

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 7.30 P.M. ON WEDNESDAY, 27 JUNE 2007

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Rofique U Ahmed (Chair)

Councillor Helal Abbas (Vice-Chair)

Councillor Alibor Choudhury

Councillor Shamim A. Chowdhury

Councillor Rupert Eckhardt

Councillor Ahmed Adam Omer

Councillor Lutfur Rahman

Councillor Stephanie Eaton

Other Councillors Present:

Officers Present:

Jerry Bell

– (Applications Manager)

Megan Crowe

– (Planning Solicitor, Legal Services)

Michael Kiely

– (Service Head, Development Decisions)

Graham White

– (Legal Adviser)

Louise Fleming

– (Senior Committee Officer)

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Tim O’Flaherty. Councillor Stephanie Eaton deputised for him.

2. DECLARATIONS OF INTEREST

Councillor Helal Abbas declared a personal interest in item 7.1, which related to 17-19 Whitechapel Road, as the Ward Member for Spitalfields and Banglatown.

Councillor Lutfur Rahman declared a personal interest in item 7.1, which related to 17-19 Whitechapel Road, as the Ward Member for Spitalfields and Banglatown.

Councillor Ahmed Omer declared a personal interest in item 7.1, which related to 17-19 Whitechapel Road; and 7.2, which related to 18-22 Damien Street, as he had been lobbied by the parties concerned.

Councillor Shamim Chowdhury declared a personal interest in all items on the agenda as he had received correspondence from objectors and applicants relating to the applications.

Councillor Rofique Ahmed declared a personal interest in all items on the agenda as he had received correspondence from objectors and applicants relating to the applications.

3. UNRESTRICTED MINUTES

The minutes of the meeting held on 23rd May 2007 were confirmed and signed as a correct record by the Chair.

4. RECOMMENDATIONS

The Committee RESOLVED that, in the event of amendments to recommendations being made, the task of formalising the wording of any amendments be delegated to the Corporate Director of Development and Renewal along the broad lines indicated at the meeting.

5. PROCEDURE FOR HEARING OBJECTIONS

The Committee noted the procedure and those who had registered to speak.

6. DEFERRED ITEMS

6.1 30 Alie Street and 6a North Tenter Street, London E1 8DA

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) at 30 Alie Street and 6a North Tenter Street, London E1 8DA.

Mr Graham White, Interim Head of Planning, Property and Contracts Legal Team, advised the Committee that as the item had been deferred from a previous Committee, only those Members present when the application was initially considered at the meeting held on 2nd May 2007 would be permitted to vote, although all Members could take part in the discussion.

Mr Jerry Bell, Applications Manager, presented a detailed report on the application. He reminded Members that the application had been deferred to allow officers to carry out further consultation as the Committee had been concerned that the English Martyrs Primary School had not been included in the consultation boundary.

The consultation area had been significantly extended to a radius of approximately 120 metres, to include the Primary School. A total of 14 further letters of objection had been received, which did not raise any new issues which had not been previously considered. A response had not been received from the School. Mr Bell advised Members that the premises had been granted a premises licence under the Licensing Act 2003, and that in doing so, the Licensing Sub-Committee had taken into account the four licensing objectives of the prevention of crime and disorder, the prevention of children from harm, public safety and the prevention of public nuisance. Therefore, the officer's recommendation for approval of planning permission had not changed.

Members expressed concerns relating to the retrospective application for listed building consent, which had been withdrawn by the applicant at the previous meeting, and whether a new application would be determined by delegated authority. Mr Kiely advised Members that if the application triggered the Committee process, then it would be considered by the Committee.

The Committee RESOLVED that the application for a change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) at 30 Alie Street and 6a North Tenter Street, London E1 8DA be GRANTED subject to conditions and informatives on the planning permission to secure the following:

Conditions:

1. Time limit
2. Hours of Operation
3. Refuse Storage and Collection
4. Noise and Vibration
5. Noise limiter
6. Recorded Music Only

Informatives

1. The applicant is advised to contact the Council's Environmental Health Department with regards to conditions 4 and 5.
2. The applicant is advised to appoint a designated mini-cab company to ensure the quiet and orderly disposal of patrons leaving the establishment in the early morning hours.

7. PLANNING APPLICATIONS FOR DECISION

7.1 17-19 Whitechapel Road, London E1 1DU

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for a Certificate of Lawfulness for existing use of ground floor as a Stripping Bar (Sui Generis) at 17-19 Whitechapel Road, London E1 1DU.

Mr Graham White, Interim Head of Planning, Property and Contracts Legal Team, advised the Committee that the application before it did not require it to exercise any planning judgment. The role of Members in this case was to consider the evidence before them and determine whether, on the balance of probability, the existing use of the premises had been in place for more than 10 years which would render the use 'lawful' and therefore not require planning permission.

Mr Michael Collins spoke in objection to the application. He felt that the burden of proof was on the applicant to provide sufficient evidence to demonstrate that the activities for which the certificate was sought were lawful. He felt that officers had solicited evidence to support the applicant's claim that the use had been in existence for over 10 years. He also felt that the view that the premises were a single planning unit was incorrect.

Mr Michael Kiely presented a detailed report on the application. He refuted the claims that planning officers had acted inappropriately. He advised Members that the officers had carried out their roles correctly, and that the Council was expected to check what evidence it may hold to assist in its consideration of any planning application. He explained the law surrounding Certificates of Lawfulness and the concept in planning law of the planning unit. He also clarified the difference between a public house, a public house with ancillary stripping and a stripping bar.

It was the view of planning officers that, on the balance of probability, the evidence from Environmental Health officers over a period of 15 to 17 years suggested that the premises had been in use as a stripping bar for at least 10 years. If the Committee decided to grant a certificate of lawfulness, the use would persist over the whole planning unit. Therefore, planning permission would not be required for the upper floor.

In response to Members questions relating to the visits carried out by officers, Mr Kiely read out the statement included in the schedule of documents which had been circulated to the Committee. Members were concerned that no enforcement action had been taken on the unauthorised use. Mr White reminded the Committee that the Licensing Officers had been carrying out their duties under licensing legislation, which was separate from planning legislation, as the premises had the relevant public entertainment licences.

Members asked a number of questions relating to the issue of a single planning unit, the use of the first floor of the property, and that the evidence appeared to indicate that the premises had been advertised as a public house only. Mr Kiely reminded the Committee that the use of the word 'pub' did not necessarily indicate that the stripping use was not in existence.

However, after consideration of all the evidence presented and the representations made at the meeting, the Committee indicated that it did not support the officer's recommendation to grant a Certificate of Lawfulness for existing use of the ground floor of 17-19 Whitechapel Road as a Stripping Bar (Sui Generis) on the grounds that the evidence presented did not demonstrate

to a satisfactory level, on the balance of probability, that the use of the premises as a stripping bar commenced more than 10 years ago.

(Councillor Rupert Eckhardt voted for the officer's recommendation; and Councillors Helal Abbas, Alibor Choudhury, Shamim Chowdhury, Stephanie Eaton and Lutfur Rahman voted against.)

7.2 18-22 Damien Street, London E1

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the change of use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations at 18-22 Damien Street, London E1 2HX. He explained that the application had been deferred from a previous meeting. However, the application had been placed in the 'Planning Applications for Decision', rather than the 'Deferred Items' section of the agenda, as significant new information had come to light following the advertisement of the application as a departure from the development plan. Therefore, the application would be considered afresh, and all Members present would be able to vote.

Mr Kent Brainerd spoke in objection to the application on the grounds that local planning policy supported the retention of the music studios currently in place. He felt that it provided an essential arts and entertainment facility, and it was the only one of its type in the Borough. Mr Brainerd advised the Committee that he had contacted the Rich Mix Centre, as suggested at the previous meeting, and read out a letter received informing him that the Centre did not offer a commercial music recording service. He also highlighted the loss of employment that would ensue from the change of use and the significant cost which would be incurred by having to relocate. He reminded Members that the applicant had bought the premises after the studios had been established in the building.

Mr Omar Beg spoke on behalf of the applicant, in support of the proposal. He explained the intention of the landlord in respect of expanding the educational institute. He felt that the expansion to the institute was needed, and that the two uses did not work well together. He felt that there had been problems with the two uses being in the same building and that there were other similar facilities in the Borough which the musicians could use.

Mr Jerry Bell, Applications Manager, presented a detailed report on the application and the planning policies involved. He emphasised that the planning officers did support the principle of the proposed use. However, they could not justify the loss of the existing use as it was protected by policies in the development plan. Mr Kiely further stressed that the planning policies supported the retention of the use as it contributed to the general economy of London, not just the Borough.

Members asked a number of questions relating to the number of employees which would be lost if the proposal was refused; those which would be lost if the application was granted; and the supporting evidence for those figures.

Mr Kiely informed the Committee that the figures quoted were based on representations made by both the objectors and the applicant. The Committee sought clarification of the claim by the applicant that there were suitable premises which could be used in Pennington Street. Mr Bell advised that those premises were similar. However, they only offered 2 studios, compared to 23 at Damien Street. He reminded Members that officers had made a judgement based on planning policies and representations received.

After consideration of all the representations made, the Committee indicated that it did not support the officers recommendation to refuse planning permission for the change of use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations at 18-22 Damien Street, London E1 2HX and RESOLVED that the application be GRANTED for the following reasons:

The Council recognises the desirability of protecting the existing use. However, it also recognises that there are significant community and employment benefits from the proposal. An additional consideration was that the floorspace requirements of the mosque/madrassa are significantly greater than those of the recording studio and this would make finding alternative premises more difficult for the mosque/madrassa. On balance, it was considered that the combination of the community benefits and the relocation factors for both uses tipped the balance in favour of the application.

Officers are delegated authority to impose the appropriate planning conditions.

(Councillors Stephanie Eaton and Rupert Eckhardt voted in favour of the officer's recommendation; Councillors Helal Abbas, Alibor Choudhury, Shamim Chowdhury and Lutfur Rahman voted against; and Councillor Ahmed Omer abstained.)

7.3 Billingsgate Market, Trafalgar Way, London E14 5ST

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the temporary use for 1 year as a general retail market on Sundays at Billingsgate Market, Trafalgar Way, London E14 5ST.

Mr Jerry Bell, Applications Manager, presented a detailed report on the application. He informed the Committee that the Council had requested the application be for a temporary period to enable officers to monitor the effects of the development on traffic and noise generation and to review the permission after a 12 month period. He advised Members that 513 neighbouring properties had been written to notifying them of the application, and only 3 responses had been received.

The Committee RESOLVED that the Head of Development Decisions be delegated power to GRANT the application for the temporary use for 1 year as a general retail market on Sundays at Billingsgate Market, Trafalgar Way, London E14 5ST, following the expiry of the 21 day consultation period, and subject to the following:

Conditions

1. Time limit for Full Planning Permission
2. Scheme of Traffic Monitoring
3. Scheme of noise monitoring
4. No music before 9.00 am
5. Details of cycle storage provision on site
6. Hours of Operation (5.00 am to 3.00 pm)
7. Any other conditions considered necessary by the Head of Development Decisions.

Informatives

1. Any renewal of permission would seek a reduction of car parking and a green travel plan.
2. Works to Highway.

The meeting ended at 9.03 p.m.

Chair, Councillor Rofique U Ahmed
Development Committee