rise housing near large, planned open spaces such as Victoria Park. Other areas have significant amounts of twentieth century housing and large open spaces created from cleared bomb-damaged areas, such as at Mile End.

The City Fringe (including Whitechapel) is quite different again and has evolved over many centuries with workplaces and housing side-by-side; albeit relatively low rise, it is relatively high density, reflecting its origins in the pre-motor vehicle age. Few public open spaces have ever formed part of this area since it was developed and, whilst a certain amount of de-densification has taken place since the War (particularly with the creation of new public housing estates which include outdoor amenity areas), this area remains without very large open spaces. That said, the area is no less a popular place to live and work. Indeed, the vibrancy of this area from the rich and dense range of uses is perhaps one of the main reasons why this area has become more and more popular over recent years.

Finally, a requirement for an arbitrary amount of open space presents a significant opportunity cost in a part of the borough which, thanks to an excellent PTAL and proximity to one of the world's major financial centres, presents a great opportunity to contribute to the economic prosperity of the borough. As is apparent from both the adopted Whitechapel Vision SPD and the draft site allocation itself, the Council envisages development on the majority of the Barts / DHSC land, and in particular on what Barts / DHSC refer to as plots A, B and C (see **Appendix 2**; the Council refers to Plot A as 12a; Plot B and 12b and 12c; and Plot C as 12d). The Council also envisages development on part of Plot D (which the Council refers to as 13 and 14a), the intention of which is to provide an active and defined edge to the so-called 'Green Spine'. In fact, to deliver the 'Green Spine' running from Varden Street to the southern side of the proposed civic square along with the proposed square to the east of St Augustine with St Philip, one would require approximately 0.6 ha of land, not 1 ha.

**In summary** we consider that:

- the 'requirement' for 1 hectare of open space is arbitrary and is based on a 'one size fits all' borough-wide standard;
- that standard does not reflect the different characters of this morphologically-diverse borough and is atypical of the City Fringe;
- even if it were achievable, 1 hectare of open space in the proposed Whitechapel South allocation would not serve the purposes envisaged for a space of that size in the Open Space Strategy and the emerging Local Plan; and
- there would be a significant opportunity cost if an arbitrary 1 hectare of open space were required.

Rather, it is more likely that a 'Green Spine' would perform the role expected of part of the 'Green Grid' and, therefore, that the most important characteristics of the open space would be the quality and attractiveness of the route and its performance as an efficient conduit for movement. Furthermore, and despite the name, such a route need not be green, as evidenced by the existing Green Grid.

### **Delivery of Open Space**

In our previous representations we have expressed concern that, as currently constructed, the various policies of the emerging Local Plan could in this case result in double or triple dipping, for example where Barts / DHSC is required to address open space requirements arising from its own development

and must provide additional open space to meet wider purported needs and must pay the Community Infrastructure Levy, part of which can be spent on open space according to the Council's Regulation 123 List. This is fundamentally unfair and the policies of the final plan must be drafted so as to avoid this issue.

With regard to the delivery of open space at Whitechapel, the situation is confusing. As established above the only document that establishes the principle of the so-called 'Green Spine' is the Whitechapel Vision and it is that document that has informed the Green Grid Strategy and the Open Space Strategy. The desire to see a 'Green Spine' has then been conflated with a later desire (that is not fully justified) to see 1 hectare of open space in Whitechapel, and it appears that the latter has then been 'reversed' into the former.

The Whitechapel Vision says that the Green Spine will be delivered using private funding and CIL receipts. However, the Green Grid Strategy tells us in its Executive Summary that:

*"following this update [to the Strategy] and incorporation in the Local Plan, implementation will be secured through planning obligations, the Community Infrastructure Levy and direct implementation through major developments, thereby creating a cohesive network."*

The Open Space Strategy goes even further, noting on page 82 that:

*"It is expected that new publicly accessible open space will be owned and maintained by the respective land owners, with public access to the space secured through legal agreements as part of the planning process. Such an approach will secure new publicly accessible open space whilst recognising the council's financial position in years to come. Legal agreements will be required to secure the widest possible access to these new spaces."*

The delivery of open space through the emerging Local Plan is certainly a matter that needs clarification and precise description in the adopted Local Plan, lest avoidable uncertainty be created.

Our clients consider it wholly unacceptable that landowners should be forced to bear the burden of the borough's desire to deliver strategic infrastructure simply by coincidence of their landholdings being in a location where the Council has decided that land may not be developed as the landowner wishes but must instead be turned over for other parties to benefit from.

If the Council wishes owners to cede land then those parties must be compensated, either directly having regard to prevailing values (perhaps by way of CIL payment in kind mechanism, if possible), or indirectly by allowing owners to recoup value elsewhere.

Our client's 2016 pre-application proposals reflected the Council's previous open space proposals, however the changes now proposed by would have a further negative impact on its Life Science lead development proposals, and existing site value. Our client's valuer has considered the impact of the Council's revised proposals, in particular the impact that the "green space" only would have on Plot A (12a), and believes that this would currently reflect a loss of circa £7m. This is in addition to the loss of value previously sacrificed as part of the 2016 pre-application proposal.

The Council has correctly identified that what Barts and DHSC refer to as Plot A (12a) benefits from an extant planning permission for open space but it is clear from a number of documents that the Council aspires to development on that plot. We agree that a new street block, to repair the damaged street pattern, would be a suitable response in this location.

Barts and DHSC also note that it is not necessary to cede all of the land known as Plot D (13 and 14a) to facilitate the Council's aims for a Green Spine and, indeed, the Council considers it desirable that the Green Spine be defined by new, active blocks.

Furthermore, there is no justification whatsoever for the exclusion of the public space to the rear of the new Civic Centre from the overall total 1 ha that the Council wishes to see delivered. This area, which amounts to 0.23 hectares, sits wholly within the proposed Whitechapel South allocation and forms part of the scheme that the Council has itself promoted (a scheme which, according to paragraph 2.4 of the 28 February 2018 Committee Report<sup>4</sup> will result in loss of open space, albeit the loss is considered to be significantly outweighed by the substantial public benefits of the scheme).

It is also clear from the Committee Report that the 0.23 ha is considered to be integral to the delivery of the 'Green Spine' as discussed at paragraph 11.13 thus:

*"It is considered the proposal responds appropriately in its layout and massing to allow for future development of the London Square to the south of the site and provides a main access route that will directly lead into London Square. It is considered that the design allows the ambitions of the Whitechapel Vision to be delivered in terms of the green spine and public realm aspirations and allows for the future connections to Commercial Road to be realised. In addition, the edges of the building have been designed to safeguard pedestrian links around the civic centre building in the unlikely event the London Square is not delivered alongside the civic centre proposal."*

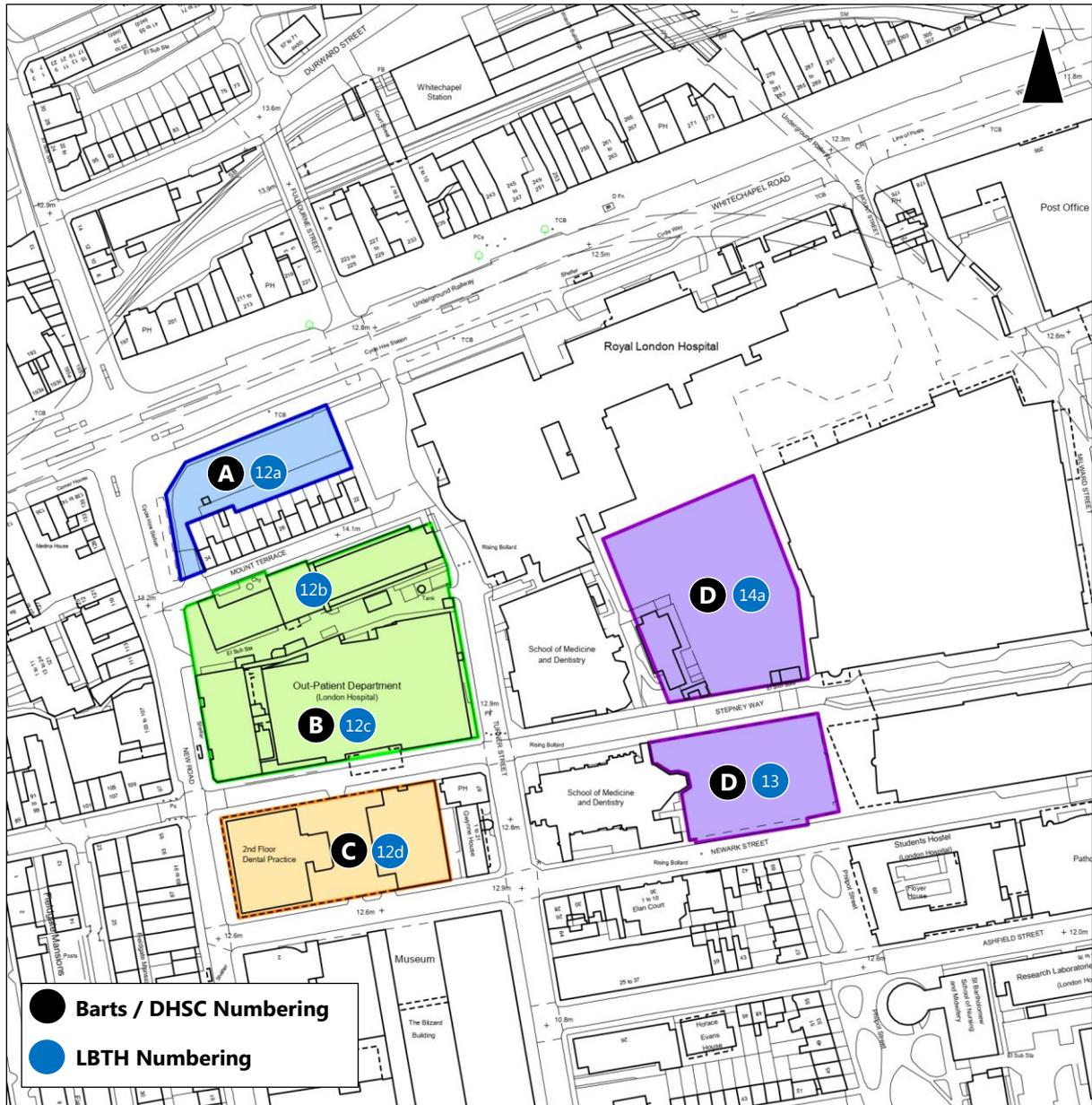
We ask that, now we have identified the origin of the 1 hectare 'requirement' and that this is without sound justification, that the proposed site allocation (and any related text) be clarified so as to avoid any doubt in the implementation of the policy and also to avoid making the policy so onerous on a small number of landowners that it renders development unviable. The Council must also play its part in delivering open space through its development proposals for the new civic centre.

Viability considerations extend to the Council's aspirations that new publicly-accessible open space will be owned and maintained by the respective land owners. Such a requirement would presumably be in perpetuity and would represent a significant disincentive to the development of land, not to mention unenforceable. If the Council wants land to be of wider benefit to the borough and to look and act like a public highway, the Council must take responsibility for it.

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<sup>4</sup> <https://democracy.towerhamlets.gov.uk/documents/s122592/civic%20centre.pdf>

Map of Sites Referred to in these Representations



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