

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 7.05 P.M. ON WEDNESDAY, 10 MAY 2017

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

Members Present:

Councillor Marc Francis (Chair)

Councillor Sabina Akhtar
Councillor John Pierce
Councillor Danny Hassell
Councillor Andrew Cregan
Councillor Suluk Ahmed
Councillor Chris Chapman (Items 5.1-6.1)
Councillor Julia Dockerill (Items 1-4.1)

Other Councillors Present:

Councillor Dave Chesterton

Apologies:

Officers Present:

Paul Buckenham	(Development Control Manager, Planning Services, Place)
Fleur Francis	(Team Leader - Planning, Directorate Governance)
Jane Jin	(Team Leader, Planning Services, Place)
Jennifer Chivers	(Planning Officer, Place)
Paul Greeno	(Senior Corporate and Governance Lawyer, Legal Services)
Tim Ross	(Team Leader, Planning Services Place)
Zoe Folley	(Committee Officer, Governance)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of disclosable pecuniary interests were made

2. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 8 February 2017 be agreed as a correct record and signed by the Chair.

3. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

The Committee **RESOLVED** that:

- 1) In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director, Place along the broad lines indicated at the meeting; and
- 2) In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director, Place is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision
- 3) To note the procedure for hearing objections at meetings of the Development Committee and the meeting guidance.

4. DEFERRED ITEMS

4.1 Balmoral House, 12 Lanark Square, London E14 9QD (PA/16/1081)

Update report tabled.

Paul Buckenham introduced the application for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision

It was noted that at the 8th February meeting of the Committee, the Committee voted not to accept the application due to concerns over:

- Overlooking from the proposal to neighbouring properties and the failure to mitigate this
- The approach to incremental development across the site in terms of affordable housing, communal amenity space and child play space.
- Density of the proposal

- Adverse impact on residential amenity during the construction phase

Jane Jin (Planning Services) reminded the Committee of the site location and the application. She then addressed each of the proposed reasons for refusal.

In relation to the first reason, it was considered that the scheme had been designed to prevent overlooking. However there would still be some loss of privacy. Therefore, Officers considered that a reason on this ground could form a basis for refusal.

In relation to incremental development, there was no policy basis for seeking amenity space or affordable housing for the development, given the number of proposed units and that the existing units in the building were considered under a different part of legislation and different set of policies, as other consented residential units within this building was done through prior approval process and planning approval in 1996 . The applicant had explored whether some play space and communal space could be provided on site but found that due to the freeholder issues, this was not practical. Therefore, Officers considered that this reason could not be defended on appeal.

In terms of the density of the application, this fell within the recommended range for a scheme of this size with a PTAL rating of 4 in the London Plan. Therefore, Officers did not consider that a refusal of the scheme on the grounds of excessive density could be justified.

Regarding the construction impact, the applicant had submitted a construction management plan to mitigate the impact. The design of the building also included measures to minimise the construction impact. However, Officers were also mindful of the precedence set by a recent appeal case at 37 Millharbour in relation to the difficulties in overcoming noise disturbance during the construction phase. On balance Officers considered that despite the submission of the plans, there was still some uncertainty about how the construction impact would be mitigated. Therefore it was considered reasonable to refuse the planning permission on the basis of noise and disturbance during the construction phase.

Whilst Officers remained of the view that the application should be granted, they had drafted two suggested reasons for refusal for consideration by the Committee. If the Committee were minded to refuse the application, they were invited to base their decision on these reasons.

Members asked questions about the planning history and the quantum of amenity and child play space that could have been requested if the units in the development had come forward as one application. It was reported that this would have depended on the number of units provided and child yield. It was noted that the various application for the wider site all came forward at different times by different applicants under different planning policy. So there was no policy basis for requiring infrastructure. Members also asked about the freeholder issues (noting that the applicant did not own the freehold) and Officers explained in further detail how this had impacted on the plans.

On a vote of 0 in favour of the Officer recommendation to grant planning permission, 5 against and 0 abstentions, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be refused for the reasons set out in the Committee report dated 10 May 2017 and on a vote of 5 in favour, 0 against and 0 abstentions, the Committee **RESOLVED:**

That planning permission be **REFUSED** at Balmoral House, 12 Lanark Square, London E14 9QD for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision(PA/16/1081) for the following reasons as set out in the Committee report, dated 10 May 2017:

1. The proposed development will result in unacceptable level of overlooking to the habitable rooms on the northern elevation of Aegon House, due to the proximity of the blocks. The proposal will therefore be contrary to policy SP10 of Tower Hamlets Core Strategy (2010) and Policy DM25 of the Managing Development Document 2013.

2. The proposal extension of the building would have detrimental impact in terms of noise and nuisance from the construction noise to the existing residents within the building and nearby, and therefore the proposal would fail to safeguard existing residential amenity, contrary to Policy DM25 of the Managing Development Document 2013.

5. PLANNING APPLICATIONS FOR DECISION

5.1 106 Commercial Street, (PA/16/03535)

Update report tabled.

Paul Buckenham introduced the application for the conversion of building (class B1/B8) to fine dining food market (Class A3).

The Chair invited registered speakers to address the Committee.

Rupert Wheeler (The Spitalfields Society) and Susan Kay (local resident) spoke in objection to the application. They felt that the plans would result in more crime and ASB in the area and result in noise nuisance in an area already blighted by such issues. This which would spoil residential amenity. The results of the acoustics testing were inaccurate and should be repeated. It was completed at a time when the background noise levels in the area were at exceptionally high levels which were in no way the norm. The benefits for small and medium sized business would be negligible given that the market would be managed by one single operator. The application conflicted with the Brick Lane Town Centre Manager's advice on these matters. The alterations

to the roof would harm the appearance of the building, and spoil the setting of the surrounding listed buildings. They also expressed concern about the capacity of the smoking area for a business of this size, the proximity of the onsite cycling space to restaurant tables and the accessibility of the accessible first floor toilet. Concern was also expressed about the access arrangements for customers and servicing vehicles and the impact of customer's queuing outside the premises as a result of the issues.

In response to Members questions, they clarified their concerns about the size of the smoking area (compared to the provisions at nearby premises). It could restrict access to the building. They also further discussed their concerns about the servicing plans. It was proposed that the deliveries and servicing would take place through the customer entrance during the daytime along busy unsuitable routes. This could potentially involve many different suppliers and would result in significant congestion and highways issues. They also clarified their concerns about dispersal from the premises given the capacity of the premises. There would be hundreds of customers leaving the premises at any one time, spilling out onto a narrow pavement- potentially into other public houses. It was questioned how this would be managed. They also further explained their concerns about the premises ultimately becoming a drinking establishment and the impact of this, the issues with the background noise survey and the assessable toilet. They also spoke about the applicant's consultation.

Rupert Warren (Applicant's representative) spoke in support of the application. He spoke about the merits of the application. It would fit in with existing uses and create employment. The Council's Conservation Officer was satisfied with the application. There would be stringent conditions regulating activity including, measures to control noise, odour, the operation of the smoking area, a dispersal policy and a servicing plan. He noted that a change from use class A3 to A4 without permission would be a breach of planning control. He also noted that the application did not make provision for a takeaway service, that no drinks were to be sold without food and that there would be no vertical drinking. Further issues around fire risk, access and the accessibility of toilets had been considered under building regulations.

In response to Members questions, he provided reassurances about the noise testing. All three of the acoustics reports completed were independently reviewed and came back with the same results. He also provided further reassurances about the dispersal policy, the monitoring of the smoking area, and the servicing arrangements. He also responded to questions about the access arrangements, the toilets facilities and the need for the plans to comply with buildings regulations that would provide additional safeguards. In response to questions about the licensing application, he made it clear to members that these were two separate regimes with different policy tests.

He also advised that there had been continuous engagement with the community throughout the planning process. Each of the 17 restaurants would have its own staff and would generate local employment and generally benefit the local economy. He was mindful of the concerns about the on site cycle spaces, but felt that there would be sufficient space between the cycle stands

and the restaurant tables to allow for a 'fine dining experience'. He did not consider that the proposal would increase ASB given the nature of the use.

Jennifer Chivers (Planning Services) gave a presentation on the application describing the site and surrounds and the key features including the internal layout, the proposed plant and equipment, the changes to the roof and light wells to accommodate the sound proofing. She also explained the opening hours and that that the business would accommodate up to 650 people at any one time. Consultation had been carried out. The application had received 63 representations in objection, 27 in support and a 147 signature petition. Turning to the assessment, the application would bring the site back into active use and would generate employment. The site use complied with policy.

TfL and Highways had considered the plans and were of the view that the servicing plans were acceptable subject to the conditions. The noise assessment had been independently reviewed for the Council. The review concurred with the method used. Environmental Health were satisfied that the proposal would meet the necessary requirements in terms of noise levels and there would be conditions to secure this. There would be measures to prevent ASB from the business. However, if Members were minded to approve the application, they might wish to stagger the leaving times of customers or vary the opening hours. This could be secure by condition. Officers also considered that the alterations to the roof slates would preserve the original form of the building and the setting of the Conservation Area. There were S106 employment and enterprise covenants and financial contribution of the additional crossrail contribution of £166,500. Overall, Officers were recommending that the application be granted planning permission.

The Committee asked about the measures for managing visitors to and from the premises and ASB from the proposal. In response, Officers outlined some of the measures in the dispersal policy for ensuring this. It was also explained that it was expected that most of the visitors would travel to the venue on foot or public transport. In addition, Officers have requested that the business monitor visitor numbers to identify any issues. It was not expected that plans would increase ASB given that the premises would predominantly provide a restaurant service and it would not be a later night establishment. The Metropolitan Police Crime and Prevention Officer had been consulted and had not expressed concerns about the proposal.

In response to further questions about noise activity, it was confirmed that the Council's acoustics expert had assessed the applicant's noise report. He was satisfied that the findings in terms of the background noise levels were accurate (given the urban environment). There would be measures to minimise any noise disturbance to noise sensitive properties including those at Puma Court and to minimise any noise nuisance from servicing and deliveries. It was required that there would be post noise completion testing. This would be secured by condition.

In response to questions about the previous office use, it was reported that no marketing evidence had been submitted in relation to such a use.

Consideration had been given to alternative uses, but Officers considered that the proposed use was acceptable given the site's central location and the merits of the plans. It was also noted that Officers were unaware of any fire safety issues, but this would be dealt with through building regulations.

Members asked about the measures to minimise the consumption of alcohol without the purchase of food. It was noted that the opportunities for this would be very limited. The sale of alcohol would be part of the restaurant use. Furthermore, there would be restrictions on the permission to prevent the introduction of an 'A4' drinking establishment use. Should the business wish to introduce such a use, they would be required to submit a further planning application for such a change of use. Should this generate enough representations, it would have to be determined by the Development Committee.

Officers also answered questions about the internal cycle rack and the need for this to be provided to satisfy policy.

In conclusion, whilst noting the economic benefits of the application, Members expressed concerns about the plans. They felt it was just too large for the local area given its confined nature and would have a significant impact on the local community, the surrounding streets and the Conservation Area.

On a vote of 0 in favour of the Officer recommendation to grant planning permission and 7 against, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the officer recommendation to grant planning permission be not accepted (for the reasons set out below) and on a vote of 7 in favour and 0 against, the Committee **RESOLVED**:

That the Officer recommendation to grant planning permission at 106 Commercial Street, be **NOT ACCEPTED** for the conversion of building (class B1/B8) to fine dining food market (Class A3) (PA/16/03535).

The Committee were minded to refuse the application due to concerns over:

- Impact from the use itself.
- Impact on the setting of the Conservation Area
- Impact on the external appearance of the building, particularly the roof.
- The access arrangements given the level of anti-social behaviour in the area
- Overcrowding in the area and safety implications of this
- Noise disturbance.
- Increased congestion in Commercial Street
- The servicing arrangements.

In accordance with Development Procedural Rules, the application was **DEFERRED** to enable Officers to prepare a supplementary report to a future

meeting of the Committee setting out proposed detailed reasons for refusal and the implications of the decision.

5.2 Millwall Outer Dock Moorings, Selsdon Way, London (PA/16/01798)

Update Report tabled.

Paul Buckenham introduced the application for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

The Chair invited registered speakers to address the Committee.

Philip Style and Councillor Dave Chesterton spoke in objection to the proposal. The speakers expressed doubt about the suitability of the location for the proposal given its proximity to a 24 hour commercial premises at Greenwich view place. It would cause a conflict between these uses. The premises would receive constant noise complaints, as it was doubtful if the moorings would have adequate insulation to minimise the noise disturbance. Concern was also expressed about the right of access over third party land to service the development.

Furthermore, there would also be no affordable housing or play space, but high end canal boats and so it would effectively privatise the open water space. It would also adversely affect the sailing activities on the dock, particularly the ability of novice sailors and children to practice their sailing skills given the risk of collision with moored boats. The plans should be developed in accordance with emerging water space strategies. In response to questions, Councillor Chesterton stated that he was not speaking on behalf of the Docklands Sailing and Watersports Centre. He reiterated that the plans would particularly affect inexperienced sailors, especially children. The comments in the report about the preservation of the navigation lane were irrelevant, as the sailors would require the whole dock. In fact, the need to protect the water space was all the more important now in light of the pressure that the Westferry Printworks scheme would place on the dock.

Richard Newton (Canal and Rivers Trust) spoke in support in support of the proposal. He talked about the pressing need for new housing and residential moorings in London. The plans complied with the London Plan that promoted the establishment of moorings in sites such as this. It would occupy a very small part of the water space (1.9% of the water space) and be set back from the navigation channels as stated in the report. He noted that the sailing club did not have an exclusive right to use the dock. The scheme had been amended to respond favourably to the setting of the dock. There would be conditions to safeguard amenity and a management plan to control activity. He was happy to build in to these plans measures to address the liability issues.

In response to Members, he explained that the proposal would be car free and there would be relatively little servicing. He also clarified the servicing arrangements and proposed route. In the event that the dispute with the third

party over site access could not be resolved, an alternative route had been identified as set out in the Committee report and update. He did not consider that the plans would affect sailing activities. The applicant had engaged with the DSWC. They would work with the club to address any liability issues.

Jane Jin (Planning Services) presented the application describing the planning history and the key features of the plans. Consultation had been carried out and the results were noted. The proposal sought to provide permanent residential moorings. The plans would only occupy 1.9% of the water space and would preserve the open character of the water space and would have no harmful impacts. There would be a range of safeguards to ensure this. Consequently, the loss of the water space could be considered acceptable. In terms of the servicing plans, Officers were aware of the issues raised by the objector about access over the Greenwich View Place. Legal advice on this matter had been sought as set out in the update report. In view of the issues, the applicant had identified an alternative route for refuse collection that would enable the servicing to be carried out without the need to rely on the third party land.

Given the merits of the application, Officers recommended that it was granted planning permission.

Members asked about the servicing and delivery route, and the contingencies plans in view of the legal issues. Some concern was expressed about the merits of the alternative route involving the unlocking/locking of a trade link. It was felt that it could further increase vehicle congestion in that area and impede pedestrian access. In response, Officers outlined the nature of the legal issues. They also provided reassurances on the operation of the alternative route. Overall, it was considered that the impact on the highway would be minimal given the size of the scheme and that there would be adequate space for pedestrians to pass the vehicles.

The Committee also asked about the impact on the water space and the objections about the impact on sailing activities. They also asked if the plans would contribute to the Borough's housing targets.

It was noted the proposal did not count towards the housing targets as the moorings did not fall within a specific use class. As a result, no contributions for infrastructure could be secured. It was reiterated that each application should be considered on its own merits. Whilst the loss of water space was generally not supported, the policy supports proposals which were water related, that did not affect amenity and preserved the navigability of the dock. Due to the size and location of the proposals, the plans did.

The Committee sought clarify on the quantum of water space that would be lost as a result of the development. It was questioned whether the measurement quoted in the presentation related to only the platform itself. In response, officers clarified the total surface area of the application.

The Committee also asked questions about the design of a nearby development.

On a vote of 0 in favour of the Officer recommendation to grant planning permission and 7 against, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the officers recommendation to grant planning permission be not accepted (for the reasons set out below) and on a vote of 7 in favour and 0 against, the Committee **RESOLVED**:

That the Officer recommendation to grant planning permission at Millwall Outer Dock Moorings, Selsdon Way, London be **NOT ACCEPTED** for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure(PA/16/01798).

The Committee were minded to refuse the application due to concerns over:

- Loss of open water space
- Impact on the sailing activities in the Millwall Outer Dock given the risk of collisions with moored vessels.
- Vehicle access arrangements.

In accordance with Development Procedural Rules, the application was **DEFERRED** to enable Officers to prepare a supplementary report to a future meeting of the Committee setting out proposed detailed reasons for refusal and the implications of the decision.

6. OTHER PLANNING MATTERS

6.1 Proposed Revised Planning Code of Conduct

The Committee were invited to submit comments on the revised Code of Conduct either at the meeting or afterwards so that these comments could be reflected prior to the revised Code being put forward for adoption. In response, it was requested that the revised code should include a section on the need for imagery in Committee reports.

On a unanimous vote the Committee **RESOLVED**:

1. That the revised Planning Code of Conduct in Appendix 1 of the report be noted;
2. That it be noted that pursuant to Part 1 Paragraph 4.02 of the Constitution the adoption and amendment of the revised Planning Code of Conduct is a matter for Council; and
3. That's the Committee comments on the revised code of conduct be reflected prior to the revised Code being put forward for adoption.

The meeting ended at 9.50 p.m.

Chair, Councillor Marc Francis
Development Committee