

Committee: Development	Date: 10 th May 2012	Classification: Unrestricted	Agenda Item No: 7.4
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Adam Williams		Ref No: PA/12/00072	
		Ward(s): Weavers	

1. APPLICATION DETAILS

1.1 **Location:** 254 Hackney Road, London, E2 7SJ

Existing Use: Public House

Proposal: Use of the existing flat roof at first floor level to provide outdoor seating for a maximum of 22 diners, together with the installation of 0.8 metre high obscure glazed panels along the length of the eastern parapet of the flat roof, and the replacement of the existing facade columns at ground floor level with stone columns of the original Victorian design.

Drawing Nos:

- Site Location Plan;
- Existing Elevation 1;
- Proposed Elevation 1;
- Existing Plan 2;
- Proposed Plan 2;
- Sketch 1;
- Sketch 2;
- Original Image 1;
- Design & Access Statement, dated 16 December 2011.

Applicant: Mr Gary Hedgecock

Owner: Mr Gary Hedgecock

Historic Building: N/A

Conservation Area: Hackney Road

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Local Development Framework Core Strategy (2010), London Borough of Tower Hamlets Unitary Development Plan (1998), the Interim Planning Guidance (2007), the Managing Development DPD (Proposed Submission Version 2012), associated supplementary planning guidance, the London Plan (2011) and the National Planning Policy Framework (2012), and found that:

2.2 The proposed use of the front projecting ground floor roof as a roof terrace would lead to an unacceptable level of undue noise and disturbance and would fail to protect the amenity of nearby residential occupiers. As such the proposal is contrary to Policy SP10(4) of the Council's adopted Core Strategy (2010), saved Policies DEV2 and DEV50 of the Unitary

Development Plan (1998), Policy DM25 of the Managing Development DPD (2012) and Policies DEV1 and DEV10 of the Interim Planning Guidance (2007). These policies require development to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm.

- 2.3 The proposed obscure glazed screen, by reason of its size, design, appearance and prominence, would fail to respect the character of the existing building or surrounding area and would also fail to preserve or enhance the character and appearance of the Hackney Road Conservation Area. As such, the proposal is contrary to Policy SP10 of the Council's adopted Core Strategy (2010), saved Policies DEV1 and DEV27 of the Unitary Development Plan (1998), Policies DM24 and DM27 of the Managing Development DPD (2012), Policies DEV2 and CON2 of the Interim Planning Guidance (2007), and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek ensure that development proposals are well designed and either preserve or enhance the character and appearance of the Borough's Conservation Areas.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **REFUSE** planning permission for the reasons cited in paragraphs 2.2 and 2.3 of this report.

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The proposal seeks consent for the use of the first floor flat roof for outdoor seating. Specifically, this application seeks consent for the use of the terrace between the hours of 12:00 - 22:00 to provide outdoor seating for a total of 22 diners in association with the pub restaurant.
- 4.2 In addition, the proposal includes the installation of a 20mm thick toughened obscure glazed screen along the length of the eastern parapet to the flat roof at first floor level. The obscure glazed screen would extend to a height of 0.8 metres along the length of the parapet wall. The purpose of the screen is to prevent users of the terrace overlooking neighbouring residential properties, specifically the north facing habitable room windows within London Terrace to the east of the site. The proposal also includes the replacement of the existing tiled columns along the ground floor frontage with stone columns to match the original column design.

Background

- 4.3 The building was originally constructed with no access from inside the pub onto the first floor roof, which projects forward some 5.4 metres from the upper floors. This remained the case until planning permission PA/06/01936, which was allowed on appeal, was implemented. This scheme included a four-storey infill extension to the side, which incorporated a door allowing direct access on to the first floor roof for the first time. The allowed plan was annotated to show access on to the roof was to allow 'staff access for gardening and maitance (sic)'.
- 4.4 On 22 June 2010 planning permission was refused for the use of first floor and balcony as a restaurant with installation of bamboo screen. As with the current proposal, the refused scheme sought permission to use the first floor flat roof to provide outdoor seating for a maximum of 22 diners. The reasons for refusal are cited in paragraph 4.10 of this report.

Site and Surroundings

4.5 The application site is a four-storey building with a single-storey projecting frontage dating from the Victorian era that is bounded by the public highway at Hackney Road to the north, the adjoining single-storey retail unit at 256 Hackney Road and the set-back three-storey apartment block at London Terrace to the east, the five-storey apartment block at Sturdee House to the south, and the public highway at Horatio Street to the west. The surrounding area is home to a mix of uses, with a number of retail units located along Hackney Road, whilst the surrounding side streets are predominantly residential in character.

4.6 *Figure 1: View of The Marksman, looking south-eastwards from the north side of Hackney Road*



4.7 The site lies within the Hackney Road Conservation Area, which was designated on the 8th October 2008 and is intended to protect the special architectural and historic character of buildings and areas adjoining this busy route. It is important to note that the northwest part of Hackney Road is in a separate Conservation Area managed by the London Borough of Hackney. The area designated includes a number of listed terraces of the early 19th century and the surrounding context which supports a number of buildings of a similar and later date. The townscape is composed of a dense concentration of modest sized properties where buildings are 2-4 stories high, where plot sizes are small and there is variety, rhythm and a human scale. The application site and its surroundings include no Statutory Listed Buildings.

Planning History

4.8 PA/06/01936

On 2 April 2007 planning permission was **refused** for the Erection of third storey to increase building to four storeys in height. Addition of four storey extension to side and three storey extension to rear, together with internal alterations to form an ancillary 2 - bedroom staff accommodation unit at first floor level and a 3 - bedroom residential unit at second and third floor level. The decision was appealed and the appeal was subsequently **allowed**.

4.9 PA/07/00937

On 22 May 2007 planning permission was **granted** for the erection of recessed third storey to increase building to four storeys in height. Addition of three and a half storey extension to side (including partially subterranean cellar) and three storey extension to rear, together with internal alterations to form an ancillary 2 - bedroom staff accommodation unit at first floor level and a 3 - bedroom residential unit at second and third floor level.

4.10 PA/07/01851

On 25 September 2007 the Council **granted** the discharge of conditions 3 (external finishes) and 4 (ventilation) of planning permission dated 22nd May 2007, reference PA/07/00937.

4.11 PA/10/00690

On 22 June 2010 planning permission was **refused** for the use of first floor and balcony as a restaurant with installation of bamboo screen.

Reasons for Refusal:

- 1) *The proposed use of the front projecting ground floor roof as a roof terrace would lead to an unacceptable level of undue noise and disturbance and would fail to protect the amenity of nearby residential occupiers. As such the proposal would be contrary to saved policies DEV2 and HSG15 of the adopted Tower Hamlets Unitary Development Plan (1998) and policy DEV1 of Tower Hamlet's Interim Planning Guidance (2007) which seek to protect residential amenity.*
- 2) *The proposed bamboo screening, by reason of its size, design, appearance and prominence, would fail to respect the character of the existing building or surrounding area and would also fail to preserve or enhance the character and appearance of the Hackney Road Conservation Area. As such, the proposal would be contrary to saved policies DEV1 and DEV27 of the adopted Tower Hamlet's Unitary Development Plan (1998) and policies CP4, DEV2 and CON2 of the Tower Hamlets Interim Planning Guidance (2007).*

4.12 PA/10/02229

On 23 December 2010 planning permission was **refused** for the erection of a first floor conservatory to the front of existing pub to facilitate use of the first floor as a restaurant, and installation of awning to Horatio Street elevation. The decision was appealed and the appeal was subsequently **dismissed**.

4.13 PA/11/03830

On 16 March 2012 planning permission was **granted** for change of use of the 2nd and 3rd floors from ancillary accommodation to the Public House (Use Class A4) to boutique hotel (Use Class C1) comprising 5 double bedrooms with en-suite facilities.

5. POLICY FRAMEWORK

- 5.1 For details of the status of relevant policies see the front sheet for "Planning Applications for Determination" agenda items. The following policies are relevant to the application:

Government Planning Policy Guidance

- 5.2 National Planning Policy Framework (2012)

London Plan 2011

- 5.3 Policies: 7.8 Heritage Assets and Archaeology

Adopted Core Strategy (2010)

- 5.4 Policies: SP10 Creating Distinct and Durable Places

Unitary Development Plan 1998 (as saved September 2007)

- 5.5 Policies:
- DEV1 Development requirements
 - DEV2 Environmental Requirements
 - DEV9 Control of Minor Works Within the Borough
 - DEV27 Alterations Within Conservation Areas
 - DEV50 Noise
 - S7 Special Uses

Interim Planning Guidance for the purposes of Development Control (2007)

- 5.6 Policies:
- DEV1 Amenity
 - DEV2 Character and Design
 - DEV10 Disturbance from Noise Pollution
 - RT5 Evening and Night-time Uses
 - CON2 Conservation Areas

Emerging Policy

- 5.7 Managing Development DPD Proposed Submission Version
- DM24 Place-sensitive Design
 - DM25 Amenity
 - DM27 Heritage and the Historic Environment

Supplementary Planning Guidance

- 5.8 Hackney Road Conservation Area Character Appraisal (2009)

6. CONSULTATION RESPONSE

- 6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

The following were consulted regarding the application:

LBTH Transportation & Highways

- 6.2 Subject to the Applicant confirming that the replacement columns do not encroach into the public highway, then LBTH Highways have no objections.

LBTH Environmental Health (Noise and Vibration)

- 6.3 Do not support the proposal. No information has been provided on the noise impacts and the hours of use are unacceptable.

London Borough of Hackney

- 6.4 No comments have been received.

7. LOCAL REPRESENTATION

- 7.1 A total of 61 planning notification letters were sent to nearby properties as detailed on the attached site plan. A site notice was also displayed and the application was advertised in East End Life.

- 7.2 The total number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 30 Objecting: 3 Supporting: 27
No of petitions received: 0 objecting containing 0 signatories
0 supporting containing 0 signatories

7.3 The following issues were raised in objection to the scheme that are addressed in the next section of this report:

- 7.4 (a). The proposed screening will not block the noise of a licensed terrace.
- (b). The proposal will result in noise disturbance to residents of London Terrace.
- (c). The proposal will result in a loss of privacy to residents on London Terrace

Officer Comments: *The above grounds of objection are addressed in paragraphs 8.7 - 8.10 of this report.*

7.5 The following points were raised in support to the scheme that are addressed in the next section of this report:

- 7.6 (d). Support the inclusion of a restaurant space at the Marksman Pub.
- (e). The proposal would be a positive addition to Hackney Road.
- (f). The proposed restaurant and terrace would compliment the existing use of the premises and would provide well needed facilities where there is demand for such services.
- (g). The expansion of the pub would be great news for all locals.
- (h). Support the expansion of the pub to create additional seating for the restaurant.
- (i). The proposed terrace is a great use of previously waste space.

Officer Comments: *It is noted that several letters of support make reference to a proposed glazed conservatory, which is not included in the current scheme, but did form part of the previous application at the site, reference PA/10/02229 (see the 'Relevant Planning History' section of this report).*

8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the Committee must consider are the design of the alterations to the building and their impact on the character and appearance of the Hackney Road Conservation Area, and the impact of the use of the terrace on neighbouring residential amenity.

Design

8.2 The proposal includes the replacement of the existing tiled columns along the ground floor frontage with stone columns to match the original column design, which is shown in the submitted historical photograph of the Marksman Public House, reference 'Original Image 1'. Whilst the principle of reinstating this attractive original feature of the building is supported in design and conservation terms, it is noted that no information or drawings have been submitted to show the detailed design of the columns. However, if planning permission were to be granted, it is considered that such details could be secured by condition.

- 8.3 The proposal also includes the installation of a 20mm thick toughened obscure glazed screen along the length of the eastern parapet to the flat roof at first floor level, in association with the proposed use of the flat roof for outdoor seating. The obscure glazed screen would extend to a height of 0.8 metres along the length of the parapet wall.
- 8.4 During the Case Officer's site visit the applicant positioned a section of glazing adjacent to the parapet that was indicative of the height of the proposed obscure glazed screen. It was noted that the obscure glazed screen would be clearly visible from the surrounding public highway and would obscure the front elevation of the building at first floor level from view when seen from the east of the site along Hackney Road. In addition, proposed obscure glazed screen, by way of its size, design and location along one parapet wall, would be aesthetically incongruous in the context of the host Victorian Public House building and wider Hackney Road Conservation Area.
- 8.5 Consideration should also be had to further visual impacts that could arise through the use of the flat roof for outdoor seating. Specifically, the use of umbrellas and portable outdoor heaters on the flat roof would not require separate planning permission, but by allowing this space to be used for outdoor seating the Council would have limited powers thereafter to control or restrict the use of such equipment on the flat roof, which would be highly visible from along Hackney Road and have a detrimental impact on the appearance of the building and the character and appearance of the Hackney Road Conservation Area.
- 8.6 Taking into account the above, it is considered that the proposed obscure glazed screen, by reason of its size, design, appearance and prominence, would fail to respect the character of the existing building or surrounding area and would also fail to preserve or enhance the character and appearance of the Hackney Road Conservation Area. As such, the proposal is contrary to Policy SP10 of the Council's adopted Core Strategy (2010), saved Policies DEV1 and DEV27 of the Unitary Development Plan (1998), Policies DM24 and DM27 of the Managing Development DPD (2012) and Policies DEV2 and CON2 of the Interim Planning Guidance (2007) and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek ensure that development proposals are well designed and either preserve or enhance the character and appearance of the Borough's Conservation Areas.

Amenity

- 8.7 The proposal seeks consent for the use of the first floor flat roof for outdoor seating. It is noted that planning permission was previously refused for the use of the first floor flat roof as an outdoor seating area for the pub restaurant. As with the previous application, the current application again seeks the use of the terrace between 12:00 - 22:00 hours to provide outdoor seating for a total of 22 diners in association with the pub restaurant. The only notable difference is that the current proposal includes the erection of an obscure glazed screen along the eastern parapet at first floor level, whilst the previous application included a bamboo screen. The previous application was refused on the grounds that the use of the front projecting ground floor roof as a roof terrace would lead to an unacceptable level of undue noise and disturbance and would fail to protect the amenity of nearby residential occupiers.
- 8.8 Three letters of representation have been received from residents within the adjacent London Terrace, in which objection is raised to the proposal on the grounds that the use of the first floor flat roof for outdoor seating would result in noise disturbance to neighbouring residents (see paragraph 7.4 of this report). Accordingly, the proposal has been assessed by LBTH Environmental Health (Noise & Vibration), who object to the application on the grounds that no reference and no information has been provided on the noise impact of having an open site, and that the proposed hours of usage would be unacceptable so close to residential properties.

- 8.9 As such, based on the information that has been submitted it is considered that the inclusion of a glazed screen along the eastern parapet is insufficient to prevent the use of the terrace for outdoor seating resulting in undue noise disturbance to neighbouring residents in London Terrace. The proposal therefore fails to overcome the previous reason for refusal.
- 8.10 Taking into account the above, it is considered that the proposed use of the front projecting ground floor roof as a roof terrace would lead to an unacceptable level of undue noise and disturbance and would fail to protect the amenity of nearby residential occupiers. As such the proposal is contrary to Policy SP10(4) of the Council's adopted Core Strategy (2010), saved Policies DEV2 and DEV50 of the Unitary Development Plan (1998), Policy DM25 of the Managing Development DPD (2012) and Policies DEV1 and DEV10 of the Interim Planning Guidance (2007). These policies require development to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm.

Highways

- 8.11 The proposal has been assessed by LBTH Transportation & Highways, who raise no objections subject to confirmation that the replacement columns do not encroach into the public highway. From review of the submitted drawings and observations made during the Case Officer's site visit, it is confirmed that the replacement columns do not encroach into the public highway. As such, it is considered that this application has no significant Highways implications.

8.12 Local Financial Considerations

- 8.13 The Community Infrastructure Levy (CIL) is a new planning charge, introduced by the Planning Act 2008. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. The Mayor of London introduced the Mayoral Community Infrastructure Levy (CIL) on the 1 April 2012 and this will apply to most new developments in London. However, as the proposed development would not result in a net increase in A4 floorspace of 100 square metres or more, the application is not liable for a CIL contribution.

9.0 CONCLUSIONS

- 9.1 All other relevant policies and considerations have been taken into account. Planning permission should be refused for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

Planning Application Site Map



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	
Consultation Area	Statutory Listed Buildings		

0 30 m
1:1,250

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.
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