

Committee: Strategic Development	Date: 28 th November 2011	Classification: Unrestricted	Agenda Item No: 6.1
Report of: Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Simon Ryan		Ref No: PA/11/00163	
		Ward: St Katharine's and Wapping	

1. APPLICATION DETAILS

Location:	Tower House, 38-40 Trinity Square, London EC3N 4DJ
Existing Use:	Vacant construction site and Tower Hill Underground station ticket hall
Proposal:	Erection of a 9-storey building with basement, comprising a 370-room hotel (Use Class C1) with associated ancillary hotel facilities including cafe (Use Class A3), bar (Use Class A4) and meeting rooms (Use Class B1) with plant and storage at basement and roof level. The application also proposes the formation of a pedestrian walkway alongside the section of Roman Wall to the east of the site; the creation of a lift overrun to facilitate a lift shaft from ticket hall level to platform level within the adjacent London Underground station and associated step free access works; works of hard and soft landscaping; and other works incidental to the application
Drawing Nos/Documents:	<ul style="list-style-type: none"> • Drawing nos. 00_001 G, 00_002 F, 00_003 E, 00_101 E, 00_102 C, 00_103 E, 20_215 F, 20_216 F, 20_221 J, 20_222 H, 20_223 G, 20_224 G, 20_231 M, 20_232 N, 20_233 G, 20_239 G, 20_240 G, 21_401 C, 21_405 C, 21_406 B, 79_203, 79_413 D, 90_206 C and 90_252 A • Design and Access Statement • Design and Access Statement Addendum (incorporating public realm and landscaping works) dated June 2011 • Impact Statement dated January 2011 • Archaeological Assessment dated September 2002 • Townscape, Visual Impact and Built Heritage Report
Applicant:	CitizenM Hotels
Ownership:	Various, including London Underground Ltd, TfL, Historic Royal Palaces, The Corporation of London, Tower Hill Improvement Trust, DEFRA and EDF
Historic Building:	No – however the adjacent buildings at nos. 41 and 42 Trinity Square are Grade II Listed, whilst portions of the adjacent Roman Wall are Grade I Listed and also a Scheduled Monument
Conservation Area:	The Tower Conservation Area

2. BACKGROUND

2.1 This application for planning permission was reported to Strategic Development Committee on 15th September 2011 with an Officer recommendation for approval. After consideration of the report and the update report, the committee resolved to defer the application for consideration at the next meeting of the Committee to enable:

1. A site meeting to be held so that Members may better acquaint themselves with the impact of the proposed development on the surrounding area; and
2. The applicant to prepare more detailed visual images of the proposed development

2.2 Further to the deferral, the application was heard at the following Strategic Development Committee meeting on 27th October 2011. At the meeting, on a vote of nil for and 1 against, and with 4 abstentions, the Committee resolved that the Officer recommendation to grant planning permission at Tower House, 38-40 Trinity Square, London, EC3N 4DJ (PA/11/00163) be not accepted. The voting Member indicated that he was minded to refuse the planning application because of concerns raised in connection with:

- Inappropriate and excessive height, scale, bulk and elevations of the proposed development.
- Inappropriate design of the proposed development resulting in detrimental effects on neighbouring Conservation Areas, listed buildings and local views.
- Inadequate servicing provisions for the proposed development which were considered likely to result in unacceptable pedestrian/vehicular conflicts.

2.3 However, there was no subsequent formal motion made (as per the requirements of the Constitution) to refuse the application on these grounds, and therefore the application was not refused (indeed no decision notice has been issued to that effect) and has been treated as a deferred matter. This is in accordance with Rule 9 of the Development Procedure Rules, as contained within the Council's Constitution (November 2010). Rule 9 has regard to decisions made by a committee which are contrary to Officer recommendations. Paragraph 9.2 states:

"Where a vote on the officer recommendation is lost, it is necessary for a new motion to either grant or refuse the application to be proposed. The committee should receive advice from officers as to the appropriate form that the new motion should take"

2.4 Accordingly, the application itself remains live and is before the Committee tonight as a deferred item for Member's consideration.

3. UPDATES

3.1 Further to the deferral of the application, the following matters have arisen:

Environmental Impact Assessment - Screening Direction

3.2 On 10th November 2011, the Department of Communities and Local Government (DCLG) contacted the Council to advise that the Trinity Square Group had requested the Secretary of State to issue a screening direction upon the proposed development. This request is on the grounds that Trinity Square Group believe that the application should be subject to Environmental Impact Assessment by virtue of its sensitive location.

Officers do not consider that the development meets the criteria set out in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Whilst it is acknowledged that the application site is located within a sensitive location, as detailed within the previously published reports to committee and as supported by

English Heritage and Historic Royal Palaces, it is not considered that the proposal has a significant impact upon the setting.

Additional Consultation Response – Historic Royal Palaces

- 3.3 Historic Royal Palaces have provided additional comment since the previous Committee meeting. HRP state:

“As you know Historic Royal Palaces has made formal representations regarding this scheme and has become saddened by the delays which have occurred .The project area has become something of a blight for the last few years and of course this impacts on the Tower of London World Heritage site (a status which can be removed by UNESCO). The scheme before you is the result of substantial dialogue between HRP (and English Heritage) and the developer and is one we support. It brings benefits to the area not found in the previously consented office scheme and importantly remains within the building envelope of that earlier permission. Could you bring this letter of support to the Committee's attention when it next meets and stress how important to this iconic attraction (and Tower Bridge) is the provision of step free access being provided as part of the project”

4. ADDITIONAL REPRESENTATION

- 4.1 A further letter of support for the scheme has been received. The writer states that

“I support the planning proposals for 38-40 Trinity Square as I am keen to see such a key Tube station (Tower Hill) with its links with other transport providers services and places of interest made step-free.

I hope the Development Committee will [see] the benefits this plan will have for those with mobility issues”

5. S106 LEGAL AGREEMENT

Employment & Enterprise Contributions

- 5.1 As detailed at paragraph 3.1 of the addendum report presented to the Committee at the previous meeting on 27th October (which can be found at **Appendix 4** of this report), the applicant previously confirmed that they would like to increase their obligation to ensure end-use employment is directed to Tower Hamlets residents from 20% to 40%. The applicant has since revised this offer to 50% and increased in-lieu financial payments accordingly.
- 5.2 In order to better demonstrate how the Employment and Enterprise contributions and obligations would be delivered, these have been set out and explained below by comparing the contributions and obligations as requested by the Council's Employment and Enterprise Team with the applicant's additional offer. As detailed within the previously published reports to committee, the Council's Employment and Enterprise Team consider that the following requests are necessary:
- 5.3
- Construction Phase
 - 20% of goods/services procured during construction should be achieved by businesses in Tower Hamlets;
 - Best endeavours from the developer to ensure 20% of the construction workforce are Tower Hamlets residents, supported by Skillsmatch Construction Services. Where this is not appropriate, the Council will seek a financial contribution of £30,533 to support/provide for training/skills needs of

local residents in accessing new job opportunities in the construction phase of new developments

- End-User Phase

- A contribution of £42,517 towards the training and development of residents in Tower Hamlets to access either jobs within the hotel development end-use phase or jobs or training within employment sectors in the final development

5.4 In addition to the above obligations, the Council's Employment & Enterprise Team have requested the following additional training obligation, which the applicant has agreed to:

- Of the final development workforce, the equivalent of 20% residing in Tower Hamlets be given sector related training, namely the Employment First Training Programme, delivered by SEETEC. This course has been accepted by large contractors as a qualified standard for new industry entrants in the Hospitality, Leisure, Travel and Tourism sector. If the developer is unable to deliver the aforementioned training, a monetary contribution of £35,400 is required for the delivery of the training to local residents

This provides a total financial contribution towards employment and enterprise of up to £108,450, with the total sum payable dependent on whether the applicant chooses to provide construction jobs and the Employment First Training Programme to Tower Hamlets residents themselves, or offer the in-lieu monetary contributions of £30,533 and £35,400, as detailed above.

5.5 It is considered that the abovementioned contributions meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the five key tests contained within Circular 05/2005.

Additional Employment & Enterprise Contribution Offer

5.6 As detailed above, the applicant has recently offered to the Council additional end-user phase employment and training based obligations, above and beyond those sought which they consider appropriate in light of the fact that their workforce requirements will be below the HCA model. Instead of the two separate training obligations set out in paragraphs 5.3 and 5.4, in addition to the requested contribution towards the provision of the Employment First Training Programme (or a monetary contribution of £35,400), the applicant has offered to increase the end-user phase training provision to 50% of their expected final workforce and to employ a percentage of local residents in the final phase, as follows:

- 5.7
- An increased contribution of £121,500 to Skillsmatch for the training and development of 50% of the expected final workforce (45 people x £2,700 per person) to Tower Hamlets residents to access jobs within the hotel development end-use phase or jobs or training within employment sectors in the final development
 - Reasonable endeavours to ensure that 20% of the final end-use workforce (18 people) to be Tower Hamlets residents and to be provided with full-time employment within the hotel for a minimum period of 12-months following completion of the training (OFFICER COMMENT: The employment of these individuals would be monitored by Skillsmatch at regular intervals)

5.8 Members are advised that the additional contributions and obligations proposed by the applicant are not necessary to make the proposal acceptable in planning terms and as such, while it is considered in the public interest to accept any increase in offer outside the consideration of this application, this should not be considered to constitute a reason

for granting planning permission, as those previously sought (detailed at paragraphs 4.3 and 4.4 above) are considered to meet the requirements of the CIL Regulations 2010 and those contained within Circular 05/2005. It is noted that Tower Hamlets has an above average unemployment level within Greater London, with only 15% of Tower Hamlets' residents finding employment within the Borough (source: Planning Obligations SPD Engagement Document 2011).

6.0 SERVICING ISSUES

- 6.1 It is noted that at the previous meeting, issues were raised regarding the proposed servicing and delivery arrangements for the hotel and the impact upon pedestrian movement and highway safety.
- 6.2 To reiterate, the applicant's submitted pedestrian surveys demonstrate the peak movement periods within this area of Trinity Square to be between 0700-1000 hours and 1600-1900 hours. The applicant has identified that the proposal would require six service vehicle movements per day (in line with the servicing demand of the other hotels they operate), each of which would be restricted to a maximum kerbside dwell time of 20 minutes through on-street double yellow line restrictions. The size of the vehicle used to service the site is also to be restricted so as to prevent long-wheelbase vehicles visiting the site. LBTH Highways and Transport for London consider that sufficient justification has been made and the applicant has adequately demonstrated that the on-street servicing strategy would have no undue impacts, subject to a condition being attached which prevents servicing from taking place between 0700-1000 hours and 1600-1900 hours inclusive. This would ensure that servicing activities do not occur during peak hours of pedestrian movement.
- 6.3 It is also proposed that servicing and deliveries would be managed and co-ordinated through a Delivery & Servicing Plan (DSP) to be prepared and submitted prior to occupation. LBTH Highways also require the submitted Servicing and Coach Management Plan to be updated prior to occupation and secured via a planning condition should planning permission be granted. These measures are supported by Transport for London and such conditions and obligations have been attached as detailed above in section 4 of this report. Accordingly, it is considered that the proposed service and delivery strategy is in accordance with the development plan policies.

7.0 RECOMMENDATION

- 7.1 The recommendation by officers remains unchanged. Accordingly, the Committee are recommended to resolve to GRANT planning permission as previously detailed within the published report and addendum report at the Strategic Development Committee meeting held on 27th October 2011. The suggested reasons for approval, details of the legal agreement (amended to take into account the applicant's increased Employment & Enterprise contribution) and suggested conditions are reproduced below for ease of reference:

7.2 Summary of Material Planning Considerations

- A hotel-led scheme will contribute to the strategic target for new hotel accommodation. It will complement the Central Activity Zone's role as a premier visitor destination and in this respect, will support London's world city status. The scheme therefore accords with policy 4.5 of the London Plan (2011), saved policies EMP3 and CAZ1 of the Council's Unitary Development Plan (1998), policies SP06 and SP12 of the Core Strategy Local Development Framework (2010) and policies EE2 and CFR15 of the Council's Interim Planning Guidance (October 2007) which seek to promote tourism and hotel developments within the Central Activity Zone

- The ancillary cafe (Use Class A3), bar (Use Class A4) and meeting rooms (Use Class B1) are acceptable as they will provide for the needs of the development and demand from surrounding uses, and also present employment in a suitable location. As such, it is in line with saved policy DEV3 of the Council's Unitary Development Plan (1998), policy SP06 of the Core Strategy Local Development Framework (2010) and policies DEV1 and CFR1 of the Council's Interim Planning Guidance (October 2007) which seek to support mixed use developments and local job creation
- The height, materials, scale, bulk and design of the building is acceptable and is considered to respect, preserve and enhance the character and setting of the Tower of London World Heritage Site, the Tower Conservation Area and surrounding conservation areas, the adjacent Listed Buildings and the adjacent Scheduled Ancient Monument. As such, the proposal is in accordance with Planning Policy Statement 5 (2010), policies 7.3, 7.8, 7.9 and 7.10 of the London Plan (2011) as well as saved policy DEV1 of the LBTH UDP (1998), policies DEV2, CON1, CON2 and CFR18 of the Interim Planning Guidance (2007) and policies SP10 and SP12 of the Core Strategy Development Plan Document (2010) which seek to protect the character, appearance and setting of heritage assets. The proposal is also in accordance with the aims and objectives of Tower of London World Heritage Site Management Plan (Historic Royal Palaces, 2007)
- The proposal does not detrimentally impact upon protected views as detailed within the London Plan London Views Management Framework Revised Supplementary Planning Guidance (July 2010) and maintains local or long distance views in accordance policies 7.11 and 7.12 of the London Plan (2011) and policy SP10 of the Core Strategy Development Plan Document (2010) which seek to ensure large scale buildings are appropriately located and of a high standard of design whilst also seeking to protect and enhance regional and locally important views.
- The development and associated public realm are considered to be inclusive and also improves the permeability of the immediate area. As such, it complies with policies 7.2, 7.4 and 7.5 of the London Plan (2011), saved policy DEV1 of the Council's Unitary Development Plan (1998), policy SP09 of the Core Strategy (2010) and policies DEV3, DEV4, CFR1, CFR2 and CFR18 of the Council's Interim Planning Guidance (October 2007) which seek to maximise safety and security for those using the development and ensure public open spaces incorporate inclusive design principles. The scheme is also in accordance with the aims of the Tower of London World Heritage Site Management Plan (2007) which seeks to improve public realm and linkages to the Tower of London
- It is not considered that the proposal would give rise to any undue impacts in terms of privacy, overlooking, sunlight and daylight, and noise upon the surrounding residents or occupiers. As such, the proposal is considered to satisfy the relevant criteria of saved policy DEV2 of the Council's Unitary Development Plan (1998), policy SP10 of the Core Strategy Local Development Framework (2010) and policy DEV1 of the Council's Interim Planning Guidance (October 2007), which seek to protect residential amenity
- Transport matters, including parking, access and servicing, are acceptable and in line with London Plan policies 6.4, 6.7, 6.9, 6.10, 6.11, 6.12 and 6.13 of the London Plan (2011), saved policies T16 and T19 of the Council's Unitary Development Plan (1998), policy SP09 of the Core Strategy Local Development Framework (2010) and policies DEV17, DEV18 and DEV19 of the Council's Interim Planning Guidance (October 2007), which seek to ensure developments

minimise parking and promote sustainable transport options

- Sustainability matters, including energy, are acceptable and in line with policies 5.1 – 5.3 of the London Plan (2011), policy SP11 of the Core Strategy Local Development Framework (2010) and policies DEV5 to DEV9 of the Council's Interim Planning Guidance (October 2007), which seek to promote sustainable, low carbon development practices
- Financial contributions have been secured towards the provision of transport and highways improvements; employment & training initiatives; and leisure and tourism promotion in line with Government Circular 05/05, the Community Infrastructure Levy Regulations 2010, saved policy DEV4 of the Council's Unitary Development Plan (1998) and policy SP13 of the Core Strategy (2010) which seek to secure contributions toward infrastructure and services required to facilitate proposed development

7.3 The recommendation to Committee is to GRANT planning permission subject to:

A. The prior completion of a **legal agreement** to secure the following planning obligations:

Financial Contributions

- a) Highways & Transportation: **£103,000**, comprising:
 - £3,000 towards monitoring the Travel Plan
 - £50,000 towards the Legible London wayfinding scheme
 - £50,000 towards the Cycle Hire Scheme
- b) Employment & Enterprise: Up to **£187,433** (see contributions H, I & J below) towards the training and development of residents in Tower Hamlets to access either:
 - Jobs within the hotel developmental end-use phase; or
 - Jobs or training within Hospitality, Leisure, Travel & Tourism employment sectors in the final development
- c) Leisure & Tourism promotion: **£54,500**; comprising:
 - £26,500 towards developing a destination map of the Borough for visitors
 - £28,000 towards business tourism promotion and implementing a programme with Visit London to promote Tower Hamlets as a business tourism destination in the UK, European and International Meeting, Incentive, Conference and Exhibition Market

Non-Financial Contributions

- d) Delivery of public realm improvements and step-free access works;
- e) No coach parking or drop-offs / pick-ups from Trinity Square or Coopers Row;
- f) Code of Construction Practice - To mitigate against environmental impacts of construction;
- g) Reasonable endeavours for 20% goods/services to be procured during the construction phase should be achieved by businesses in Tower Hamlets;
- h) Reasonable endeavours for 20% of the construction phase workforce will be local residents of Tower Hamlets or a financial contribution of £30,533 to support and/or provide for training and skills needs of local residents in accessing new job opportunities in the construction phase of new development;
- i) 59 people residing in Tower Hamlets are given HLTT (Hospitality, Leisure, Travel & Tourism) sector related training or a financial contribution of £35,400 for the delivery of this training;
- j) Of the final development workforce, the applicant is to use reasonable endeavours

to ensure that the equivalent of 20% are to be Tower Hamlets residents and are to be provided with full-time employment within the hotel for a minimum period of 12 months upon completion of the training provided by the developer's financial contribution b), detailed above

- k) Access to Employment - To promote employment of local people during and post construction, including an employment and training strategy;
- l) Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal

Total financial contribution: up to **£344,933**

That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above.

That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

7.4 **Conditions**

- 1) Permission valid for 3 years;
- 2) Submission of details and samples of all materials;
- 3) Submission of details of lift overrun;
- 4) Submission of details of art wall;
- 5) Submission of hard and soft landscaping details;
- 6) Contamination;
- 7) Construction Management and Logistics Plan;
- 8) Construction Environmental Management Plan;
- 9) Foul and surface water drainage;
- 10) Monitoring and protection of ground water;
- 11) Archaeology;
- 12) Air quality assessment;
- 13) Evacuation plan;
- 14) Scheme of necessary highways improvements to be agreed (s278 agreement);
- 15) Piling and foundations;
- 16) Landscape management;
- 17) Ventilation and extraction;
- 18) Refuse and recycling;
- 19) Travel Plan;
- 20) Coach, Delivery and Service Management Plan;
- 21) 5% Accessible hotel rooms and 5% future proofed;
- 22) Access management plan;
- 23) Pedestrian audit;
- 24) BREEAM;
- 25) Means of access and egress for people with disabilities;
- 26) Hours of building works;
- 27) Hours of opening of terrace;
- 28) Hammer driven piling;
- 29) Noise levels and insulation;
- 30) Vibration;
- 31) Compliance with the submitted Energy Strategy;
- 32) Integration of Combined Heat and Power;
- 33) Hotel Use Only;
- 34) Submission of secure by design and counter-terrorism statement;
- 35) Period of hotel suite occupation no longer than 90 consecutive days;
- 36) Approved plans; and
- 37) Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal.

7.5 Informatives

- 1) Section 106 agreement required;
- 2) Section 278 & 72 Highways agreements required;
- 3) Contact Thames Water regarding installation of a non-return valve, petrol/oil-interceptors, water efficiency measures and storm flows;
- 4) Changes to the current licensing exemption on dewatering;
- 5) Contact LBTH Environmental Health;
- 6) Contact Environment Agency;
- 7) Section 61 Agreement (Control of Pollution Act 1974) required;
- 8) Closure of road network during Olympic and Paralympic Games
- 9) Contact London Fire & Emergency Planning Authority; and
 - o Any other informative(s) considered necessary by the Corporate Director Development & Renewal.

7.6 That, if by 28th February 2012, the legal agreement has not been completed; the Corporate Director of Development & Renewal is delegated power to refuse planning permission.

8.0 CONCLUSION

8.1 All other relevant policies and considerations have been taken into account. Planning permission should be approved for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS above.

9.0 REASONS FOR REFUSAL

9.1 Notwithstanding the above, should Members, having considered the report, resolve to refuse planning permission, the following reasons for refusal are suggested, based on the views expressed during the Strategic Development Committee meeting held on 27th October 2011:

1. The proposal, in terms of its height, scale, bulk, design and elevational treatment represents an inappropriate form of development and fails to preserve or enhance the character, appearance and setting of the Tower of London World Heritage Site, the Tower Conservation Area and surrounding conservation areas, adjacent listed buildings and the adjacent Scheduled Ancient Monument. As such, the proposal fails to accord with Planning Policy Statement 5 (2010), policies 7.6, 7.7, 7.8, 7.9 and 7.10 of the London Plan (2011), policies SP10 and SP12 of the Core Strategy Development Plan Document (2010), saved policy DEV1 of the Unitary Development Plan (1998), policies DEV2, CON1, CON2 and CFR18 of the Interim Planning Guidance (2007), which seek to protect the character, appearance and setting of heritage assets. The proposal also fails to accord with the aims and objectives of Tower of London World Heritage Site Management Plan (Historic Royal Palaces, 2007)
2. The proposal will have a detrimental impact upon protected views as detailed within the London Plan London Views Management Framework Revised Supplementary Planning Guidance (July 2010) and would fail to maintain local or long distance views in accordance policies 7.11 and 7.12 of the London Plan (2011) and policy SP10 of the Core Strategy Development Plan Document (2010) which seek to ensure large scale buildings are appropriately located and of a high design standard, whilst also seeking to protect and enhance regional and locally important views

3. The proposal will provide inadequate arrangements for site servicing and coach drop off which will result in unacceptable vehicular and pedestrian conflict within the immediate locality to the detriment of highway safety, contrary to policy 6.7 of the London Plan (2011), policy SP09 of the Core Strategy Local Development Framework (2010), saved policies T16 and T19 of the Council's Unitary Development Plan (1998) and policy DEV17 of the Council's Interim Planning Guidance (October 2007)

Implications of a refusal of planning permission

9.2 Following the refusal of the application the following options are open to the Applicant. These would include (though not be limited to):

1. The applicant could appeal the decision and submit an award of costs application against the Council. Planning Inspectorate guidance on appeals sets out in paragraph B20 that:

“Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council”.

2. There are two financial implications arising from appeals against the Council's decisions. Firstly, whilst parties to a planning appeal are normally expected to bear their own costs, the Planning Inspectorate may award costs against either party on grounds of “unreasonable behaviour”. Secondly, the Inspector will be entitled to consider whether proposed planning obligations meet the tests set out in the Secretary of State's Circular 05/2005 and are necessary to enable the development to proceed.
3. The Council would vigorously defend any appeal.

10.0 APPENDICIES

- 10.1 Appendix 1 - Committee Report to Members on 15^h September 2011
- 10.2 Appendix 2 - Addendum Report to Members on 15th September 2011
- 10.3 Appendix 3 - Deferral Report to Members on 27th October 2011
- 10.4 Appendix 4 - Addendum Report to Members on 27th October 2011