

Committee: Development	Date: 22 nd August 2012	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Iyabo Johnson		Ref No: PA/12/01088	
		Ward(s): East India and Lansbury	

1. APPLICATION DETAILS

Location: 4-6 Spey Street, London E14 6PT

Existing Use: A1 retail unit

Proposal: Retrospective application for refrigeration/extraction units and associated timber fencing and grilles to eastern (rear) elevation

Drawing Nos:

- § CAL0304 12 (Site Location Plan)
- § CAL0304 12 (Current Change of Use from Betting Shop to Butchers Store)
- § CAL0304 (Air conditioning units)

Supporting Documents:

- § Design, Access and Planning Supporting Statement by AAH Planning Consultants. Dated April 2012. Ref AAH/4103/12PLA
- § Noise Impact Assessment Report by KP Acoustic Ltd. Dated 26 June 2012. Ref 9186.NIA.01
- § Flood Risk Assessment by AAH Planning Consultants. Dated April 2012. Ref: ENV/0903/12FRA

Applicant: Mr. Halim Abdul

Owner: Sohail Raja

Historic Building: N/A

Conservation Area: N/A

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 Adopted Core Strategy 2010, the London Borough of Tower Hamlets Unitary Development Plan, the Council's Interim Planning Guidance (October 2007), the Council's Managing Development: Development Plan Document (Submission Version May 2012), the London Plan 2011 and the National Planning Policy Framework and has found that:

1. The proposal is considered to be an appropriate scale and design within this location and is therefore in accordance with saved policies DEV1 and DEV9 of the Unitary Development Plan (1998) policy DEV2 of the Council's Interim Planning Guidance (2007) and policy DM24 of the Managing Development: Development Plan Document (Submission Version May 2012). These policies seek to ensure that development is of a high quality design and respects its local context and maintains the visual integrity of the surrounding street scene.

2. The proposal would not have an unacceptable impact on the residential amenity of nearby properties in terms of noise and disturbance. As such, the proposal is in line with saved policies DEV2 and DEV50 of the Unitary Development Plan (1998), policies DEV1 and DEV10 in the Interim Planning Guidance (2007) and policy DM25 of the Managing Development: Development Plan Document (Submission Version May 2012) which seek to

protect the amenity of residents within the borough.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to the following conditions:

Conditions on Planning Permission

- 3.2
1. Time Limit
 2. Application in accordance with submitted plans
 3. Noise level to not exceed 10dB above lowest background noise
 4. Full details of screening equipment

Informative on Planning Permission

- 3.3 N/A

4. PROPOSAL AND LOCATION DETAILS

The Proposal

- 4.1 The Applicant is seeking planning permission for the retention of six refrigeration and extraction units positioned on the rear elevation of the retail unit at 4-6 Spey Street.
- 4.2 The current scheme differs from that originally submitted in respect of the screening. Currently, the six refrigeration and extraction units are enclosed by a metal cage structure finished in black paint. The Applicant has since revised the proposal to include a timber panelled enclosure, following on from advice from the case officer.
- 4.3 There are six units in total. Three of these are of the same size and measure 1030mm (L) x 380mm (D) x 700mm (H). These are associated with vegetable storage, a dairy cabinet and the integral freezer room. Two more cabinets are related to a drink chiller and cold room measure 850mm (L) x 340mm (D) x 610mm (H). The sixth and largest unit measures 1120mm (L) x 450mm (D) x 1255 mm (H) and is connected to a combi-freezer.
- 4.4 The Applicant has submitted a Noise Impact Assessment in support of the application.

Background

- 4.5 The premises was previously in use as a betting shop (use class A2), prior to its recent conversion to a convenience store/butcher (use class A1). The change of use from A2 to A1 is permitted development under the General Permitted Development Order 1995 (as amended).

Site and Surroundings

- 4.6 The application site is located on eastern side of Spey Street, to the east of St. Leonard's Road. The site is situated within a parade of five shops on the edge of a post-war housing estate consisting mainly of three storey blocks.
- 4.7 The site is located adjacent to the south eastern boundary of the Langdon Park Conservation Area and is immediately opposite two Grade II listed structures (the former St. Michael's and Angels Church and the St. Leonard's Road War Memorial.)
- 4.8 The rear elevation on which the units are attached is immediately beneath an overhanging balcony/walkway serving the residential units over the first and second storeys. The rear elevation faces a servicing road with some car parking bay and an enclosed area of open

space.

4.9 The application site lies within Flood Risk Zone 3.

Planning History

4.10 PA/11/00117

Retention of recently installed shop front and shutters plus associated alterations
Withdrawn by the Applicant

ENF/12/00046

Works carried out without approval of application PA/12/00117
Applicant Mr. Abdul advised to submit planning applications for the retention of the new shop front and refrigeration units on rear elevation

PA/12/01087

Retrospective permission for new shop front
Application pending decision under delegated authority

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:

5.2 Adopted Core Strategy 2025 Development Plan Document (September 2010)

SP10 Creating Distinct and Durable Places

5.3 Unitary Development Plan 1998 (as saved September 2007)

DEV1 Design Requirements
DEV2 Amenity
DEV9 Control of Minor Works
DEV50 Noise

5.4 Managing Development Development Plan Document Submission Version May 2012

DM24 Place Sensitive Design
DM25 Amenity

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

DEV1 Amenity
DEV2 Character and Design
DEV10 Disturbance from Noise Pollution

5.6 Government Planning Policy Guidance/Statements

NPPF 2012 National Planning Policy Framework

5.7 Community Plan – One Tower Hamlets

The following Community Plan objectives relate to the application:

A Great Place To Be
Safe and Supportive Communities

6. CONSULTATION RESPONSE

6.1 LBTH Environmental Health (Health and Housing)

No concerns

6.2 LBTH Environmental Health (Noise and Vibration)

No objection was raised. The Environmental Health Officer reviewed the Noise Impact Assessment and was satisfied with its contents.

7. LOCAL REPRESENTATION

7.1 14 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has been publicised on site. The 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: 6 Objecting: 6 Supporting: 0
No of petitions received: 1 objecting containing 42 signatories

Representation Comments

7.2 § Objection to the commencement of works prior to granting of planning permission

(Officer Comment: Following allegations of a breach of planning control from a local resident, the Council's Enforcement Team visited the site and advised the Applicant that retrospective planning permission for both the refrigeration units and the new shop front would need to be sought. The Applicant was advised that failure to secure planning permission would result in further enforcement action and that the units and shop front would have to be removed.)

7.3 § Anti-social construction hours and the resultant adverse effect on residential amenity

(Officer Comment: *If planning permission is granted, a condition limiting the hours of any further construction should be imposed.*)

7.4 § Concerns about disposal of waste

(Officer Comment: *The subject application relates only to the rear refrigeration units which will not generate any waste or effluent. The premises new use as a butcher shop is a permitted change and not subject to planning controls; therefore any waste disposal issues arising from the new use are not subject to planning regulations. However, an officer from the Council's Clean and Green department has advised that the proprietors of the butcher store are required to procure a contract for the removal and disposal of waste containing animal by-products. The Council provide a Commercial waste service, but this does not include the collection of animal by-products. Waste from animal by products is required to be kept in separate bins located within the property and not on the street. It is the responsibility of the Council's Trade Waste Enforcement Team to investigate any alleged breaches of these procedures.*

7.5 § The application wrongly states that the site is vacant

(Officer Comment: *The site is not vacant; however this does not affect the assessment of the application).*

7.6 § The application has not addressed the change of use.

(Officer Comment: *The premises was previously in use a betting shop (use class A2), prior*

to its recent conversion to a convenience store/butcher (use class A1). The change of use from A2 to A1 is permitted development under the General Permitted Development Order 1995 (as amended).

§ Un-social trading hours

7.7

(Officer Comment: As the trading hours are not subject to existing controls, this is not a matter than can be addressed through Planning. Instead, the Council's Environmental Health section should investigate the matter further.

§ Anti-Social Behaviour in vicinity of application site

7.8

(Officer Comment: There is no evidence to suggest that the proposed development will lead to anti-social behaviour. This issue was previously brought to the attention of the Council's Planning Enforcement Team through a Members Enquiry. The officer referred the matter to the Council's Community Safety Service who are now aware of problems with anti social behaviour in this area.

§ Concerns about noise pollution

7.9

(Officer Comment: The submitted Noise Impact Assessment by KP Acoustics Ltd (Report 9186.NIA.01) sufficiently demonstrates that the units will not have an adverse noise impact on residential occupiers living at first floor level given the volume of the noise emissions and the type of acoustic screening being proposed. The Council's Environmental Health Officer has reviewed the report and is satisfied with its contents. This issue is discussed in further detail in the "Material Considerations" section of this report.

§ Concerns about trading hours

7.10

(Officer Comment: The hours of trading at the site are not subject to any planning controls. Therefore this issue will need to be considered by the Council's Environmental Health section.

8 MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the committee must consider are, design and amenity.

Design

8.2 The application proposal is to retain six refrigeration and extraction units positioned at ground floor level on the rear elevation of 4-6 Spey Street.

8.3 The units are currently enclosed by a cage structure however; the application proposes to replace this with two timber enclosures, one housing a team of four units and the other housing a team of two.

8.4 The timber enclosures are formed from 10mm thick timber panels with a louvered side providing necessary ventilation. The louvered side of the enclosure is to be acoustically treated to minimise the transmission of noise. The enclosure surrounding the team of four units measures approximately 2.5m in height from ground level to the underside of the overhanging balcony at first floor. The enclosure surrounding the team of two units measures approximately 2m in height.

8.5 There are sight lines to the units from the car park to the rear of the property. In view of this, the applicant was encouraged to seek a higher quality means of enclosing the units. The proposed timber enclosures are considered to be a more sympathetic solution in design terms than the existing fencing and will therefore minimise the visual impact of the units on

the host building and surrounding area. Further, as this type of equipment is normally associated with the rear elevation of commercial properties, this location is considered to be acceptable.

- 8.6 On balance, it is considered that the proposed refrigeration and extraction units together with the timber enclosures are acceptable in terms of design, scale and appearance. The units and the enclosures will be visually appropriate to the host property and the surrounding streetscape. The proposal is therefore acceptable in terms of saved policies DEV1, DEV9 and DEV27 of the Unitary Development Plan (1998), policies DEV2 and CON2 of the Council's Interim Planning Guidance (2007), policy SP10 of the adopted Core Strategy (2010) and policy DM24 of the Managing Development: Development Plan Document (Submission Version May 2012) which seek to ensure that development is of high quality and sensitive to the character and visual integrity of the surrounding area.

Amenity

- 8.7 Policy SP10(4) of the adopted Core Strategy (2010), policy DM25 in the Managing Development: Development Plan Document (Submission Version May 2012), policy DEV2 in the Unitary Development Plan (1998) and policy DEV1 of the Council's Interim Planning Guidance (2007) seek to ensure that development where possible protects and enhances the amenity of existing and future residents.
- 8.8 The units are in operation 24 hours a day.
- 8.9 The Applicant has submitted a Noise Impact Assessment in support of the application. This demonstrates that the transmission of noise to the nearest sensitive windows are within both the Council's and national environmental health standards.
- 8.10 These regulations state that at the façade of the nearest sensitive property, the noise generated by the plant must not exceed 10dB below the minimum external background noise during the operating period. The background noise level at the nearest sensitive residential property was measured at 27dB. The noise generated by the units was measured to be 17dB which is within the 10dB margin.
- 8.11 The details of the Noise Impact Assessment have been assessed by the Council's Environmental Health Team who have been satisfied that there will be no adverse amenity issues arising from the proposal.
- 8.12 To ensure that the units do not adversely impact upon residential amenity, a condition will be attached to ensure the noise generated by the units does not exceed 10dB below any background noise at any time.
- 8.13 Subject to this condition, it is considered that the proposal meets the aims of policy SP10(4) of the Adopted Core Strategy 2010, saved policies DEV2 and DEV50 of the Unitary Development Plan (1998), policy DEV1 of the Council's Interim Planning Guidance (2007) and policy DM25 of the Managing Development: Development Plan Document (Submission Version May 2012). These policies seek to ensure and safeguard residential amenities from unacceptable levels of noise nuisance.

CONCLUSION

- 8.14 All other relevant policies and considerations have been taken into account. Planning permission should be granted 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.

