

DEVELOPMENT COMMITTEE

Wednesday, 27 April 2016 at 7.00 p.m.
**Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove
Crescent, London, E14 2BG**

The meeting is open to the public to attend.

Members:

Chair: Councillor Marc Francis
Vice Chair : Councillor Shiria Khatun
Councillor Sabina Akhtar, Councillor Rajib Ahmed, Councillor Suluk Ahmed, Councillor
Gulam Kibria Choudhury and Councillor Chris Chapman

Deputies:

Councillor Sirajul Islam, Councillor Andrew Cregan, Councillor Amina Ali, Councillor Shah
Alam, Councillor Julia Dockerill, Councillor Peter Golds, Councillor Andrew Wood,
Councillor Mahbub Alam and Councillor Craig Aston

[The quorum for this body is 3 Members]

Public Information.

The deadline for registering to speak is **4pm Monday, 25 April 2016**
Please contact the Officer below to register. The speaking procedures are attached
The deadline for submitting material for the update report is **Noon Tuesday, 26 April
2016**

Contact for further enquiries:

Zoe Folley, Democratic Services,
1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG
Tel: 020 7364 4877
E-mail: zoe.folley@towerhamlets.gov.uk
Web: <http://www.towerhamlets.gov.uk/committee>

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Public Information

Attendance at meetings.

The public are welcome to attend meetings of the Committee. However seating is limited and offered on a first come first served basis.

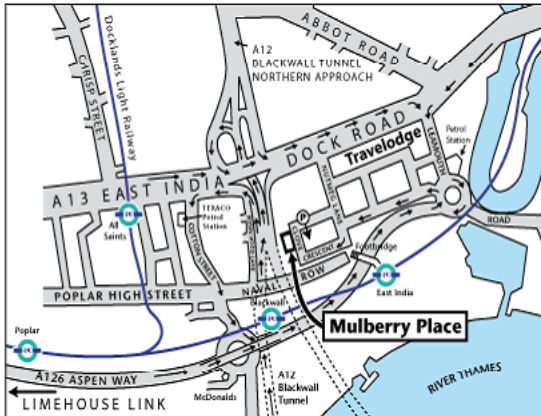
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QR code for smart phone users

APOLOGIES FOR ABSENCE

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS (Pages 1 - 4)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Monitoring Officer.

2. MINUTES OF THE PREVIOUS MEETING(S) (Pages 5 - 12)

To confirm as a correct record the minutes of the meeting of the Development Committee held on 6th April 2016.

3. RECOMMENDATIONS

To RESOLVE 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 Development and Renewal 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 Development and Renewal is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision.

4. PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE (Pages 13 - 14)

To note the procedure for hearing objections at meetings of the Development Committee and meeting guidance.

		PAGE NUMBER	WARD(S) AFFECTED
5.	DEFERRED ITEMS	15 - 16	All Wards
5 .1	Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE (PA/15/02489)	17 - 44	Spitalfields & Banglatown
	Proposal:		
	Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.		
	Recommendation:		
	That the Committee resolve to GRANT planning permission subject to conditions.		
5 .2	42-44 Aberfeldy Street, E14 0NU (PA/15/03434 and PA/15/03435)	45 - 56	Lansbury
	Proposal		
	PA/15/03434 Retrospective planning application for the retention of an ATM (Cash Machine).		
	PA/15/03435 Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.		
	Recommendation		
	That the Committee resolve to GRANT both planning permission and advertisement consent subject to the conditions in the Committee report.		
6.	PLANNING APPLICATIONS FOR DECISION	57 - 58	
6 .1	42B Kenilworth Road, E3 5RJ (PA/15/03217)	59 - 70	Bow West
	Proposal:		
	Erection of single storey roof extension		
	Recommendation:		
	That the Committee resolve to REFUSE planning permission for the reasons set out in the Committee report.		

Proposal:

Conversion of two existing non-original bin stores into use as a Food Technology Classroom with support kitchen area. Works include; removal of existing timber panels and double doors, removal of a non-original non load bearing blockwork wall, new vent openings through retained side doors, fitting new external windows and doors within existing structural openings, alterations to the existing drainage to suit kitchen requirements, new internal plasterboard partition wall, new wall, floor and ceiling finishes, new light fittings and extract ventilation

Recommendation:

That the Committee resolve grant Listed Building Consent subject to conditions as set out on the Committee report.

7. OTHER PLANNING MATTERS

None.

Next Meeting of the Development Committee

Wednesday, 8 June 2016 at 5.30 p.m. to be held in the Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

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Agenda Item 1

DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

Interests and Disclosable Pecuniary Interests (DPIs)

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

Effect of a Disclosable Pecuniary Interest on participation at meetings

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

Further advice

For further advice please contact:-

Melanie Clay Director of Law Probity and Governance and Monitoring Officer, Telephone Number: 020 7364 4801

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 7.00 P.M. ON WEDNESDAY, 6 APRIL 2016

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

Members Present:

Councillor Marc Francis (Chair)
Councillor Sabina Akhtar
Councillor Rajib Ahmed
Councillor Suluk Ahmed
Councillor Gulam Kibria Choudhury
Councillor Chris Chapman

Other Councillors Present:

None

Apologies:

Councillor Shiria Khatun

Officers Present:

Paul Buckenham	– (Development Control Manager, Development and Renewal)
Gillian Dawson	– (Team Leader, Legal Services, Law, Probity and Governance)
Beth Eite	– (Deputy Team Leader, Development and Renewal)
Christopher Stacey – Kinchin	– (Planning Officer, Development and Renewal)
Zoe Folley	– (Committee Officer, Directorate Law, Probity and Governance)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

Councillor Marc Francis declared a personal interest in agenda item 6.1 Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE (PA/15/02489) as he had received representations from interested parties.

2. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 9 March 2016 be agreed as a correct record and signed by the Chair.

3. RECOMMENDATIONS

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, Development and Renewal 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, Development and Renewal is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision

4. PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

The Committee noted the procedure for hearing objections and meeting guidance.

5. DEFERRED ITEMS

None.

6. PLANNING APPLICATIONS FOR DECISION

6.1 Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE (PA/15/02489)

Update report tabled.

Paul Buckenham (Development Manager) introduced the proposal for the change of use from public house (A4) to a mixed public house / hotel use (sui generis) with the erection of two storey extension to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.

The Chair of the Committee then invited registered speakers to address the Committee

Dale Ingram and Vinny Mulhern (tenant of the public house) addressed the Committee in objection to the application speaking on behalf of customers of the public house. They considered that the proposal would harm the viability of the public house, which they submitted was a community asset, potentially leading to its loss given: the uncertainties around the continued use of the

garden, (that was a major income generator for the public house), business disruption during construction, the conversion to sui generis use that could open the way up for 100% flats at the site and loss of use of the accommodation upstairs. They also questioned the need for a further hotel in the area given the oversupply of hotel accommodation in the area. The applicant had failed to demonstrate the need for this. They also expressed concern about the quality of the servicing arrangements, that no noise assessment had been submitted and that the proposal would adversely affect residential amenity. The application should be refused planning permission.

In response to Members questions, the speakers clarified their concerns about the servicing arrangements given the restrictions on parking in the area and the highway, the likelihood of complaints from the hotel residents jeopardising the business potential of the pub, the proposed restrictions on the garden, and the impact of these issues on the viability of the public house.

Peter Munnely addressed the Committee on behalf of the applicant. He responded to the points raised by the speaker reassuring Members that the pub space and garden would be retained and the plans included conditions to secure this. The current set up was unsustainable. The two uses would be entirely separate (save for hotel customers checking in and out of the hotel from the public house). The heritage assessment concluded that the impact in this regard would be acceptable. Whilst mindful of the site constraints, the parking and servicing arrangements had been in place for many years and there would be a Servicing and Delivery Plan. In summary, the application differed considerably from the previously refused scheme and echoed many similar developments. Therefore was recommended for approval.

In response to Member questions, he stressed the need to focus on the planning issues, not commercial issues. He also explained that given the modest nature of the proposal, the impact on the highway from trips to and from the development would be minimal. He also stated that it was intended that the garden would be a key feature of the public house and the new hotel. He also answered questions about the size and quality of the proposed hotel rooms and the storage space.

Beth Eite (Deputy Team Leader, Planning Services) presented the application describing the site location in the Central Activities Zone and the Wentworth Street Conservation Area showing images of public house. She referred to the previously refused scheme explaining the reasons for refusal. She also drew attention to the results of the consultation exercise carried out by the Council. The plans would create 11 hotel rooms and a public house. Therefore, this would be a mixed sui generis scheme. There would be a condition restricting use of the ground floor and basement to public house use. Furthermore due to its status as an Asset of Community Value, permitted development rights would be removed. Taken together, these two restrictions would afford the public house a high degree of protection. The provision of a small number of hotel rooms on this site complied with policy and there would be a Servicing and Delivery plan. The plans also included conditions to ensure that the relevant noise standards were met. The Committee also heard about the difficulties in providing disabled access to the hotel rooms given that this

would necessitate taking trading floor space away from the public house that would affect its viability . As a result, it was considered that the drawbacks of this option outweighed the merits.

Officers were recommending that the application was granted planning permission.

Members raised concerns about the change of use to sui generis use questioning whether this would adequately safeguard the future retention of the public house and would change the character of the development.

Concern was also expressed about the operation of a hotel above the public house. It was feared that this would undermine its viability potentially resulting in a loss of a community asset. Whilst it was appreciated that the proposed arrangement might be a relatively common feature outside London and it might improve the viability of the public house, it was questionable whether it would work in this case. Reassurances were therefore sought about this and that it complied with policy.

Members also sought clarity on the number of additional servicing trips that the plans would generate and the suitability of the site to accommodate this. Questions were also asked about the reasons why the non - provision of disabled access was felt to be acceptable in this case and the targets in policy for hotel rooms in the Borough.

Members also raised concerns about the impact of the external alterations on the character of the building given its prominence at street level. They also asked about the separation distances to the nearby Carter House.

Officers answered each of the Committees questions. It was explained that, having considered the two uses, Officers felt on balance that they would occupy an equal amount of floor space and neither would dominate. Therefore, it had been classified as a sui generis use. The conditions in the committee report would afford the public house a great deal of protection going forward. Any further change of use would require a separate planning permission. It was also confirmed that the lease issues were not a material planning issue.

It was also noted that the application had been amended to overcome the previous concerns (around harm to the viability of the public house from loss of garden space, and the proximity of the public house to the proposed residential development). As a result of the changes, Officers felt that the two uses would sit comfortable together. The pressure group CAMRA were in favour of multi - use developments as a way of enhancing the viability of public houses. There would be a condition to ensure that the external alterations would match the existing building.

Officers also responded to the concerns about the lack of wheel chair access, (as explained in the presentation)the targets in planning policy for hotel rooms and the amount of hotel units granted in recent times.

In summary the Chair noted the amendments to scheme and felt that there was a degree of logic to include hotel rooms. So this was a finely balanced decision. However, the Chair stated that he remained concerned about the potential loss of the public house, especially given the plans to change the public house to a mixed use as opposed to a public house with an auxiliary hotel accommodation.

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

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be not accepted (for the reasons set out below) and on a vote of 5 in favour, 0 against it was **RESOLVED**:

That the Officer recommendation to grant planning permission be **NOT ACCEPTED** at Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE for change of use from public house (A4) to a mixed public house / hotel use (sui generis), the erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms. (PA/15/02489)

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

- That the operation of a hotel above the public house would undermine its viability, potentially resulting in the loss of a community asset.
- The proposed change of use from public house to a mixed use sui generis.
- That the proposed external alterations would harm the setting of the existing building and the setting of the Conservation Area.
- Impact on residential amenity.
- Inadequate servicing provision.
- Lack of wheelchair access.

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.

6.2 42-44 Aberfeldy Street, E14 0NU (PA/15/03434 and PA/15/03435)

Paul Buckenham (Development Manager) introduced the Retrospective planning application/ advertisement consent for the retention of an ATM (Cash Machine) with illuminated features.

The Chair then invited registered speakers to address the Committee.

Abdul Salam Sheikh addressed the Committee in objection to the proposals. He stated that he was speaking on behalf of many residents. He stated that he lived in the street that was a quiet residential area. Since its installation,

there had been a noticeable increase in late night nuisance, arising from use of the machine adding to the disturbance from food outlets in the area. There were already cash machines in the local area so this was not necessary. The application should be refused. In response to Members' questions, he commented that the existing commercial premises in the area closed at 10pm which meant it was usually quiet at night. He also discussed in further detail his concerns about noise disturbance from the machine, (i.e. due to such things as people driving to and from the machine, groups lingering by the machine and light from the sign).

Chris Stacey-Kinchin (Planning Officer, Development and Renewal) presented the detailed report on the application submitted to the Committee due to the receipt of a petition. The Committee were showed images of the shopping parade comprising a mixture of commercial and residential units. They also noted the shop unit with the cash machine, the standard security features for the ATM and the standard design.

Whilst mindful of the petitioners' concerns, it was considered that given the location of the cash machine in a shopping parade, that the Police had raised no objections and the negligible impact on the appearance of the shop, Officers did not consider that the plans would cause any demonstrative negative impacts or would harm residential amenity, therefore it was recommended that the planning and advertisement consent be granted.

Members asked questions about the enforcement activity to date given this was a retrospective application and the weight that should be given to the fact that it was a retrospective application. They also asked about the safety and security measures and whether this included CCTV. They also questioned the merits of the application given the concerns about noise and also the available of cash machines nearby.

In response Officers explained that no weight should be given to the fact that it was a retrospective application. If permission was refused, the next step would be to consider enforcement action. Whilst the Council's Enforcement Team had contacted the applicant, it would not be expedient to commence such enforcement action until this planning application had been determined. It should also be noted that the application was originally submitted to the Committee in October 2015 but withdrawn from the agenda. The application included a number of security measures as set out in the Design and Access statement that were standard measures for cash machines. It was also pointed out that the cash machines in the nearby shop charged for withdrawals unlike this cash machine

In response to questions about the provision of fixed CCTV, it was reported that the applicant had considered this but did not think this was necessary. However it was believed that there would be CCTV within the machine. In response to further question about security, Officers discussed that if Members felt strongly about this, it would be requested that details of the security measures be provided to establish whether the machine was fitted with CCTV.

In response to further questions, Officers reported that there were no guidance in policy on the number of ATMs in an area.

On a vote of 2 in favour and 3 against the Officer recommendation, the Committee did not agree the Officer recommendation to grant planning permission and advertisement consent.

Accordingly, Councillor Rajib Ahmed proposed and Councillor Suluk Ahmed seconded a motion that the planning permission and advertisement consent be not accepted (for the reasons set out below) and on a vote of 3 in favour, 2 against it was **RESOLVED**:

That planning permission planning permission and advertisement consent be **REFUSED** at 42-44 Aberfeldy Street, E14 0NU for

PA/15/03434

- Retrospective planning application for the retention of an ATM (Cash Machine).

PA/15/03435

- Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.

The Committee were minded to refuse the scheme due to concerns over the following issues:

- Impact on residential amenity in terms of noise and disturbance from use of the cash machine and the illuminated sign
- That the proposal would increase anti-social behaviour in the area.
- The safety and security of the cash machine users.

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.

7. OTHER PLANNING MATTERS

None.

The meeting ended at 9.00 p.m.

Chair, Councillor Marc Francis
Development Committee

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Guidance for Development Committee/Strategic Development Committee Meetings.

Who can speak at Committee meetings?

Members of the public and Councillors may request to speak on applications for decision (Part 6 of the agenda). All requests must be sent direct to the Committee Officer shown on the front of the agenda by the deadline – 4pm one clear working day before the meeting. Requests should be sent in writing (e-mail) or by telephone detailing the name and contact details of the speaker and whether they wish to speak in support or against. Requests cannot be accepted before agenda publication. Speaking is not normally allowed on deferred items or applications which are not for decision by the Committee.

The following may register to speak per application in accordance with the above rules:

Up to two objectors on a first come first served basis.	For up to three minutes each.
Committee/Non Committee Members.	For up to three minutes each - in support or against.
Applicant/ supporters. This includes: an agent or spokesperson.	Shall be entitled to an equal time to that given to any objector/s. For example: <ul style="list-style-type: none"> • Three minutes for one objector speaking. • Six minutes for two objectors speaking. • Additional three minutes for any Committee and non Committee Councillor speaking in objection.
Members of the public in support	It shall be at the discretion of the applicant to allocate these supporting time slots.

What if no objectors register to speak against an applicant for decision?

The applicant or their supporter(s) will not be expected to address the Committee should no objectors register to speak and where Officers are recommending approval. However, where Officers are recommending refusal of the application and there are no objectors or members registered, the applicant or their supporter(s) may address the Committee for 3 minutes.

The Chair may vary the speaking rules and the order of speaking in the interest of natural justice or in exceptional circumstances.

Committee Members may ask points of clarification of speakers following their speech. Apart from this, speakers will not normally participate any further. Speakers are asked to arrive at the start of the meeting in case the order of business is changed by the Chair. If speakers are not present by the time their application is heard, the Committee may consider the item in their absence.

This guidance is a précis of the full speaking rules that can be found on the Committee and Member Services webpage: www.towerhamlets.gov.uk/committee under Council Constitution, Part.4.8, Development Committee Procedural Rules.

What can be circulated?

Should you wish to submit a representation or petition, please contact the planning officer whose name appears on the front of the report in respect of the agenda item. Any representations or petitions should be submitted no later than noon the working day before the committee meeting for summary in the update report that is tabled at the committee meeting. No written material (including photos) may be circulated at the Committee meeting itself by members of the public including public speakers.

How will the applications be considered?

The Committee will normally consider the items in agenda order subject to the Chair’s discretion. The procedure for considering applications for decision shall be as follows:
 Note: there is normally no further public speaking on deferred items or other planning matters



- (1) Officers will announce the item with a brief description.
- (2) Any objections that have registered to speak to address the Committee
- (3) The applicant and or any supporters that have registered to speak to address the Committee
- (4) Committee and non- Committee Member(s) that have registered to speak to address the Committee
- (5) The Committee may ask points of clarification of each speaker after their address.
- (6) Officers will present the report supported by a presentation.
- (7) The Committee will consider the item (questions and debate).
- (8) The Committee will reach a decision.

Should the Committee be minded to make a decision contrary to the Officer recommendation and the Development Plan, the item will normally be deferred to a future meeting with a further Officer report detailing the implications for consideration.

How can I find out about a decision?

You can contact Democratic Services the day after the meeting to find out the decisions. The decisions will also be available on the Council’s website shortly after the meeting.

For queries on reports please contact the Officer named on the front of the report.

<p>Deadlines. To view the schedule of deadlines for meetings (including those for agenda papers and speaking at meetings) visit the agenda management timetable, part of the Committees web pages. Visit www.towerhamlets.gov.uk/committee - search for relevant Committee, then ‘browse meetings and agendas’ then ‘agenda management timetable’.</p>	 Scan this code to view the Committee webpages.
<p>The Rules of Procedures for the Committee are as follows:</p> <ul style="list-style-type: none"> • Development Committee Procedural Rules - Part 4.8 of the Council’s Constitution (Rules of Procedure). • Terms of Reference for the Strategic Development Committee - Part 3.3.5 of the Council’s Constitution (Responsibility for Functions). • Terms of Reference for the Development Committee - Part 3.3.4 of the Council’s Constitution (Responsibility for Functions). 	 Council’s Constitution

Agenda Item 5

Committee: Development	Date: 27 April 2016	Classification: Unrestricted	Agenda Item No: 5
Report of: Corporate Director Development and Renewal		Title: Deferred Items	
Originating Officer:		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

- 1.1 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following information and advice applies to them.

2. DEFERRED ITEMS

- 2.1 The following items are in this category:

Date deferred	Reference number	Location	Development	Reason for deferral
6 th April 2016	PA/15/02489	Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE	Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.	<p>The Committee were minded to refuse the application due to concerns over the following issues:</p> <p>The potential loss of the public house as a result of a change to a sui generis use. Lack of wheelchair accessible bedrooms. Insufficient information on the servicing requirements of the scheme and the potential detrimental impact this will have on the surrounding street network. Impact to the character and appearance of the building and surrounding conservation area resulting from the construction of the proposed extension and resultant loss of the roof terrace.</p>

**LOCAL GOVERNMENT ACT 2000 (Section 97)
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 6**

Brief Description of background papers:
See Individual reports

Tick if copy supplied for register:
✓

Name and telephone no. of holder:
See Individual reports

6 th April 2016	PA/15/03434 and PA/15/03435	42-44 Aberfeldy Street, E14 0NU	<p>PA/15/03434 Retrospective planning application for the retention of an ATM (Cash Machine).</p> <p>PA/15/03435 Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.</p>	<p>The Committee were minded to refuse the scheme due to concerns over the following issues:</p> <p>Impact on residential amenity in terms of noise and disturbance from use of the cash machine and the illuminated sign.</p> <p>That the proposal would increase anti-social behaviour in the area. The safety and security of the cash machine users.</p>
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3. CONSIDERATION OF DEFERRED ITEMS

3.1 The following deferred applications are for consideration by the Committee. The original reports along with any update reports are attached.

- Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE
- 42-44 Aberfeldy Street, E14 0NU

3.2 Deferred applications may also be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.

4. PUBLIC SPEAKING

4.1 As public speaking has already occurred when the Committee first considered these deferred items, the Council's Constitution does not allow a further opportunity for public speaking. The only exception to this is where a fresh report has been prepared and presented in the "Planning Applications for Decision" part of the agenda. This is generally where substantial new material is being reported to Committee and the recommendation is significantly altered.

5. RECOMMENDATION

5.1 That the Committee note the position relating to deferred items and to take any decisions recommended in the attached reports.

Agenda Item 5.1

Committee: Development Committee	Date: 6 th April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Beth Eite	Ref No: PA/15/02489
	Ward: Spitalfields and Banglatown

1. APPLICATION DETAILS

Location:	Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE
Existing Use:	Public House (use class A4) on ground and basement floors with ancillary residential accommodation above.
Proposal:	Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.
Drawing and documents:	Design and Access Statement rev B; Refuse Strategy; Heritage Statement; 187_EE_00; 187_EE_01; 187_EE_02; 187_EE_03; 187_ES_00; 187_ES_01; 187_EX_-01; 187_EX_00; 187_EX_01; 187_EX_02; 187_EX_03; 187_GA_-01; 187_GA_00; 187_GA_01 rev A; 187_GA_02; 187_GA_03; 187_GA_04; 187_GE_00; 187_GE_01; 187_GE_02; 187_GE_03; 187_GS_00; 187_GS_01; 187_S_00
Applicant:	Mendoza Ltd
Ownership:	Mendoza Ltd
Historic Building:	N/A
Conservation Area:	Wentworth Street

2. BACKGROUND

- 2.1 This application for the change of use of the Duke of Wellington from a public house with ancillary accommodation above to a sui generis, mixed use (public house / hotel

use) with 11 hotel rooms and a two storey extension to the second floor and roof level was reported to Development Committee on 7th April 2016.

2.2 The Committee, by way of a unanimous vote, resolved not to accept the officer recommendation to grant planning permission and therefore resolved that permission should be refused and indicated the following reasons for refusal:

- The potential loss of the public house as a result of a change to a sui generis use.
- Lack of wheelchair accessible bedrooms
- Insufficient information on the servicing requirements of the scheme and the potential detrimental impact this will have on the surrounding street network.
- Impact to the character and appearance of the building and surrounding conservation area resulting from the construction of the proposed extension and resultant loss of the roof terrace.

2.3 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

3. COMMITTEE REASONS FOR REFUSAL

Loss of the public house

3.1 The application intends to retain the public house on the ground floor, but for it to be used in conjunction with a hotel on the upper floors. Given the arrangements of the layout these uses cannot be operated independently and as such this is a mixed use (sui generis). Officer's believe that there is sufficient control within the proposed planning condition to ensure that a public house use remains on the site.

3.2 Concerns were raised regarding the potential for the characteristics of the public house to change from that which currently exists. The planning controls proposed would require a further change of use application were the ground floor to be used as an ancillary hotel bar or café/restaurant. It would not be possible under Planning regulations however to guarantee that the existing character of the Duke of Wellington is retained as the condition would secure any public house / drinking establishment use, not the character of the public house.

3.3 Members were also concerned that the use of the upper floors for hotel rooms could affect the ongoing viability of the public house. As the standards for noise insulation for hotel rooms is the same as for residential properties it is considered that a reason for refusal could be based around the potential for noise and disturbance resulting from the public house detrimentally affecting the hotel element. This may result in a curtailing of the public house activities, including the use of the beer garden / yard, either through controls set through licencing or measures taken by the owner / operator (who would be managing both uses). Whilst the condition would prevent the owner / operator from changing the use without planning permission, it would not prevent a closure of the public house / reduction in hours or restrictions on the use of the beer garden in order to ensure less disruption for the visitors to the hotel.

Lack of wheelchair accessible bedrooms

3.4 Policy 4.5 of the London Plan requires 10% of hotel bedrooms to be wheelchair accessible. In this case as 11 hotel rooms are provided one of these should be

wheelchair accessible to meet this policy. There are constraints associated with this site which led officer's to conclude that the provision of one wheelchair bedroom would be too onerous a requirement for this scheme and would not be a sufficient reason to refuse planning permission. These constraints centre predominantly around inclusion of a lift within the building, to serve just one bedroom, would take up ground floor trading area, thus affecting the viability and public house which is established as being of important value to the community. However, as this element of the proposal is contrary to policy officer's believe that this reason could be defended at appeal.

Insufficient information on servicing

- 3.5 The officer view as set out in the original report is that this is a relatively small scale proposal so the addition of 11 hotel rooms on this site would not require significant levels of servicing over and above those which are already carried out for the existing public house and that these could be accommodated on the surrounding highway network without causing significant congestion. Concern was raised that no modelling had been carried out to evidence this claim and that the application should not be supported in light of this.
- 3.6 Officer's would recommend that this refusal reason be coupled with the issue around lack of storage within the hotel element of the proposal. There is only one small storage cupboard within the first floor which means that deliveries and collection of linen and refuse are likely to be required daily, if a storage area were to be provided within the development the Committee may have had more confidence that deliveries and servicing could occur with less frequency. Taking account of the Council's concerns regarding the additional pressure on the surrounding streets resulting from this additional activity it is considered that officers could defend a reason for refusal on this basis.

Character and appearance of the extensions

- 3.7 The building is located in a prominent position within the Wentworth Street conservation area, as such the development is required to preserve or enhance the character and appearance of this conservation area.
- 3.8 Members raised concerns with the appearance of the extensions and how they would result in the unacceptable loss of the roof terrace at second floor level, which is considered to be a key feature of the building.
- 3.9 The proposed extensions are considered to be a modest addition to the rear of the building and subject to a condition that the materials would need to match the original building, officer's believe that this addition would preserve its character and appearance and would not be a particularly noticeable alteration when comparing the existing situation to the proposed one.
- 3.10 The terrace area at second floor level is surrounded by a 2m high close boarded fence which is not an original feature for the building and in officer's opinion is of little or no heritage significance. Officer's believe that defending this reason at appeal is unlikely to be successful and recommend that this reason is withdrawn from the decision. Further information will be presented to the committee when the report is considered.

4. ADDITIONAL REPRESENTATIONS AND PROSPECTIVE CHANGES TO SCHEME

4.1 Since the publication of the Committee Report and Update report the Council has received no additional representation from local residents or the wider community.

5. IMPLICATIONS OF REFUSING PLANNING PERMISSION

5.1 The officer recommendation has been to grant planning permission but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so.

5.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.

- If planning permission is refused, there are a number of routes that the applicant could pursue:
- Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
- To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning application.

5.3 In this case the applicant has not indicated what course of action they might pursue if any.

Financial implications - award of costs

5.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

5.5 Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

5.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

6. RECOMMENDATION

- 6.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission remains unchanged.
- 6.2 However if members are minded to **REFUSE** planning permission the following reasons are recommended:

Loss of the public house

1. As a result of the potential for noise and disturbance to the occupiers of the hotel the proposed inclusion of 11 hotel bedrooms above the public house would threaten the vitality and viability of the existing Duke of Wellington Pub which therefore fails to protect its function as community infrastructure. As such the proposal would be contrary to policy SP01 of the Core Strategy 2010, and policies DM2 and DM8 of the Managing Development Document (2013), policy 3.1(b) of the London Plan 2015, National Planning Policy Framework (2010) and the National Planning Policy Guidance.

Servicing

2. Insufficient information has been provided with the application to demonstrate that the development would not have a detrimental impact upon the surrounding street network through the servicing requirements generated by the proposal, contrary to policies SP09 of the Core Strategy 2010 and DM20 of the Managing Development Document 2013 which seeks to ensure that new development does not have an adverse impact upon the safety and capacity of the road network.

Wheelchair accessible rooms

3. The application fails to provide any wheelchair accessible bedrooms contrary to policy 4.5 of the London Plan 2015 which seeks to ensure that developments contribute to providing a suitable choice and range of accommodation for all visitors to London by including a minimum of 10% of new hotel rooms as wheelchair accessible.

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Committee: Development Committee	Date: 6 th April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Beth Eite	Ref No: PA/15/02489
	Ward: Spitalfields and Banglatown

1. **APPLICATION DETAILS**

Location: Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE

Existing Use: Public House (use class A4) on ground and basement floors with ancillary residential accommodation above.

Proposal: Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.

Drawing and documents: Design and Access Statement rev B; Refuse Strategy; Heritage Statement; 187_EE_00; 187_EE_01; 187_EE_02; 187_EE_03; 187_ES_00; 187_ES_01; 187_EX_-01; 187_EX_00; 187_EX_01; 187_EX_02; 187_EX_03; 187_GA_-01; 187_GA_00; 187_GA_01 rev A; 187_GA_02; 187_GA_03; 187_GA_04; 187_GE_00; 187_GE_01; 187_GE_02; 187_GE_03; 187_GS_00; 187_GS_01; 187_S_00

Applicant: Mendoza Ltd

Ownership: Mendoza Ltd

Historic Building: N/A

Conservation Area: Wentworth Street

2. EXECUTIVE SUMMARY

- 2.1. This report considers the application for the extension to the upper floors of the public house, installation of dormer windows and conversion of the ancillary accommodation to an 11 bedroom (hotel) use. As the hotel is connected to the public house this would be a mixed use, Classes C1 and A4 use (sui generis)
- 2.2. A total of 191 representations were received in objection to this proposal. The objections can be summarised as concerns over: the perceived loss of the A4 (drinking establishments) use; the lack of justification for the need for a hotel (use class C1); the lack of provision of wheelchair accessible hotel rooms; the potential for adverse highways and amenity implications from a hotel; and harm caused to the Conservation Area through the alterations to the building.
- 2.3. Officers believe that the proposal is acceptable for the following reasons:
 - The pub and pub garden would be retained and secured through condition.
 - The operation of a hotel above the pub is not considered to adversely impact the future viability of the pub.
 - The use, size and location of the hotel are appropriate within the Central Activities Zone.
 - The proposed external alterations are small in scale and the proposed materials and design details and elements are sensitive to the historic character of the existing building and Conservation Area.

3. RECOMMENDATION

- 3.1. That the Committee resolve to **GRANT** planning permission subject to conditions.
- 3.2. That the Corporate Director of Development and Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:
- 3.3. **Conditions**
 1. Three year time limit
 2. Development to be built in accordance with approved plans
 3. Requirement to maintain a public house use at ground floor and basement levels.
 4. Submission of details of proposed materials
 5. Details of external plant in accordance with a BS 4142:2014 noise report provided prior to commencement
 6. Details of internal noise insulation measures in accordance with a BS 8233:2014 noise report to be submitted prior to commencement and to include post completion testing.
 7. Servicing and Deliveries Strategy
 8. Details of 2 cycle spaces to be located within the public house garden

4. PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1. The application site is a public house located on the southern corner of the junction between Toynbee Street and Brune Street. The site comprises a three storey 19th Century building and a paved yard located to the south (with access from Toynbee Street). The ground floor of the building, including the open yard operates as a public house (use class A4) and has done since the 1800s. The basement and upper floors of the building are used as ancillary accommodation.
- 4.2. The application site falls within the London Plan Central Activities Zone (CAZ) and the immediately surrounding area on Toynbee and Brune Streets comprises a mixture of residential dwellings and commercial buildings of a variety of uses (mostly retail on Toynbee Street and office on Brune Street). The buildings on these streets vary greatly in age, design and scale, and the building does not form part of any architectural cluster. No part of the site contains statutorily or locally listed buildings but the site is located in the Wentworth Street Conservation Area and the pub has been registered as an Asset of Community Value.

Proposal

- 4.3. The proposal involves the following:
 - 3.4m deep side extension at second and third floors.
 - The installation of dormer windows and internal alterations to allow the conversion of the existing loft space into accommodation (no change in roof ridge height).
 - The conversion of the ancillary residential accommodation together with the new accommodation to create 11 hotel rooms.
 - No changes are proposed to the use, structure or volume of the ground and basement floors or the pub garden.
 - Access to the hotel accommodation would be via Toynbee Street , with key collection and reception facilities via the public house.

5. RELEVANT PLANNING HISTORY

5.1. PA/14/03376

The previous proposal for the redevelopment of the pub was determined at Development Committee on 8th July 2015. The committee unanimously resolved to refuse planning permission for:

Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.

Reasons for refusal:

1. The proposed development would cause harm to the Wentworth Street Conservation Area. The design and appearance of the proposed modern extension would be out of character with the local area and would cause harm to the character and appearance of the Wentworth Street Conservation area

and combined with the loss of the pub garden would harm the setting of other local heritage assets, including the Duke of Wellington Public House itself. This harm is not outweighed by the public benefits of the scheme and therefore the proposed development fails to comply with policies DM24 and DM27 of the Managing Development Document (2013), SP10 of the Core Strategy (201), policies 7.4 and 7.8 of the London Plan (Consolidated with Alterations since 2011) (2015), the National Planning Policy Guidance.

2. The proposed development would result in the loss of existing outdoor space that would undermine the future viability and vitality of the existing Duke of Wellington Pub (12-14 Toynbee Street) and thereby fail to protect its function as community infrastructure. As such, the proposal would be contrary to policy SP01 of the Core Strategy (2010), and policies DM2 and DM8 of the Managing Development Document (2013), Policy 3.1(b) of the London Plan 2015, National Planning Policy Framework (2010) and the National Planning Policy Guidance.
3. The proposed development would be detrimental to the amenity of new residents of the proposed development due to the potential for fumes and noise resulting from the close proximity of the proposed residential accommodation and the proposed smoking area and public house use and would result in increased noise and disturbance to the occupiers of existing residential properties. Therefore the proposal would be contrary to policy DM25 of the Managing Development Document (2013), the London Plan (2015), National Planning Policy Framework (2012) and the National Planning Policy Guidance.

6. POLICY FRAMEWORK

6.1. 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:

6.2. Government Planning Policy Guidance/Statements

National Planning Policy Framework (March 2012) (NPPF)
National Planning Practice Guidance (March 2014)

6.3. The London Plan – Consolidated with Alterations since 2011 (March 2015)

2.10: Central Activities Zone – Strategic Priorities
2.11: Central Activities Zone – Strategic Functions
3.16: Protection and Enhancement of Social Infrastructure
4.5: London’s Visitor Infrastructure
6.9: Cycling
6.13: Parking
7.4: Local Character
7.8: Heritage Assets and Archaeology

6.4. Site Designations

Central Activities Zone
Wentworth Street Conservation Area

6.5. Tower Hamlets Core Strategy (adopted September 2010) (CS)

SP01: Refocusing on our Town Centres

SP06: Delivering Successful Employment Hubs
SP09: Creating Attractive and Safe Streets and Spaces
SP10: Creating Distinct and Durable Places

6.6. **Managing Development Document (adopted April 2013) (MDD)**

DM1: Development with the Town Centre Hierarchy
DM3: Delivering Homes
DM7: Short Stay Accommodation
DM8: Community Infrastructure
DM14: Waste
DM22: Parking
DM24: Local Character
DM25: Amenity
DM27: Heritage and the Historic Environment

6.7. **Other Relevant Documents**

Wentworth Street Conservation Area Character Appraisal and Management Guidelines

7. CONSULTATION RESPONSES

7.1. The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

7.2. The following were consulted regarding the application:

Internal Consultees

Highways and Transportation

7.3. Over-sail License

The applicant should confirm if they hold an over-sail licence for the two areas of the existing structure that over-sail the highway.

7.4. Servicing.

The applicant has not provided any specific details regarding a parking location for servicing vehicles and taxi drop offs, as well as the frequency of these activities. It is expected that the implementation of a hotel, albeit with 11 rooms, could still have a significant increase in net person trips. However, there is no mention as to the frequency of daily taxi pick-up/drop-offs and whether this will be done in such a way that it circumvents potential risks to safety and causing inconvenience to the local public. There are no loading bays near the site and there are a limited number of business and permit bays within the province of the subject site. Additionally, the width of the service gates of the yard, as mentioned in the Deliveries/Servicing and Access statement, is not wide enough to accommodate vehicles. Therefore, the applicant has failed to demonstrate how the hotel use will be able to operate efficiently in this regard.

7.5. Cycle parking.

Although the nature and class use type of the proposal does not meet the threshold for the minimum cycle parking, as per the London Plan, Highways still expects the provision of at least two cycle parking spaces, within the site. This requirement is in accordance with the Tower Hamlets Development management.

Officers Comment: These issues are discussed in the Transport and Highways section of this report

7.6. **Environmental Health (Noise and vibration, Smell and Pollution,)**

This application requires further details to be provided before it can be supported. No noise report supplied; no plans have been supplied showing the route of the ductwork & the filtration system (for odour control); and no vibration information provided.

In line with BS 4142* a rating level of 10 dB below the background noise level at sensitive facades at times required to operate will always be the primary consideration. It is also a requirement that no noise nuisance shall be caused from the installation of plant or equipment including air handling and/or air conditioning at the nearest noise sensitive facades.

The applicant must always take into account the possibility of vibration or low frequency noise transfer through a building structure so it is essential that the plant is isolated away from walls and ceilings and the duct (were relevant) is insulated with high density Rockwool lagging or “mufti-lagging” where appropriate.

Full details of anti-vibration mountings for all plant and flexible duct connectors where necessary to prevent vibration transmission through the building (or ductwork) must also be provided.

All bedroom facades must be designed to meet to the daytime and night time standards in BS8233: 2014;

Development shall not begin until a sound insulation scheme for protecting the proposed development from road traffic noise, has been submitted, to, and approved by the Local Planning Authority. The sound insulation scheme shall meet the of 30dB LAeqT internally in all bedrooms and of 35dB LAeqT internally in all living rooms;

(Officer response: Officer’s consider it acceptable to deal with these matters via conditions.)

External Consultees

7.7. **Spitalfields Community Association**

No comments received.

7.8. **Spitalfields Joint Planning Group**

No comments received.

7.9. Spitalfields Society

The proposed use as described by the applicant and illustrated on the plans does not comply with LBTH Council policy D8 that seeks to protect community facilities, particularly those such as the public house at the Duke of Wellington that are formally listed as an asset of Community Value (ACV).

The standard of hotel accommodation that is proposed is very poor with too many rooms being crowded into too small a floor area. Access is extremely tight and completely impossible for the disabled, the infirm and the elderly. The applicant provides misleading information on the proposed room sizes, claiming for example that room 2 on the 1st floor has a floor area of 15 square metres when in fact it has a floor area of only about 9 square metres.

The proposal clearly does not seek to retain the present A4 use or to provide the equivalent use elsewhere, as required by Council policy DM8, and the applicant does not even try to demonstrate that there is no need for the facility, again as required by policy DM8.

A recent proposal for residential use above the pub was refused consent by the Council on the grounds that it would “undermine the future viability and vitality of the existing Duke of Wellington pub”. These current proposals would do exactly the same and should therefore be refused for the same reason.

The applicant has demonstrated no need for additional hotel rooms in the area, particularly of the very small and substandard budget type proposed here. Indeed, the Society is aware of literally thousands of new hotel rooms and short stay apartments currently being constructed or recently approved in the immediate area and is concerned that this influx of budget accommodation and the resultant transient population will compromise the amenity of what has become a well-established and settled residential area.

The Duke of Wellington is a typical corner site public house and as such is a very key component of the Wentworth Street Conservation Area. It is therefore a key heritage asset. Its proposed conversion from a genuine independent A4 pub use into C1 hotel use would greatly harm the Conservation Area. Much is changing very fast in this area and the sense of continuity and community that such a pub provides is becoming ever more important.

We note that the Council states in their report that the applicant has failed to demonstrate that the hotel use will be able to operate efficiently in terms of servicing, deliveries, collections and drop-off, especially given the proposed intensification of use of the site. We reiterate this issue as a further valid reason for objection to these poorly designed and ill-conceived proposals.

(Officer response: These issues are addressed in the material planning considerations section of the report)

7.10. Spitalfields Historic Buildings Trust

No comments received.

7.11. Historic England

“We do not consider that it is necessary for this application to be notified to Historic England”

7.12. Greater London Archaeological Advisory Service

Recommended no archaeological requirement

Public Representations

- 7.13. A total of 347 planning notification letters were sent to nearby properties and persons who had made representations on the previous proposal. The application proposal was also publicised by way of a site notice and press notice. Following an amended description to the scheme and additional information being received a second round of neighbour notification letters were sent. A total of 191 letters of representation were received in objection to this proposal.

Summary of the objections received

- 7.14. Loss of the pub (use class A4):

Objectors have speculated that the pub will be subsequently changed from A4 (drinking establishment) to A3 (café/restaurant) based on examples of the ‘Z Hotel Group’. Objectors also believed that the concurrent operation of the hotel and pub (with guests picking up keys behind the bar) would undermine the nature of the drinking establishment and that the pub would be subservient to the hotel due to the hotel possessing a greater floorspace. Objectors also believed that there was no separate access for the hotel and therefore the pub would be used as a reception. Objectors noted that the pub is a registered Asset of Community Value and its loss should be resisted in accordance with local, regional and national policy. A further comment has been provided in the second round of consultation relating to a lease agreement between the owner and the occupier, regarding rent levels and restricted use of the garden area and how this would undermine the viability of the pub. This however, is not a material consideration.

- 7.15. Inclusion of a hotel element:

Objectors noted that there will be an intensification of the number of people at the building, which would result in *“greatly increased pedestrian and road traffic”* and raised concerns over the impact on nearby on-street parking and the use of taxis creating noise nuisance to neighbouring residents. Objectors believed that the hotel would compromise the supply of housing through the loss of the 2 bedroom ancillary flat. Objectors noted that the applicant had not justified the need for the hotel, and believe that the area is sufficiently well-served in hotel accommodation, quoting the Annual Monitoring Report of the Council, in saying that the borough already has a 30-year supply of hotel rooms under construction and consented and that if approved, this additional hotel would result in an over-concentration of that use.

Officer comment: There is no upper limit provided within the Local Plan for hotel rooms and no identification of a 30-year supply of hotel rooms. Appendix 3 of the Core Strategy identifies a target of 100 hotel rooms per year. This is a minimum target, rather than a maximum. The 2012/13 AMR records that no hotel rooms were completed within this year and 943 were approved.

7.16. Accessibility:

Objectors noted the lack of wheelchair accessible hotel rooms.

7.17. Harm to Conservation Area:

Objectors believed the perceived loss of the public house use (A4) would be harmful to the building's character and the Conservation Area. Objectors noted that no structural assessment of the building has been supplied or construction method statement and raised concerns that the lowering of floors would cause harm to the building. Objectors also believed that the dormer windows would be out of character for the area and would be visually intrusive due to their size and colour.

8. MATERIAL PLANNING CONSIDERATIONS

Land Use

- 8.1. The application proposal seeks to change the use of the ancillary residential accommodation on the first and second floors to a hotel. It is proposed to retain the pub on the ground and basement floors in its entirety with no change in usable floorspace. As this is a mixed use (the hotel being reliant on the pub for checking guests in and out) the land use is sui generis.

Retention of the public house (use class A4)

- 8.2. Policy DM8 of the Managing Development Document (2013) seeks to protect social and community facilities where they meet an identified local need and the buildings are considered suitable for their use, in accordance with the aims of policy 3.16 of the London Plan (2015).
- 8.3. To expand on the summary of objections in relation to the potential operators of the business: objectors believed that the business would be operated by 'Z Hotel Group' in the future, which were noted by objectors as having a number of boutique hotels with café space on the ground floor and hotel rooms above. The Z Hotel Brand was referenced on page 29 of the Design and Access Statement, but it was noted that the upper floors "... will be used as a small Boutique Hotel, *similar to Z Hotel Brand which 21st directors designed*" [emphasis added]. Officers consider this reference to be given in example of the potential interior design of the hotel and an example of the quality of the design standards of the applicant's Architects. It is not considered that this is a reference to the owners or leaseholders of the building, nor that any reference to the owners should prejudice a planning decision. If permission were to be granted it would run with the land and would not be personal to any particular operator or owner. Therefore Officers do not consider that objections in relation to the operation of Z Hotels or any speculation about potential future changes base on their other buildings can be materially considered.
- 8.4. In addition objectors believed the concurrent operation of the hotel and pub would undermine the viability of the pub. Firstly it should be noted that a number of objections are on the basis that the hotel and pub have only shared access. The proposed ground floor plan (Dwg. No. 187_GA_00) shows a separate access for hotel guests from Toynbee Street (labelled 'hotel access') and therefore guests would not be required to enter the pub other than in checking in and checking out. Objectors raised concerns over the proposed use of the bar as a 'reception' for the hotel. Whilst the Deliveries/Servicing and Access Statement proposes that the bar staff would check in guests. Due to the small volume of rooms (11) it is not considered that this

would undermine the principle use of the space as a drinking establishment. This arrangement is common across the UK in public houses which rent rooms on a short-term basis and indeed historically public houses were run as inns with rooms to let on the upper floors. In addition Officers do not consider that the relative quantities of floorspace for the two uses would result in the pub becoming subservient as this application only proposes an additional 56sqm of hotel floorspace. For these reasons, the operation of a public house and a hotel from the same site are not mutual exclusive and there are no reasons in planning terms to conclude that this proposal would undermine the viability of the pub as a drinking establishment. It should be noted that the applicant has stated both in the Design and Access Statement and on the plans that there will be no change the operation of the existing pub. The Campaign for Real Ale (CAMRA) publishes a viability test for public houses which advocates consideration of multiple use including bed and breakfast / hotel accommodation.

- 8.5. In the previous application it was considered by members (and subsequently stated on the Decision Notice) that *“the loss of the existing outdoor space would undermine the viability of the existing Duke of Wellington pub... and thereby fail to protect its function as a community asset”*. In response to this decision by the Development Committee this application now proposes no change to the size, location or layout of the outdoor space, which would continue to be used in connection with the public house and therefore it is considered by Officers that the proposal would not undermine the viability of the pub as a community asset.
- 8.6. The Duke of Wellington has been listed as an Asset of Community Value (ACV) since 17th July 2015. The ability to designate an ACV came into force under the Localism Act 2011 and gives the opportunity for local groups to put a bid together to purchase the land or asset if it is put up for sale. There is no established case law on how much weight LPA’s should give to an ACV when determining planning applications that could affect them. Planning applications should be determined in accordance with development plan policies and other material considerations. The fact that the building has been listed as an ACV is a material consideration and as the proposal seeks to retain the public house it would accord with the status as an ACV.
- 8.7. In addition, to preserving the pub use, officers are recommending an additional step to further protect this community asset. Buildings with A4 use (drinking establishments) benefit from permitted development rights for the change of use to A1 (coffee shop) and A3 (restaurant/café) under Classes A and B (respectively) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The building is listed as an ACV and as such the permitted development rights to change the use of the building have been removed, however if the ACV listing is removed / lifted then the permitted development rights would be available to the owner again.
- 8.8. Officers recommend the inclusion of a condition which restricts use of the ground floor and basement to a public house only. As this would be a sui generis use it is possible to secure this as a distinct element of the proposal. As a result of this condition, any future change of use of the ground and basement floors would require full planning permission, and it should be noted that current planning policy resists the loss of this use. This solution was also recommended under the previous application (PA/14/03376) and the applicant stated that they were happy to accept this condition. This condition allows a similar level of protection for the pub as currently exists with the ACV status and would also offer a greater protection for its preservation were the AVC status to be removed or the legislation amended.

Loss of residential accommodation (use class C3)

- 8.9. Policy DM3(5) seeks to resist the development that would result in a net loss in residential floorspace, residential units or any family housing.
- 8.10. The upper floors of the existing pub do not have the benefit of planning permission to be used as a single residential dwelling (use class C3) and therefore this accommodation is classed as 'ancillary' to the drinking establishment (use class A4). Whilst ancillary accommodation can be used (wholly or in part) as living accommodation for the manager or staff, the uses are of the primary and ancillary spaces are linked and this accommodation could also be used as office or storage space etc. Therefore it is not considered that this proposal would result in the loss of general needs residential (C3) accommodation.
- 8.11. Many objectors noted that the some of the rooms above the pub on the first floor are currently operating as short-term letting rooms. Were this lawful, or established by reason of time which would preclude enforcement action, this proposal would not constitute a change in use. However, the letting of short stay accommodation in this building does not have the benefit of planning permission or a Certificate of Lawful Use and is therefore considered to be unlawful. Thus, for clarity, Officers have assessed the scheme based on its lawful use (ancillary residential) and the change of use to a sui generis hotel / public house use.

Provision of Hotel

- 8.12. Policy SP06 of the Adopted Core Strategy (2010) directs hotels towards the Central Activities Zone (CAZ), Activity Areas and major and District Centres, in accordance with policy 4.5 of the London Plan (2015).
- 8.13. Policy DM7 of the Managing Development Document (2013) seeks to promote the provision of visitor accommodation in such locations where: the size is appropriate to its location within the town centre hierarchy; there is a need for such accommodation; it would not compromise the supply of land for new homes; it would not create an over-concentration of such accommodation or cause harm to residential amenity; and there is adequate road access for vehicles undertaking setting down and picking up movements.
- 8.14. The application site is located within the CAZ and therefore is an appropriate location, in principle, for a hotel (use class C1) in accordance with policy DM7 and policy SP06, which seeks to concentrate hotels in the CAZ in order to promote tourism in the Borough.
- 8.15. The applicant has not demonstrated that there is a need for a hotel in this location, however policy 4.5 of the London plan seeks the delivery of 40,000 net additional hotel rooms by 2036. The addition of 11 rooms on this site would make a small but significant contribution to this target. This policy also supports small scale provision in locations on the fringe of the CAZ and this proposal is considered appropriate in this context. Policy DM7 does not specify what an overconcentration of hotels would be, however the closest two hotels (Brick Lane Hotel and Ibis London City on Commercial Street) are over 200m away (as the crow flies), it is not considered that 11 additional hotel rooms in this location would result in an overconcentration of this use in the area.
- 8.16. The previously refused scheme (under PA/14/03376) included a residential element which would have provided five apartments. However the reasons for refusal noted

the operation of the pub and pub garden as creating adverse amenity impacts on both existing neighbouring residents and future residents of the building. In respect of this it is considered that residential accommodation would be unacceptable in principle on this site whilst the pub operates. Therefore the provision of a hotel in this location would not compromise the supply of land for new homes.

- 8.17. Toynbee Street is not particularly narrow (accommodating on-street parking on both sides of the street and one way traffic) and although Brune Street is narrower (on-street parking on one side only), it is considered that both of these streets could accommodate taxi pickups and drop offs for this small number of hotel rooms.

Design

- 8.18. Statutory tests for the assessment of planning applications affecting listed buildings or conservation areas are found in Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. Section 66(1) relates to applications that affect a listed building or its setting. It requires the decision maker to: *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*. Section 72(1) relates to applications affecting a conservation area. It states that *“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.
- 8.19. The implementation of this legislation has been addressed in recent Court of Appeal and High Court Judgements concerning the proper approach for assessing impacts on listed buildings and conservation areas. These are considered in more detail below however, the emphasis for decision makers is that in balancing benefits and impacts of a proposal, the preservation of the heritage assets should be given *“special regard / attention” and therefore considerable weight and importance*.
- 8.20. The NPPF is the key policy document at national level, relevant to the formation of local plans and to the assessment of individual planning applications. The parts of this document relevant to ‘Heritage, Design and Appearance’ are Chapter 7 ‘*Requiring good design*’ and Chapter 12 ‘*Conserving and Enhancing the Historic Environment.*’
- 8.21. Chapter 7 explains that the Government attaches great importance to the design of the built environment. It advises that it is important to plan for high quality and inclusive design, including individual buildings, public and private spaces and wider area development schemes. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness.
- 8.22. Chapter 12 relates to the implications of a development for the historic environment and provides assessment principles. It also identifies the way in which any impacts should be considered, and how they should be balanced with the benefits of a scheme.
- 8.23. Paragraph 126 of the NPPF states that in developing a positive strategy for the conservation and enjoyment of the historic environment local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;

- the desirability of new development making a positive contribution to local character and distinctiveness; and
 - opportunities to draw on the contribution made by the historic environment made by the historic environment to the character of a place.
- 8.24. Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.
- 8.25. In this case the relevant designated heritage asset is the Wentworth Street Conservation Area. The subject building is not listed or referred to specifically within the conservation area character appraisal. It is however considered to positively contribute to the conservation area both in terms of its architectural style and its use.
- 8.26. Policy DM24 of the Managing Development Document (2013) seeks high quality design in development, sensitive to the character of the surrounding area in terms of its use of materials, design details and building lines. This is supported by policy SP10 of the Adopted Core Strategy (2010) and policy 7.4 of the London Plan (2015).
- 8.27. Policy DM27 of the Managing Development Document (2013) seeks the preservation and enhancement of the Borough's heritage assets, including Listed Buildings and Conservation Areas, in accordance with policy SP10 of the Adopted Core Strategy (2010) and policy 7.8 of the London Plan (2015). It specifies that development within a heritage asset will only be approved where it does not have an adverse impact on the character, fabric or identity of the heritage asset, and requires development to be appropriate in terms of design, details and materials in the local context.
- 8.28. The previous application was refused due to the design of the modern appearance of the extension being harmful to the character and appearance of the Wentworth Street Conservation Area. This element has been removed in the current scheme and the only current proposed changes to the appearance of the building are the small side extension (on the Brune Street elevation) and the installation of dormer windows.
- 8.29. It should be noted that these alterations were proposed in the previous applications and Members raised no objections to their appearance or effect on the Conservation Area. Officer's therefore believe that the design proposed under this application would be appropriate within the Conservation Area since the extension would be modest in scale and the proposed materials and design details strongly reflect the existing style of this non-designated heritage asset. Objections received raised concern that the proposed dormers would be out of character with the Conservation Area and visually intrusive due to their size and colour. It should be noted that there is an existing former window with the roof currently, so it is not considered that these would cause any harm to the character of the building and would preserve the appearance of the Conservation Area. In addition the proposed use of white painted timber frames is considered to be sensitive to the character of both the Conservation Area (in its use of traditional materials) and the host building (reflecting the existing white painted timber windows).
- 8.30. Objectors noted that no structural assessment of the building has been supplied and raised concerns that the lowering of floors would cause harm to the building. Where buildings are not statutorily listed, the preservation of the internal layouts and materials cannot be given weight when considering matters of conservation. In accordance with this the Local Planning Authority does not require structural assessments on proposals which would not affect a statutorily listed building (either

the site itself or a nearby building or structure). The only effects on a designated heritage asset (the Wentworth Street Conservation Area) under this application arise from the external alterations from the building. In this instance neither Historic England, the borough conservation officer raised any objections to the proposed scheme.

Amenity

- 8.31. Policy DM25 of the Managing Development Document (2013) seeks to protect the amenity of neighbouring residents and building occupiers from the impacts of new development in accordance with policy SP10 of the Adopted Core Strategy (2010). These policies require development to not result in an unacceptable loss of daylight, sunlight, outlook or privacy in addition to not resulting in unacceptable levels of noise during the construction and life of the development.
- 8.32. Since there is no proposed change in the ridge height of the roof it is not considered that the proposal would result in a material loss of daylight or sunlight at neighbouring properties. In addition since the existing building is offset from the east façade of the neighbouring building on Brune Street (Carter House), it is not considered that the proposed extension would result in a loss of outlook or privacy at those dwellings either. In addition there are no residential windows facing the north façade of the building, and therefore the installation of dormer windows is also not considered to result in a loss of privacy for neighbours.
- 8.33. Objectors raised concerns that the hotel use would create noise disturbance for neighbouring residents through the slamming of taxi doors. It is not considered that the use of taxis would cause any significant material increase in noise or disturbance than the use of the pub garden until 10pm on weekdays and until midnight on Saturdays. Residents of Carter House had previously sent a letter of representation in support of the previously proposed reduction in size of the pub garden as they believed that this would reduce noise levels and improve their amenity. In light of this Officers are of the opinion that there are currently high levels of noise in this area at night and that the small increase in persons arriving and leaving the building would not materially worsen the existing situation, since the hotel users would likely remain inside once arrived.
- 8.34 The environmental health team have highlighted that hotel rooms require a similar level of insulation as residential units. In order to ensure this is the case and reduce the likelihood of complaints from occupants of the hotel rooms about the operation of the public house element. A condition requesting further details of this insulation and results of post-completion testing of the noise insulation prior to the occupation of the hotel use has been added to the recommendation.
- 8.35 There is no new kitchen proposed for the public house and the existing kitchen already has a ventilation system. This information was provided to the environmental health officer who verbally confirmed that if this was the case there would be no need for details of the ductwork or filtration system to be provided.
- 8.36 In terms of the noise reports, the British Standards require similar levels of noise insulation for hotel rooms as residential properties. The development will need to meet BS 4142:2014 which applies if any additional plant or equipment is installed to be at least 10dB below background noise levels and BS8233:2014 provides guidance on the levels of sound insulation required internally to protect the visitors from noise from the ground floor.

- 8.37. The details of external plant and the BS 4142:2014 noise report would be requested prior to commencement of the development and the BS 8233:2014 report will also be requested prior to commencement of the development, with a subsequent requirement for 'post-completion testing' after the hotel rooms have been installed to ensure a suitable level of noise insulation has been achieved
- 8.38. If there is additional mechanical plant required for this proposal a condition will also ensure that this is at least 10dB below background noise levels to ensure there is no detrimental impact upon neighbouring residents, as recommended by the Environmental Health Team.

Accessibility

- 8.39. Policy 4.5 of the London Plan (2015) seeks the provision of 10% of hotel rooms as wheelchair accessible. For this proposal to comply with this, it should provide at least one of the proposed hotel rooms as wheelchair accessible. Objections received raised concerns over the lack of provision of wheelchair accessible hotel rooms in the scheme. It is considered that in order to achieve this, the layout of the ground floor would have to be revised to accommodate a lift. This would reduce the usable floorspace for the public house and could undermine the future viability of the drinking establishment which has been of fundamental importance in the refusal of the previous application and has been of concern to objectors on this new application. On balance, the lack of provision of one wheelchair accessible hotel room is considered to be acceptable in this instance.

Transport and Highways

Servicing and Delivery

- 8.40. Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network. Concerns have been raised that this proposal would result in an increase in road traffic due to taxi pickups and set downs. However the site has excellent accessibility to public transport (PTAL 6b) and it is considered that many of the users of the hotel would travel to and from the site via public transport; particularly with the potential opening of the night tube and the future Crossrail services from Liverpool Street. In addition due to the small size of the hotel it is not considered that the volume of those who might use taxis would result in a significant impact on the capacity of Toynbee Street or Brune Street.
- 8.41. The Borough's Highways Officer raised concern that the applicant had not provided sufficient detail of the servicing and delivery arrangements for the proposed hotel. They noted that the surrounding street network has no loading bays and limited business and permit bays. In addition they noted that the width of the gates of the yard (mentioned in the Deliveries/servicing and Access Statement) is too narrow to accommodate vehicles. It is noted that the pub garden has been located in what would historically have been the service yard, there is therefore no intention to use the yard for delivery vehicles.
- 8.42. A condition requiring details of servicing and deliveries would be requested prior to the commencement of the use, this would include details of the frequency of the collections and information on whether linen and towels etc. are stored on site and collected in order to reduce the number of trips per week. There are double yellow lines outside the premises on both Brune Street and Toynbee Street, which allow loading and unloading. These spaces are currently used for the deliveries to the pub.

It is unlikely that the small number of hotel rooms would generate a significant degree of servicing as it would be mainly the delivery and collection of linen.

Car & Cycle Parking

- 8.43. The NPPF and Policies 6.1 and 6.9 of the London Plan (2011), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.44. The Parking Addendum to chapter 6 of the London Plan (2015) states that there is no vehicle parking requirement for hotels, but that in areas with good access to public transport (PTAL 4-6) on-site provision of vehicle parking should be limited to operational needs. The proposal does not include any on site vehicle parking, however since the site has an excellent Public Transport Accessibility Rating (PTAL 6a), this is considered appropriate.
- 8.45. The Parking Addendum to chapter 6 of the London Plan (2015) also sets minimum cycle parking provision standards. For C1 (hotel) use 1 cycle space per 20 bedrooms should be provided. The Borough's Highways Officer noted the lack of cycle parking provision and stated that they would expect a minimum of two spaces to be provided. The installation of one Sheffield stand within the yard would meet this required and this would be required by condition. The installation of one cycle space in the yard would not significantly undermine the usability of the yard for the public house.

Refuse and Recyclables Storage

- 8.46. Policy SP05 in the adopted Core Strategy (2010) states developments which are likely to produce significant quantities of waste must include adequate arrangements for its collection and storage. This is further emphasised by policy DM14 of the Managing Development Document.
- 8.47. The applicant proposes to store waste in the bins currently located in the yard and states in their Delivery/Servicing and Access Statement that they do not believe that the operation of a hotel would result in a significant increase in waste. Officers note however that the bins are often located on the street rather than in the yard and any increase in number of containers would reduce facility of movement on the pavement and be unattractive to the street. However it is acknowledged that many properties on Toynbee Street are serviced using on-street sack collection, and that this small increase in waste and the potential for an additional container is not sufficiently undesirable as to warrant the refusal of this application.

9. HUMAN RIGHTS CONSIDERATIONS

- 9.37. In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application, the following are particularly highlighted to Members:-
- 9.38. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English Law under the Human Rights Act 1998. Various Conventions rights are likely to relevant including:

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public's interest (Convention Article 8); and
- Peaceful enjoyment of possession (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole"

9.39. This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

9.40. Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.

9.41. Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power and duties. Any interference with a Convention right must be necessary and proportionate.

9.42. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

9.43. As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

9.44. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified.

10. EQUALITIES

10.37. The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.38. The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual

orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

10.39. The London Plan (2015) requires 10% of hotel rooms to be wheelchair accessible. This application does not proposed any wheelchair accessible rooms (the provision of 1 room would be policy compliant), however it is considered that in order to do so floorspace from the pub would have to be sacrificed, which may undermine the future viability of the pub (which was previously considered reason for refusal).

11. FINANCIAL CONSIDERATIONS

11.37. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that in determining planning applications, the authority shall have regard to (amongst other things) any local finance considerations, so far as material to the application.

11.38. Section 70(4) defines “local finance consideration” as:

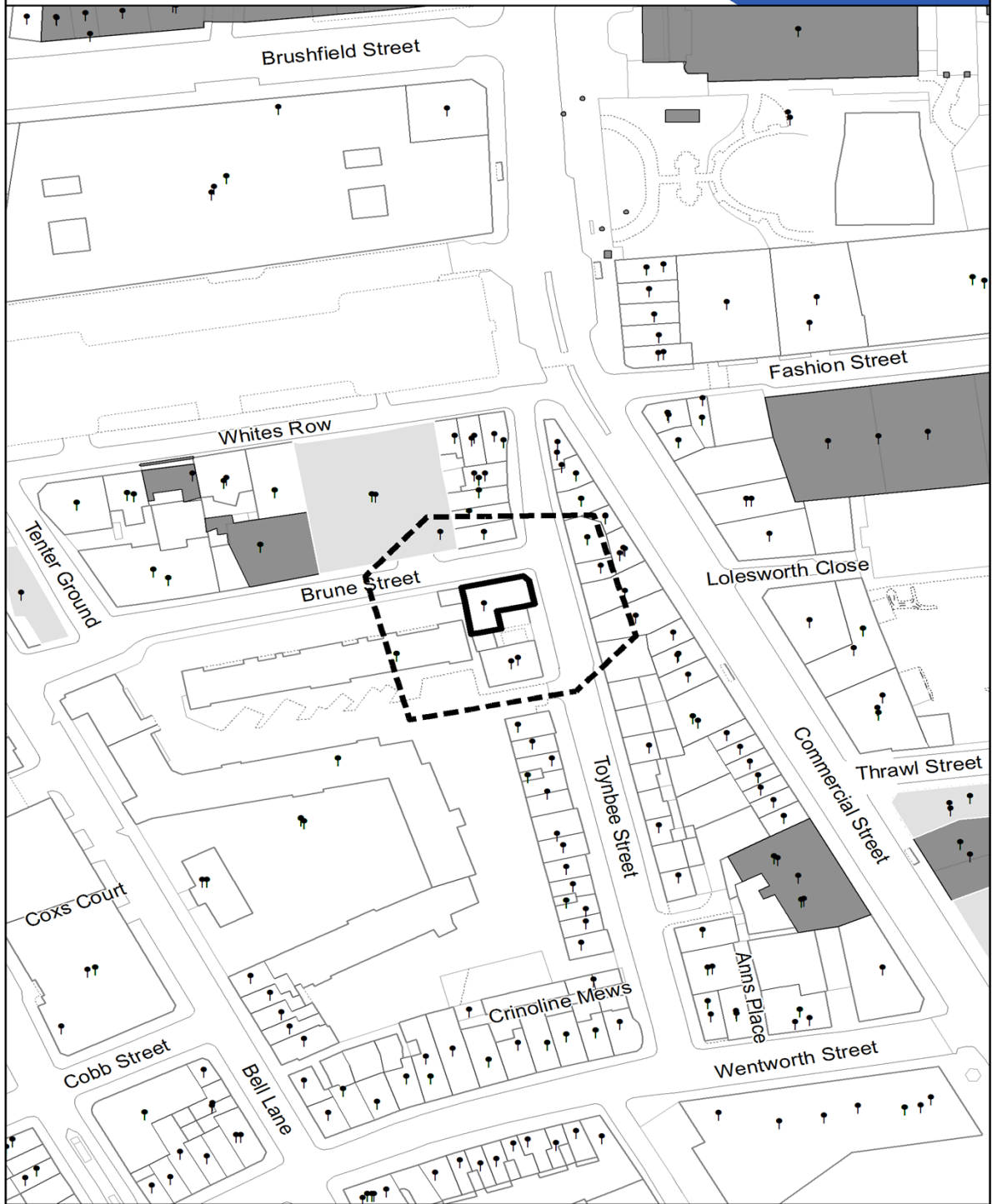
- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.







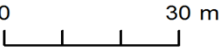
11.39. Members are reminded that that the London Mayoral CIL became operational from 1 April 2012 and that Borough’s Community Infrastructure Levy came into on 1st April 2015. Both of which are payable (subject to certain exceptions) on floorspace created by development. This proposal does not meet the threshold for LBTH CIL as it is only proposed to create 56sqm of additional floorspace.

12. CONCLUSION

12.37. All other relevant policies and considerations have been taken into account. Planning permission should be **approved** for the reasons set out in RECOMMENDATION section of this report.

Planning Application Site Map
PA/15/02489



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

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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UPDATE REPORT

Agenda item number:	6.1
Reference number:	PA/15/02489
Location:	Duke of Wellington, 12-14 Toynbee Street, E1 7NE
Proposal:	Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.

1.0 ADDITIONAL CORRESPONDANCE RECEIVED.

1.1 Four additional objections have been received since the publication of the report. These raised the following comments:

- The application should be supported by a noise assessment and it is not possible to determine the application without this.
(Officer response: The following advice is provided within the Council's validation list: "application proposals that raise issues of disturbance or are considered a noise sensitive development, in what are considered noise sensitive areas, should be supported by a noise and vibration impact assessment". The application is not considered to be one which in itself would create significant levels of noise disturbance, nor is it located within a particularly noise sensitive area. As such it is not considered necessary for a noise report to have been submitted with the application and further information on this point can be found in paragraphs 8.34 – 8.38 of the committee report.)
- The revised description should have been subject to a full public re-consultation, not just letters sent to neighbours
(Officer response: The Council's statement of community involvement sets out the requirements for re-consulting on amendments, this has been followed in this instance).
- Condition 3 should be expanded to include the public house garden, not just the ground floor and basement.
(Officer response: Noted and a revised condition is highlighted below, the intention was to secure the garden for use by the public house, though condition 3 does not make this explicit)
- There is a contradiction in the report in terms of the provision of cycle spaces, the condition refers to two spaces whereas paragraph 8.45 refers to the installation of one cycle space.
(Officer response: One Sheffield stand allows the parking of two bicycles)

2.0 AMENDED CONDITION

2.1 As set out above, it is recommended that condition 3 amended as follows:

"Requirement to maintain a public house use at ground floor and basement level and within the area marked 'Yard' on the ground floor plan."

3.0 RECOMMENDATION

3.1 Officers' original recommendation to **GRANT** planning permission remains unchanged.

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Agenda Item 5.2

Committee: Development Committee	Date: 27 th April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Chris Stacey-Kinchin	Ref No's: PA/15/03434 and PA/15/03435
	Ward: Lansbury

1. APPLICATION DETAILS

Location:	42-44 Aberfeldy Street, E14 0NU
Existing Use:	Retail (A1 Use)
Proposal:	PA/15/03434 Retrospective planning application for the retention of an ATM (Cash Machine). PA/15/03435 Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.
Drawing and documents:	Site Location Plan NM-05-2015-29-1, Rev A (Existing Elevations) NM-05-2015-29-2, Rev A (Proposed Elevations) Design & Access Statement including security note addendum
Applicant:	Notemachine UK Ltd
Ownership:	Poplar HARCA
Historic Building:	N/A
Conservation Area:	N/A

2. BACKGROUND

- 2.1 This application for retrospective planning permission and advertisement consent for the retention of an ATM (Cash Machine) with integral illumination and a screen to the ATM fascia along with an internally illuminated 'Free Cash Withdrawals' sign set above the ATM machine was reported to Development Committee on 6th April 2016.
- 2.2 The Committee, on a vote of 2 in favour and 3 against, resolved not to accept the officer recommendation to grant planning permission and advertisement consent and

therefore resolved that permission should be refused and indicated the following reasons for refusal:

- Impact on residential amenity in terms of noise and disturbance from use of the cash machine and the illuminated sign.
- That the proposal would increase anti-social behaviour in the area.
- The safety and security of the cash machine users.

2.3 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

3. COMMITTEE REASONS FOR REFUSAL

Residential Amenity Implications

3.1 The application intends to retain a 24 hour cash machine with an internally illuminated white 'Free Cash Withdrawals' sign and blue LED 'halo' illuminated edge within an existing local shopping parade which features commercial uses at ground floor level and residential uses on the upper levels. Officers consider that the retention of the ATM will not give rise to considerable amenity implications for surrounding residents. As noted by the Metropolitan Police Crime Prevention Design Advisor ATM's do not often draw a group together as they are usually used in a 'visit and go' fashion, and as such high levels of noise disturbance would not be expected. Furthermore, it should be noted that the illumination of the ATM in question is relatively subtle and not excessive and sits within the context of a street which is lit by streetlights which are considerably brighter than the luminance of the ATM, meaning that the impact of the luminance of the ATM on neighbouring residents is likely to be negligible.

Anti-Social Behaviour

3.2 Members raised concerns that the retention of the ATM could give rise to anti-social behaviour within the vicinity of the ATM. The Metropolitan Police Crime Prevention Design Advisor has stated that the Police would not normally have any issues with an ATM from an anti-social behaviour point of view for the reasons outlined within paragraph 3.1 of this report. Furthermore the most recent crime statistics for this locality (January 2016) do not suggest that this particular locality suffers from a crime rate higher than that of surrounding areas, and therefore demonstrates that the existence of the ATM has not resulted in a spike in antisocial behaviour in and around Aberfeldy Street.

Safety and Security of Users

3.3 Members raised concerns over the safety and security of those using the ATM. Whilst officers appreciate the concerns of the committee members, it should be noted that the applicant has taken all reasonable steps to ensure the safety and security of the users. This includes: anchoring the ATM to a secure concrete plinth in order to reduce the likelihood of the ATM being removed; placing the ATM within a secure safe with increased security measures in order to deter criminals; carefully assessing the site for its suitability (in security terms) to house an ATM; installing Pin Shields in order to prevent Pin Fraud; installing a defensible space (ground markings) in front of the ATM, and; developing covert CCTV within the ATM installation designed to capture and identify any potential offenders interfering with the installation.

3.4 In light of the above officers believe that defending this issue as a standalone reason at appeal is unlikely to be successful and recommend that this reason is withdrawn from the decision and elements of it instead be included within the reason which covers anti-social behaviour.

4. ADDITIONAL REPRESENTATIONS AND PROSPECTIVE CHANGES TO SCHEME

4.1 Since the publication of the Committee Report and Update report the Council has received no additional representation from local residents or the wider community.

5. IMPLICATIONS OF REFUSING PLANNING PERMISSION

5.1 The officer recommendation has been to grant planning permission and advertisement consent but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so.

5.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.

- If planning permission and advertisement consent is refused, there are a number of routes that the applicant could pursue:
- Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
- To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning and advertisement consent application.

5.3 In this case the applicant has not indicated what course of action they might pursue if any.

Financial implications - award of costs

5.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

5.5 Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

5.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

6. RECOMMENDATION

6.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission and advertisement consent remains unchanged.

6.2 However if members are minded to **REFUSE** planning permission the following reasons are recommended:

Residential Amenity Implications

1. The retention of the ATM, by reasons of its luminance and noise generated by its users, would unacceptably impact upon the amenity of surrounding residents and building occupiers. The proposal is therefore contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policy DM25 in the Managing Development Document (2013), which seek to ensure that development safeguards the amenity of surrounding existing and future residents and building occupiers.

Anti-Social Behaviour and Safety and Security of Users

2. The retention of the ATM, by reasons of its siting and lack of coverage by CCTV, would result in a development which could compromise its user's safety and security and lead to an increase in anti-social behaviour. The proposal is therefore contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policy DM23 in the Managing Development Document (2013), which seek to ensure that development improves and safeguards safety and security.

6.3 With regards to the application for advertisement consent the Council is restricted to considering the effects on amenity and public safety. The 2007 Control of Advertisement regulations 3(i) states an LPA should take development plan policies in so far as they are material. As such, if members are minded to **REFUSE** advertisement consent the following reason is recommended:

1. The retention of the advertisement associated with the ATM, by reason of its luminance during the hours of darkness, would unacceptably impact upon the amenities of the surrounding residents contrary to policy DM23 of the Managing Development Document 2013.

Committee: Development Committee	Date: 06 April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Chris Stacey-Kinchin	Ref No's: PA/15/03434 and PA/15/03435
	Ward: Lansbury

1. APPLICATION DETAILS

Location: 42-44 Aberfeldy Street, E14 0NU

Existing Use: Retail (A1 Use)

Proposal: **PA/15/03434**
Retrospective planning application for the retention of an ATM (Cash Machine).

PA/15/03435
Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.

Drawing & Documents: Site Location Plan
NM-05-2015-29-1, Rev A (Existing Elevations)
NM-05-2015-29-2, Rev A (Proposed Elevations)
Design & Access Statement including security note addendum

Applicant: Notemachine UK Ltd

Site Ownership: Poplar HARCA

Historic Building: N/A

Conservation Area: N/A

2 EXECUTIVE SUMMARY

- 2.1 This report considers two separate applications, one for retrospective planning permission for the installation of a cash machine or as it is also known, an Automated Teller Machine (ATM) within a shop front and the second application is for retrospective advertisement consent for the associated internally illuminated fascia serving the ATM and lettering sign set above the ATM keyboard.

2.2 The planning application has attracted a petition. The main concerns relate to the increase in noise nuisance caused by people using the machine during the evening/night and aggravating existing noise situation. Associated anti-social behaviour and light pollution amenity nuisance to residents stemming from the illuminated signage was also raised as a concern by nearby residents.

2.3 Officers consider the proposal to be acceptable for the following reasons:

- a) The location of an ATM on an established shop frontage in the context of a locally designated shopping parade is considered acceptable in principle and would help support the general activity and vitality of the local shopping parade to the benefit of local community, in accordance with adopted Local Plan policies.
- b) Any noise and other disturbance affecting the amenity of surrounding residential properties from public usage of the ATM is considered limited. Notably set within this site context and with the cash machine being located on a street within a shopping parade that has the presence of food takeaways in close proximity (all opened in the evening), it is considered that these uses are liable to result collectively in greater noise and potential congregation of people outside their premises rather than an ATM cash machine.
- c) The site is well lit and therefore, benefits from good levels of natural surveillance.
- d) The applicant has provided evidence which shows that appropriate security measures to safeguard against criminal gangs seeking to target the wholesale theft of the cash machine from the street have been put in place.

3.0 RECOMMENDATION

3.1 That the Committee resolve to GRANT both planning permission and advertisement consent subject to the following conditions:

3.2 Conditions on planning permission

- (a) Three year time limit
- (b) Development to be built in accordance with the approved plans

3.3. Conditions on advertisement consent

- (a) Consent expire after 5 years
- (b) Development to be built in accordance with the approved plans
- (c) Standard set of five conditions imposed on all advertisement consent Permit-free condition

3.4 Any other condition(s) considered necessary by the Corporate Director for Development & Renewal.

4.0 PROPOSAL

- 4.1 The proposal is for the retention of the ATM within the shop front and the associated internally illuminated fascia screen to the ATM and signage namely an internally illuminated cash sign set above the ATM keyboard stating the words ' Free Cash withdrawals' and a blue LED halo illumination to the ATM surround.
- 4.2 The works include the replacement of some glazing within the shop front and its replacement with a laminate security panel and modifications to the existing shutters.
- 4.3 The ATM as built is 0.865m (width) x 1.256m (height). The ATM machine is set 0.9m above pavement level.

5.0 SITE AND SURROUNDS

- 5.1 The application site of the cash machine opening is a small grocery/convenience store selling fresh vegetables located in the centre of the designated Aberfeldy Street Local Shopping Parade. The shop was originally in two parts and hence has two shop fronts.
- 5.2 The Aberfeldy Street local shopping parade serves the residents of Aberfeldy Estate and surrounding residential properties located in Poplar Riverside which is bounded by the A13 to the east and A12 to the south of the site.
- 5.3 The Aberfeldy Street local shopping parade is situated on Aberfeldy Street between the junction of this road with Blair Street to the south and Dee Street to the north. The application site shares with its neighbours (on both sides of the street) small retail premises at ground floor with 2 storeys of residential set above. The ground floor retail premises at No 42-44 is set slightly forward of residential floor space located above, as is the case with all the shops on this side of the road, with a balcony located on the roof of the projecting ground floor element. The balcony serves the individual residential flat located above the shop.

6.0 RELEVANT PLANNING HISTORY

- 6.1 PA/15/01444 - Retrospective planning application for installation of ATM (Cash Machine) installed through a white laminate composite security panel replacing part of the existing glazing, incorporating the ATM fascia with black surround and white illuminated lettering Free Cash Withdrawals out of black background. Blue LED halo illumination to ATM surround.
- 6.2 PA/15/01445 - Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated CASH sign set immediately above the cash (ATM) machine.

Both of the above applications appeared on the agenda of Development Committee 28.10.2015, however were both withdrawn prior to the commencement of committee.

7.0 POLICY FRAMEWORK

7.1 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:

7.2 Government Planning Policy/ Guidance/Statements

National Planning Policy Framework (March 2012) (NPPF)
National Planning Practice Guidance (March 2014)

7.3 London Plan (March 2015)

7.5 Public Realm

7.4 Tower Hamlets Core Strategy (adopted September 2010)

SP09 Creating Attractive and Safe Streets and Spaces
SP10 Creating distinct and durable places

7.5 Managing Development Document (2013) (MDD)

DM1 Development in the town centre hierarchy
DM23 Streets and the public realm
DM24 Place Sensitive Design
DM25 Amenity

8.0 CONSULTATIONS

Local Representations

8.1 A total of 21 planning notification letters were sent to nearby properties for each of the applications. Site notices were also displayed on the public highway outside the premises in respect of each application.

8.2 No written representation has been received in respect of the advertisement application for display of advertisements associated with the ATM.

8.3 A petition has been received with 39 signatories from local residents in Aberfeldy Street in respect of the planning consent for the installation of an ATM.

8.4 The petition states:

“Aberfeldy Street is predominantly a residential area, by installing a 24 hour cash machine with an illuminated sign will have an effect on the residential area; due to the reflection of the bright light during the evening time will cause nuisance to residents.

A 24 hour cash machine proposes there will be an increase in the amount of noise caused by people passing through to use the machine throughout the late hours of the night, which will be heard through our single glazed window. A problem which already exists is the noise caused by three food outlets in street which close quite late in the evening (Indian take away, Chinese takeaway and a Chicken and Chip Shop). Having a 24 hour cash machine will add

to the noise, not to mention the anti-social behaviour that will rise due to having many people driving by to use the cash machine very late at night, Unfortunately, this will produce much more distress for the local residents.

Also there is already an available cash machine [with] in Costcutter Supermarket which provides the service to the local community.

We are all to totally opposed to the above proposal”

Internal/External Consultation Responses

8.5 LBTH Highways and Transportation Team:

Highways have no objection to the application.

8.6 Metropolitan Police Crime Prevention Design Advisor

The following comments were provided under the previous applications (PA/15/01444 & PA/15/01445), and still stand as the current proposal is indistinguishable to the existing proposal:

The Crime Prevention Advisor identified considerations when considering the security/appropriateness of siting an ATM within the borough. The CPA raised reservations about the provision of an ATM within a retail store without any increased security fitted. No other concerns were raised. From an anti-social behaviour point of view, the Police would not normally have any issues with an ATM unit as they, alone do not often draw a group together around the unit as they are usually used in a 'visit and go' fashion.

9.0 MATERIAL PLANNING CONSIDERATIONS

9.1 The planning considerations to consider with the advertisement consent are limited to:

- Amenity
- Public/Highway Safety

9.2 With respect to the planning application these two considerations also apply alongside the consideration of:

- Principle of land use
- General security and the development not unnecessarily attracting criminal activities by its design

9.3 When making a decision about whether to grant advertisement consent, the Council is restricted to considering the effects on amenity and public safety. The 2007 Control of Advertisement regulations 3(i) states an LPA should take development plan policies in so far as they are material.

9.4 Part 4b of policy DM23 of the adopted Managing Developing Document (2013) states that it will be necessary for advertisements and hoardings in the public realm to demonstrate that:

1. they do not harm the character, appearance and visual amenity of the site and the surrounding area;
2. they do not intrude into the outlook of nearby residents;
3. they do not have an adverse impact on public or highway safety; and
4. they enhance the visual amenity of vacant sites and building sites and the surrounding area.

Land Use

- 9.5 The principle of the installation of an ATM into a shop front is accepted in land use terms as it does not impact on the underlying use of the site; and in the absence of an alternative free cash withdrawal machine in the vicinity of the local designated shopping parade, it is considered in principle acceptable and indeed would help support the general activity and vitality of the local shopping parade to the benefit of local community, in accordance with adopted Local Plan policies. A town centre location is considered to be an appropriate location for cash machines as town centres by their very nature are defined as being accessible locations.

Amenity

- 9.6 The existing shop front on the premises is unprepossessing and is located in a shop parade of diverging shop fronts often of indifferent quality. The installation of the ATM is not considered to detract from the visual appearance of this shop front or the general appearance of the premises in the street scene more generally.
- 9.7 The ATM machine and associated signage is of a crisp design, avoids lettering of undue size and built of robust materials that should be suitably durable and should weather well.
- 9.8 Any noise and other disturbance resulting from the use of the ATM are considered to be limited. The cash machine is located on a street that has three fast food takeaways in close proximity (all opened late into the evening). As such, it is not considered that the presence of the ATM will result in any increase in noise to residents living above the shopping parade or lead to an unwelcome congregation of people outside the site premises.
- 9.9 The activity generated by the ATM is unlikely to significantly impact on the amenity of residents within the residential block above. As such, the proposal accords with Policy SP10 of the Core Strategy (2010), policy DM25 in the Managing Development Document (2013) which seek to ensure that new development does not compromise the residential amenity of neighbouring properties through unacceptable noise impacts. The ATM and signage as built is visually appropriate within the shop front context and as such this accords with Policy SP10 of the Core Strategy (2010) and Policies DM23 and DM24 in the Managing Development Document (2013). The above policies seek to ensure that new developments respect the visual appearance of the host building including the site context.

Public Safety/Highways considerations

- 9.10 The general design and luminance levels of the signage are not likely to impair the vision or cause a distraction to drivers. Aberfeldy Street is a side road without ready access from the arterial roads of the A12 and A13. As such, there are no prospects of the usage of the ATM giving rise to marked rise in dangerous unauthorised parking from future users of the ATM arriving by motor vehicle.

Crime Prevention

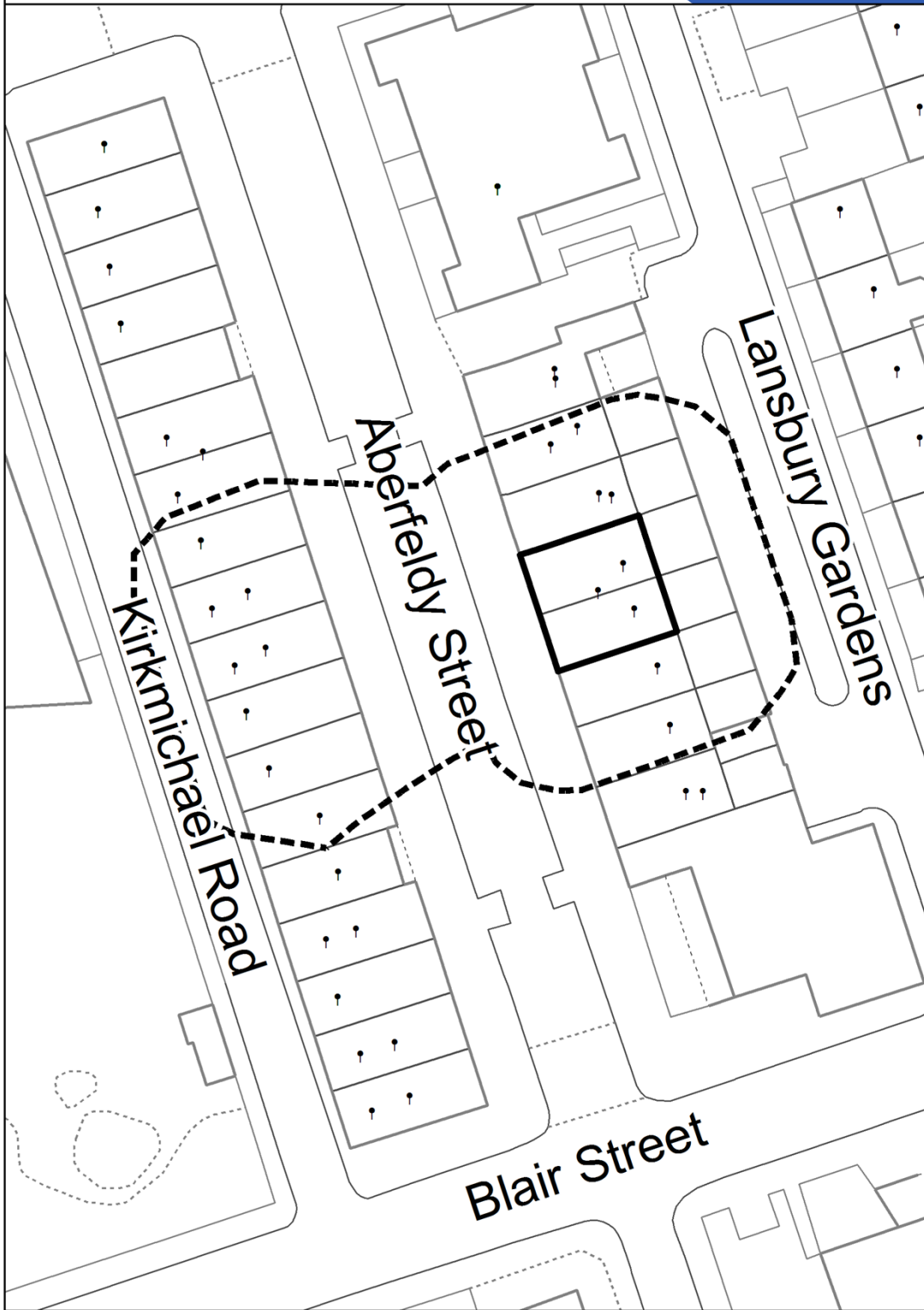
- 9.11 The application is accompanied by a statement on crime prevention measures with regards to the installation of this ATM. The ATM would be located in a shopping parade, on a well walked street that is well lit and with good levels of natural surveillance from both sides of the streets, from residents living above the retail units. The pavement is set above the carriageway which makes ramming of the machine not possible. Additional engineering has been added to the shop front to further secure the machine and CCTV cameras are installed within the shop.
- 9.12 In addition, from an anti-social behaviour point of view, the Met Police has confirmed that they would not normally have any issues with an ATM unit as this alone does not normally draw a group together around the unit as they are usually used in a 'visit and go' fashion. As such, the proposal is considered to have made the necessary measures to safeguard against criminal behaviour and complies with policy SP09 of the Core Strategy (2010).







10.0 CONCLUSION

- 10.1 For the reasons set out earlier in this report and with regards to relevant planning policies, the two applications are not considered to give rise to undue amenity issues to neighbours from noise or other forms of disturbances nor impact adversely on the visual appearance of the premises and the shopping parade more generally; in the absence of other negative material planning considerations, the retrospective applications are recommended for approval.

11.0 RECOMMENDATION

- 11.1 All other relevant policies and considerations have been taken into account. Planning permission and advertisement consent should be granted for the reasons set out in the Committee report



 Planning Application Site Boundary	 Locally Listed Buildings	 Land Parcel Address	
 Consultation Area	 Statutory Listed Buildings	0	20 m

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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Agenda Item 6

Committee: Development	Date: 27 April 2016	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Development and Renewal		Title: Planning Applications for Decision	
Originating Officer: Owen Whalley		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Committee. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.
- 1.2 The following information and advice applies to all those reports.

2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

3. ADVICE OF HEAD OF LEGAL SERVICES

- 3.1 The relevant policy framework against which the Committee is required to consider planning applications comprises the Development Plan and other material policy documents. The Development Plan is:
 - the London Plan 2011
 - the Tower Hamlets Core Strategy Development Plan Document 2025 adopted September 2010
 - the Managing Development Document adopted April 2013
- 3.2 Other material policy documents include the Council's Community Plan, supplementary planning documents, government planning policy set out in the National Planning Policy Statement and planning guidance notes and circulars.
- 3.3 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken.

**LOCAL GOVERNMENT ACT 2000 (Section 97)
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 7**

Brief Description of background papers:	Tick if copy supplied for register:	Name and telephone no. of holder:
Application, plans, adopted UDP, Interim Planning Guidance and London Plan	✓	Eileen McGrath (020) 7364 5321

- 3.4 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.
- 3.5 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 3.6 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.7 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 3.8 In accordance with Article 31 of the Development Management Procedure Order 2010, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.

4. PUBLIC SPEAKING

- 4.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Committee's procedures. These are set out at the relevant Agenda Item.

5. RECOMMENDATION

- 5.1 The Committee to take any decisions recommended in the attached reports.

Agenda Item 6.1

Committee: Development Committee	Date: 27 th April 2016	Classification: Unrestricted
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Harveen Dhillon	Ref No: PA/15/03217
	Ward: Bow West

1. APPLICATION DETAILS

Location:	42B Kenilworth Road, E3 5RJ
Existing Use:	Residential (Use Class C3)
Proposal:	Erection of single storey roof extension
Drawing and documents:	PP-A-0001 A, PP-A-1000 A, PP-A-5000 A, PP-A-5001 A, PP-A-1001 A, PP-A-1002 A, PP-A-1003 A, PP-A-1004 A, PP-A-1005 A, PP-A-1006 A, PP-A-2001 B, PP-A-2002 B, PP-A-2003 A, PP-A-2004 A, PP-A-2005 B, PP-A-2006 B, PP-A-5002 A, PP-A-5003 A, PP-A-5004 A, Planning Statement Design & Access Statement
Applicant:	Mr Ashley Collins
Ownership:	Mr Collins – freehold owner of 42B Mr Cichocki – freehold owner of 42A
Historic Building:	Non-designated heritage asset
Conservation Area:	Driffield Road Conservation Area

2. EXECUTIVE SUMMARY

- 2.1 This report considers an application for a mansard roof extension to a terraced property within the Driffield Road Conservation Area.
- 2.2 Officers have carefully assessed the impact of the proposed roof extension on the special character and appearance of the conservation area and recommend that the application is refused.
- 2.3 The high uniformity, architectural rhythm and strong horizontal emphasis of two storey Victorian terraces are very characteristic of and make a significant contribution to the heritage value of the Driffield Road Conservation Area. As explained within the report, the proposed mansard roof extension would cause unacceptable and unjustified harm to the special character and

appearance of the conservation area, contrary to the policies of the Development Plan.

3.0 RECOMMENDATION

- 3.1 That the Committee resolve to REFUSE planning permission for the reasons highlighted in this report and summarised below:
- 3.2 The proposed development by reason of the loss of an existing butterfly roof and creation of a mansard roof extension would harm the historic and architectural character of the host building and the special character & appearance of the Driffield Road Conservation Area. The proposal is therefore contrary to the principles of the National Planning Policy Framework (2012), policies 7.4, 7.6 and 7.8 of the London Plan (consolidated with alterations since 2011), policies SP10 and SP12 of the Core Strategy (2010), and policies DM24 and DM27 of the Managing Development Document (2013).
- 3.3 The proposed single storey roof extension, by reason of its incongruous design elements such as large pane contemporary glazing and timber cladding, would undermine the architectural integrity of the host building and detract from the special character and appearance of the Driffield Road Conservation Area. As a result, the proposal would be contrary to the principles of the National Planning Policy Framework (2012), policies 7.4 and 7.6 of the London Plan (consolidated with alterations since 2011), policies SP10 and SP12 of the Core Strategy (2010), and policies DM24 and DM27 of the Managing Development Document (2013).

PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1 The application site consist of a two storey with basement Victorian terrace house located on the eastern side of Kenilworth Road in Bow, within the Driffield Road Conservation Area. The host building has been subdivided into a three-bedroom flat at basement and ground level and a one-bedroom flat at first floor level. The proposal relates to the first floor one-bedroom flat.
- 4.3 The Driffield Road Conservation Area is characterised by the homogenous layout of small scale streets, containing highly uniform terraces. The late 19th century houses are essentially two storeys high with basement, and follow the general pattern of London Victorian terraces. To the front, there is a parapet cornice extending the length of the terrace and concealing a series of uniform London roofs.
- 4.4 Within the residential streets of Kenilworth, Vivian, Zealand, Ellesmere, Driffield and Hewlett Roads, each terrace facade contributes to the repetitive and rhythmic character of the streetscape.

The Proposal

- 4.7 The application proposes erection of a mansard roof extension to the first floor flat. The plans show a modern interpretation of a mansard, the roof being set to the rear of the parapet at the front, whilst at the rear it is divided into two planes, one half of the proposals being set to the rear of the existing

gable, the other half sitting slightly beyond the line of the back wall and being clad in timber.

- 4.8 The construction of the mansard would result in creation an additional bedroom, expanding the property from a one-bedroom to a two-bedroom flat and allowing reconfiguration of other areas to create an open living/kitchen area and an additional bathroom.

Relevant Planning History

Application site

- 4.9 PA/11/02482 planning permission granted on 9th December 2011, for:

Conversion of existing dwelling into 2 flats; a basement and ground floor 3 bedroom flat and a first floor 1 bedroom flat. Replacement of existing windows to timber sash windows. Infill side extension to single storey rear extension.

Adjoining property at 44 Kenilworth Road

- 4.10 BW/89/00148 planning permission granted on 23rd January 1990, for:

Erection of mansard roof extension.

5.0 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 Government Planning Policy

National Planning Policy Framework 2012
Planning Policy Guidance 2014 with subsequent alterations

5.3 London Plan consolidated with alterations since 2011

7.4: Local Character
7.5: Public Realm
7.6: Architecture
7.8: Heritage Assets and Archaeology

5.4 Core Strategy 2010

SP02: Urban Living for Everyone
SP10: Creating Distinct and Durable Places

5.5 Managing Development Document 2013

DM0: Delivering sustainable development
DM24: Place Sensitive Design
DM25: Amenity
DM27: Heritage and the historic environment

5.6 **Other Relevant Documents**

Driffield Road Conservation Area Character Appraisal (2009)

CONSULTATION RESPONSE

5.7 The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

5.8 The following were consulted regarding the application:

Internal Consultees

LBTH Design and Conservation

5.9 These proposals are harmful to the identified significance and character of the conservation area as identified within the adopted appraisal. They are contrary to local policy and will neither preserve nor enhance the character of the conservation area.

5.10 Whilst it is recognised that this property adjoins a property where a mansard roof has previously been added, this addition occurred prior to the publication of current policy documents and the public consultation and subsequent adoption of the conservation area character appraisal, as such it should not be considered as a precedent.

External Consultees

Neighbours Representations

5.11 Public consultation took place in accordance with statutory requirements. This included 14 letters sent to neighbours and interested parties, a press advert published in East End Life and a site notice displayed outside the application site.

5.12 1 letter of objection and a petition in support with 23 signatures were received.

5.13 The following issues were raised in objection to the proposal:

- a) Adverse heritage impact on the special character of the Driffield Road Conservation Area. The proposed roof extension would damage the consistent roofscape at the front of the terrace and result in the loss of the London (butterfly) roof at the rear. The proposed fenestration would be out of character.
- b) Adverse daylight impact resulting from creation of an overhang at rear, at roof level.
- c) Further traffic congestion within the area.
- d) Disturbance from construction works.
- e) Structural and party wall issues arising from the construction of a roof extension.

- 5.14 These above issues are addressed in the Material Planning Considerations section of this report.
- 5.15 The petition in support does not set out the reason for support of the application.

6.0 MATERIAL PLANNING CONSIDERATIONS

- 6.1 The main planning issues raised by the application that the committee must consider are Design & Heritage and Amenity.

Design & Heritage

- 6.2 The National Planning Policy Framework (the NPPF) emphasizes the importance of preserving and taking opportunities to enhance the special significance and value of heritage assets and requires any development likely to affect a heritage asset or its setting to be assessed in a holistic manner.
- 6.3 The relevant London Plan policies are 7.4, 7.6 and 7.8. These policies broadly aim to ensure the highest architectural and design quality of development and require for it to have special regard to the character of its local context.
- 6.4 A key objective for the Council is to protect, celebrate and improve access to our historical and heritage assets by placing these at the heart of reinventing the hamlets. Policy SP10 of the Core Strategy aims to protect and enhance borough's conservation areas and to preserve or enhance the wider built heritage and historic environment of the borough to enable creation of locally distinctive neighbourhoods with individual character. The policy also sets out the broad design requirements for new development to ensure that buildings, spaces and places are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds. Policy SP10 is realised through the detailed development management policies DM24 and DM27 of the Managing Development Document.
- 6.5 Policy DM24 aims to ensure that development is designed to the highest quality standards and is sensitive to and enhances the local character and setting of the development by respecting the design details and elements, scale, height, mass, bulk and form of adjoining development, building plot sizes, plot coverage and street patterns, building lines and setbacks, roof lines, streetscape rhythm and other streetscape elements in the vicinity. Development is also required to utilise high quality building materials and finishes.
- 6.6 With regard to alterations to heritage assets, policy DM27 specifies that alterations should not result in an adverse impact on the character, fabric, identity or setting, be appropriate in terms of design, scale form, detailing and materials, and enhance or better reveal the significance of the asset.
- 6.7 Further to the above policies, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, places a statutory duty for the local planning authority to pay special regard to the desirability of preserving or enhancing the appearance and character of conservation areas.
- 6.8 Paragraph 131 of the NPPF states that in determination of applications, local planning authorities should take account of:

- Desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
 - The positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality.
 - The desirability of new development making a positive contribution to local character and distinctiveness.
- 6.9 The Driffield Road Conservation Area is a designated heritage asset. Paragraph 132 of the NPPF states that great weight should be given to the conservation of designated assets. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. According to paragraph 134, where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.10 The host terraced property is a non-designated heritage asset. Paragraph 135 of the NPPF requires that the effect of an application proposal on the significance of a non-designated heritage assets should be taken into account - a balanced judgement is required having regard to the scale of any harm or loss, and the significance of the asset.
- 6.11 The application site is located within the Driffield Road Conservation Area. Driffield Road Conservation Area is composed of a series of mid to late nineteenth century residential terraces. The conservation area was designated to protect the overall character of these Victorian streetscapes. Many of the houses were built in small groups and whilst they display a pleasing variety in terms of small-scale architectural detail, they are consistent in terms of overall scale. The continuity of the parapet line and cornice tie together the groups of houses into highly uniform terraces.
- 6.12 The application proposal is for the addition of a mansard roof extension to the upper flat. The plans show a modern interpretation of a mansard, the roof being set to the rear of the parapet at the front, whilst at the rear it is divided into two planes, one half of the proposals being set to the rear of the existing gable, the other half sitting slightly beyond the line of the back wall and being clad in timber.
- 6.13 In their guidance, Historic England note the need to retain the structure, character and appearance of a terrace and that proposals should not impair or destroy the overall shape and proportion of a house or detract from its historic character (English Heritage 1996: *London Terrace Houses 1660-1860*). Whilst the terraces of the Driffield Road Conservation Area are of a slightly later date than this, this guidance remains valid. The introduction of a mansard roof would substantially alter the overall shape of this property and would detract from its appearance when viewed from the public realm. It would damage the consistency and uniformity of the existing roof scape and would be detrimental to the special character and appearance of the conservation area as identified within the adopted appraisal.
- 6.14 A recent audit of roof profiles within the conservation area carried out by the Council clearly illustrates that in most cases, the basic historic forms of the

main roofs of the various terraces have survived, even where roof covering materials have been subject to change and/or other small scale changes have occurred. The terraces within the Conservation Area feature London (Butterfly) roofs. These are an inverted 'V' in form with a central valley and ridges on the party walls between the individual houses of the terrace. These roofs are of low pitch and are concealed from the street behind parapets producing a hard, straight edged appearance and a strong silhouette. This concealed roof is an important architectural characteristic and is typical of terraces across this conservation area.

- 6.10 At the rear, the parapet is nearly always omitted and the row of gently pitched gables is clearly evident. Typically chimney stacks are located along the party walls between houses (often in pairs); visible and silhouetted on the skyline they are important conservation area features, and together with chimney pots and party walls form a significant part of the Conservation Areas character and appearance. The design and details of these features vary with changing architectural fashions, but their rhythm and consistency contribute significantly to the special interest of a terrace. 42 Kenilworth Road retains its London roof which is concealed to the rear of the parapet whilst the valley gutter and pitched gables are evident on the rear elevation.
- 6.11 The Conservation and Design Officer has noted that whilst it is recognised that this property adjoins a property where a mansard roof has previously been added, this addition occurred prior to the adoption of current policy and the conservation area character appraisal and should not be considered as a precedent. The proposal is harmful to the identified significance of the conservation area, are contrary to local policy and will neither preserve nor enhance the character of the conservation area.
- 6.12 Through the loss of the London (Butterfly) roof, undermining the uniformity of the roofline and the architectural rhythm of the terrace and introduction of incongruous fenestration, the proposal would result in less than substantial harm to the significance of the Driffled Road Conservation Area and the terraced house itself. This harm would not be outweighed by public benefits although the residents of the property would benefit from enlarged and improved residential accommodation.
- 6.13 The proposed development by reason of the loss of an existing butterfly roof and creation of a mansard roof extension would result in a development that is harmful to the special historical and architectural character of the host building and the special character and appearance of the Driffield Road Conservation Area. The proposal is therefore contrary to the principles of the National Planning Policy Framework, policies 7.4, 7.6 and 7.8 of the London Plan, policies SP10 and SP12 of the Core Strategy, and policy DM24 and DM27 of the Managing Development Document.

Amenity

- 6.15 The Council's relevant policies are SP10 of the Core Strategy and DM25 of the Managing Development Document. These policies aim to safeguard and where possible improve the amenity of existing and future residents and building occupants as well as protect the amenity of the surrounding public realm with regards to noise and light pollution, daylight and sunlight, outlook, overlooking, privacy and sense of enclosure.

- 6.16 The proposal would introduce new windows to the south and north elevations at 2nd floor level. The windows would be located above existing windows at 1st floor level and, as such, would not result in unacceptable overlooking or privacy intrusion.
- 6.17 The proposed mansard, due to its limited scale and only a slight partial projection from the plane of the rear elevation would not result in a material daylighting or sunlighting impact on the neighbouring residential occupiers. The gardens of the adjoining properties would not be significantly overshadowed.
- 6.18 A degree of disturbance from any construction works is inevitable, in particular where additional storeys of accommodation are erected. Compliance with the Council's Code of Construction Practice and the standard construction hours as well as submission of a Construction Management Plan, which would be secured by condition were the application recommended for approval, would appropriately minimise the adverse amenity impact.
- 6.19 The proposed mansard roof would not harm the outlook of the nearby residential properties or result in an overbearing appearance or an unacceptable sense of enclosure.
- 6.17 Overall, the proposal would not result in an undue amenity impact, in accordance with the aforementioned policies.

Highways

- 6.18 The creation of an additional bedroom to an existing dwelling would not result in any significant highways or transportation impacts. The property is already subject to a 'car free' S106 agreement.

Human Rights Considerations

- 6.20 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application, the following are particularly highlighted to Members:-
- 6.21 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights ("ECHR"). Certain parts of the "Convention" here meaning the ECHR, are incorporated into English Law under the Human Rights Act 1998. Various Conventions rights are likely to be relevant to the development proposal including:
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
 - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public's interest (Convention Article 8); and

- Peaceful enjoyment of possession (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that “regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole”

6.22 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as a local planning authority.

6.23 Members need to satisfy themselves that any potential interference with the aforementioned rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must carefully consider the balance to be struck between individual rights and the wider public interest.

Equalities

6.24 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular, the Committee must pay due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other issues

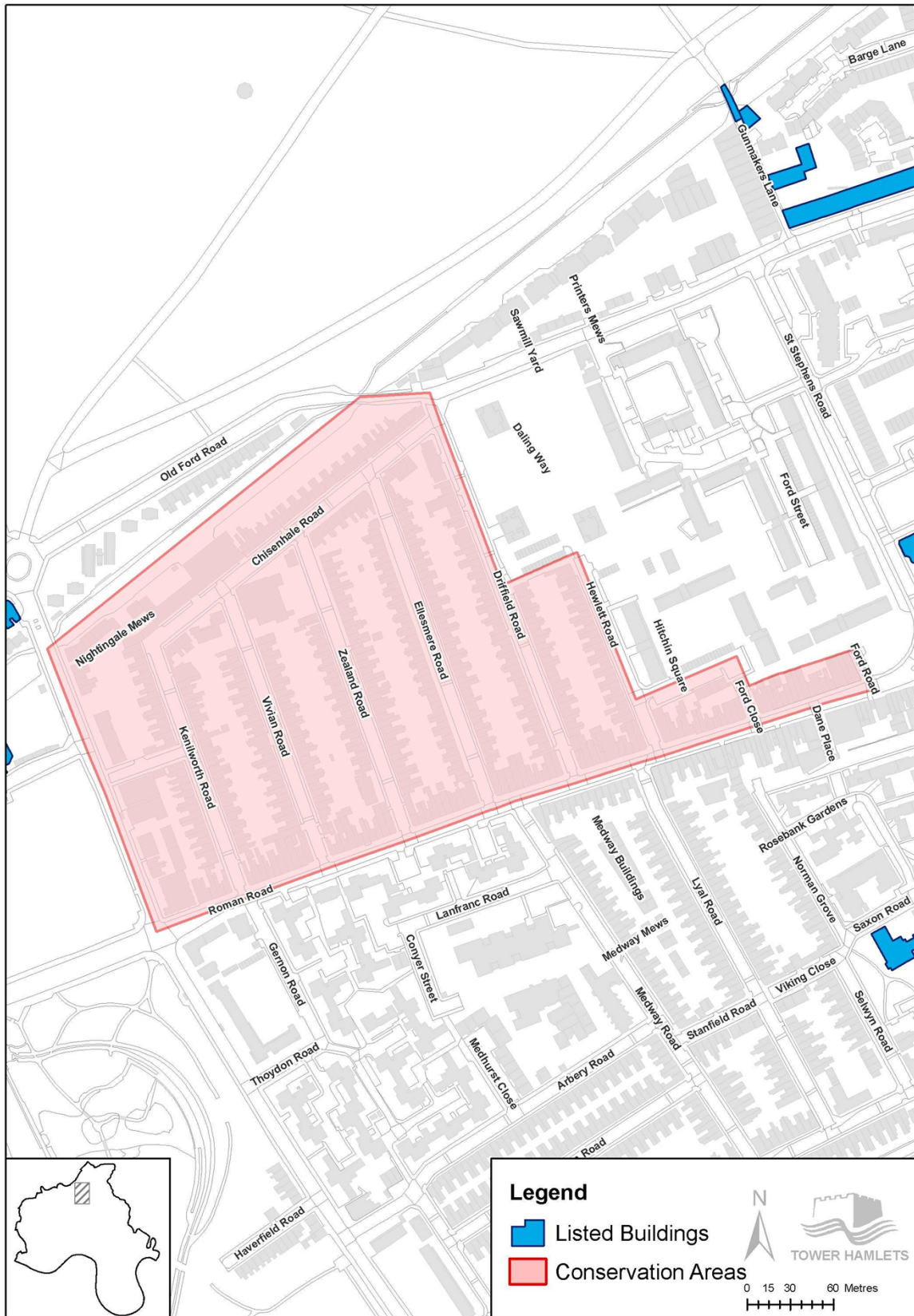
6.25 The objection submitted to the proposal raises concern about the structural integrity of the host building and whether it can safely support a mansard extension, as well as various party wall matters. These matters are adequately dealt with by the Building Regulations and the Party Wall Act.

Conclusion

8.4 All other relevant policies and considerations have been taken into account. Planning permission should be **refused** for the reasons set out in RECOMMENDATION section of this report.



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	
Consultation Area	Statutory Listed Buildings	0 20 m	



DRIFFIELD ROAD CONSERVATION AREA

This map is indicative only and is not a planning document. For further information please contact the Council.

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Agenda Item 6.2

Committee: Development	Date: 27 th April 2016	Classification: Unrestricted	Agenda Item:
Report of: Corporate Director of Development and Renewal		Title: Listed Building Application	
Case Officer: Harveen Dhillon		Ref No: PA/16/00161	
		Ward: Bow West	

APPLICATION DETAILS

- 1.1 **Location:** Phoenix School, 49 Bow Road, London E3 2AD
- Existing Use:** School
- Proposal:** Conversion of two existing non-original bin stores into use as a Food Technology Classroom with support kitchen area. Works include; removal of existing timber panels and double doors, removal of a non-original non load bearing blockwork wall, new vent openings through retained side doors, fitting new external windows and doors within existing structural openings, alterations to the existing drainage to suit kitchen requirements, new internal plasterboard partition wall, new wall, floor and ceiling finishes, new light fittings and extract ventilation.
- Documents:** Design & Access Statement
- Drawing No's:** 001 REV P1
002 REV P1
100 REV P2
200 REV P2
PH0-SC-01REV D
003 REV P1
- Applicant:** Phoenix School.
- Owner:** LBTH
- Historic Building:** Grade II* Listed.
- Conservation Area:** Adjacent to Tredegar Square Conservation Area.

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 London Borough of Tower Hamlets Core Strategy (2010), The London Borough of Tower Hamlets Managing Development Document (2013) the London Plan (2015) and National Planning Policy Framework (2012) and has found that:

- 2.2 The proposed refurbishment works have been sensitively designed to preserve the special character of the Grade II* listed building.
- 2.3 In accordance with the Arrangements for Handling Heritage Applications Direction (2015), Historic England has directed the Council to determine the listed building consent application. The direction requires that if the Council is minded to grant listed building consent it should do so. The direction has been endorsed by the Secretary of State (via the National Planning Casework Unit) who have confirmed the application does not need to be referred to them (Secretary of State).

3. RECOMMENDATION

- 3.1 That the Committee resolve grant Listed Building Consent subject to conditions as set out below.
- 3.2
 1. Time Limit.
 2. Completion in accordance with approved drawings.
 3. All materials/ finishes to match existing unless specified on submitted drawings.

4. BACKGROUND

- 4.1 The building is Grade II* Listed, and is owned by the Council. The Council's scheme of delegation requires that where the Council is applying for works to a Listed Building that it owns, the application must be brought before Members for determination.
- 4.2 The majority of works proposed have been previously considered acceptable within a Listed Building Consent application which was presented at Development Committee on the 16th of December 2016 under planning reference number PA/15/02445, this application proposes a slightly different internal layout design.

5. PROPOSAL AND LOCATION DETAILS

Proposal

- 5.1 The proposal seeks the conversion of two existing non-original bin stores into use as a Food Technology Classroom with support kitchen area.
- 5.2 The proposed works required include the removal of existing timber panels and double doors and the removal of a non-original non load bearing blockwork wall.
- 5.3 In order to facilitate the use of the room for food technology the applicant is proposing new vent openings through retained side doors, fitting new external windows and doors within existing structural openings, alterations to the existing drainage to suit kitchen requirements, new internal plasterboard partition wall, new wall, floor and ceiling finishes and new light fittings and extract ventilation.

Site and Surroundings

- 5.4 Phoenix School is located at the northern end of Bow Road, adjacent to Bow Road Station. The site itself is fairly concealed by properties from Alfred Street to the east and Harley Grove to the west.
- 5.5 The school was constructed in 1952 and was Grade II* Listed in 1993. The listing relates to the main spine plan running north-south with a series of linked two

storey pavilions to the east and west, forming open courtyards. A new extension was constructed in the late 1990's which enclosed the courtyards.

- 5.6 The school consists of a concrete frame with stock brick infill and low pitched copper roofs, with large windows and painted metal frames. The western, southern and part of the eastern curtilage of the site forms the boundary of the Tredegar Square conservation area. The site itself is not located within the conservation area.
- 5.7 The site is bounded by Byas House a two storey residential building to the north accessed from Benworth Street, Electric House, Marina Court and no's 15 to 29 Alfred Street to the east, no's 8 to 15 Harley Grove to the west and 51 to 52 Lemon Tree House, Bow Road to the south.
- 5.8 Phoenix School is located at the northern end of Bow Road, adjacent to Bow Road Station. The site itself is fairly concealed by properties from Alfred Street to the east and Harley Grove to the west.

Relevant Planning History

- 5.9 The site has an extensive planning history, with the earliest application in 1971. Of these applications the following full planning application has been submitted in concurrent with this listed building consent. The Council is able to determine this application under delegated powers.

PA/15/02444 & PA/15/02445

- 5.10 Planning permission and listed building consent for the conversion of two existing non-original bin stores into use as a Food Technology Classroom with support kitchen area. Includes; removal of existing timber panels and double doors, removal of a non-original non load bearing blockwork wall, new vent openings through retained side doors, fitting new external windows and doors within existing structural openings, alterations to the existing drainage to suit kitchen requirements, new internal plasterboard partition wall, new wall, floor and ceiling finishes, new light fittings and extract ventilation.
Granted on 23rd of December 2015.

PA/16/00164

- 5.11 Application for non-material amendment of planning permission dated 23/12/2015, ref: PA/15/02444. Application has been considered in conjunction with the current application and is pending determination.

6. POLICY FRAMEWORK

- 6.1 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:

- 6.2 **National Planning Policy Framework 2012 (NPPF)**

Sections:	7	Requiring Good Design
	12	Conserving and Enhancing the Historic Environment

- 6.3 **Spatial Development Strategy for Greater London (London Plan 2015)**

- 3.18 Education Facilities
- 5.17 Waste Policy
- 7.8 Heritage assets and archaeology

6.4 Core Strategy Development Plan Document (2010) (CS)

- Policies:
- SP10 Creating Distinct and Durable Places
 - SP03 Creating Healthy and Liveable Neighbourhoods
 - SP05 Dealing with Waste
 - SP09 Creating Attractive and Safe Streets and Spaces
 - SP10 Creating Distinct and Durable Places
 - SP12 Delivering Placemaking

6.5 Managing Development Document (2013) (MDD)

- Policies:
- DM14 Managing Waste
 - DM18 Delivering schools and early learning
 - DM23 Streets and Public Realm
 - DM24 Place-sensitive Design
 - DM25 Amenity
 - DM27 Heritage and the Historic Environment

6.6 Supplementary Planning Guidance

Tredegar Square Conservation Area Appraisal

7. CONSULTATION

- 7.1 The views of the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

Historic England

- 7.2 Historic England has considered the information received and do not wish to offer any comments on this occasion.

20th Century Society

- 7.3 The 20th Century Society has been consulted and no comments were received.

8. LOCAL REPRESENTATION

- 8.1 A total of 187 neighbouring addresses were consulted by letter, a site notice was posted and the application was published in the East End Life. No letters of representation have been received in support or objection to the proposals.

9 MATERIAL PLANNING CONSIDERATIONS

- 9.1 When determining listed building consent applications, section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard should be paid to the desirability of preserving the building or its setting, or any features of special interest.

- 9.2 The main issue for Members' to consider is whether the proposed works are appropriate in this respect.

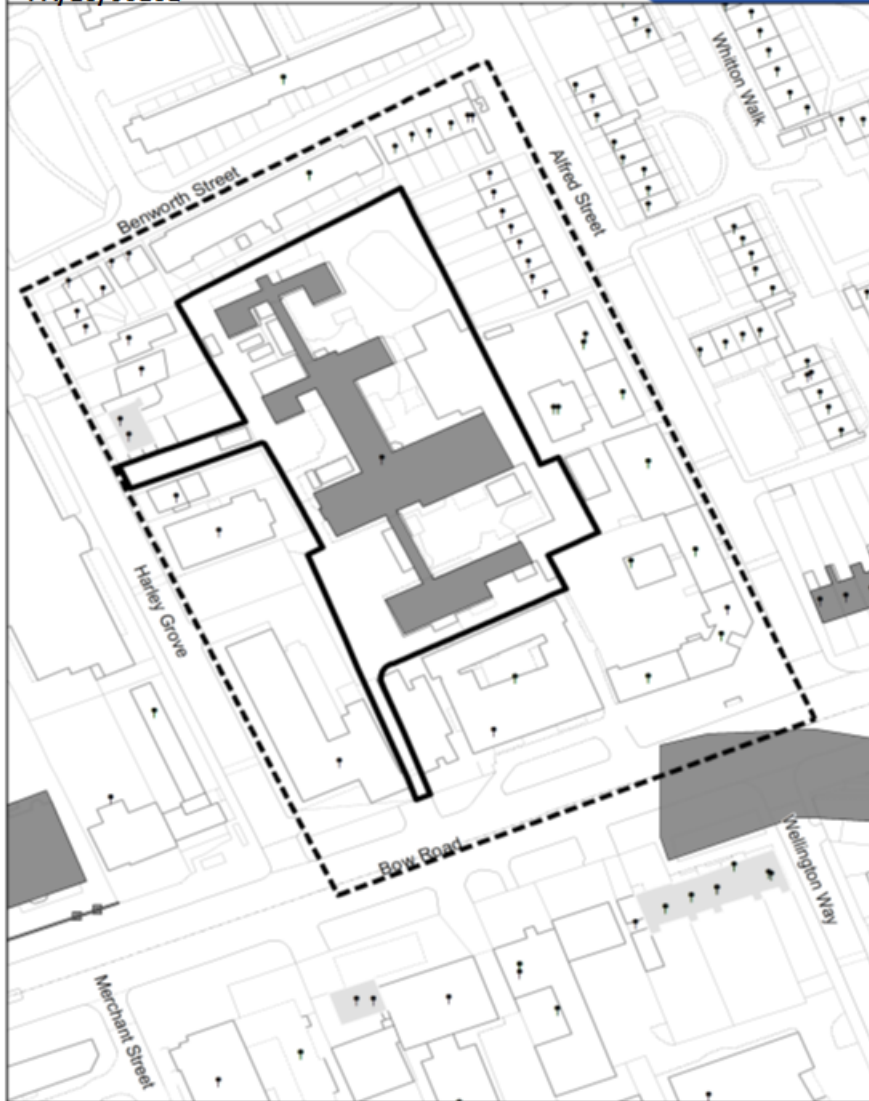
Impact on Special Architectural and Historic Character of the Listed Building.

- 9.3 London Plan policy 7.8 requires development to identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate and requires development affecting heritage assets and their settings to conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
- 9.4 Adopted CS Policy SP10 seeks to protect and enhance the boroughs Heritage Assets and policy DM27 of the Managing Development Document seeks to ensure development, does not result in an adverse impact on the character, fabric or identity of the heritage asset or its setting; is appropriate in terms of design, scale, form, detailing and materials in its local context and that it enhances or better reveals the significance of the asset or its setting.
- 9.5 The existing bin store is a modern addition with little historic value. Given it is to be retained with limited alterations included the removal of existing timber panels and double doors and the removal of a non-original non-load bearing blockwork wall. Accordingly, no objection is raised to the proposed external works.
- 9.6 The proposal seeks their replacement with new glazed doors and windows, with Aluminium cladding, timber cladding is also proposed on the façade. The proposed materials and design are considered sympathetic to the special character of the Grade II* listed building.
- 9.7 The internal works are required for the unit to be fitted out as a food technology classroom. These include, new finishes to be installed which include areas of wall and floor tiling, painted plasterboard and timber cladding. New suspended ceiling finishes to be fitted along with new lighting and ventilation equipment. These works are required in order to ensure the proposed kitchen area is fit for purpose.
- 9.8 The internal works are minor in nature and would not adversely impact on the listed building.
- 9.9 Historic England has been consulted on the application and has raised no objections. Similarly, the proposal has been reviewed by the boroughs Listed Building officer who has no objections to the proposal. There are no changes to the brickwork and no significant impact on the external facades of the host building, furthermore these structures are not part of the original listed building and therefore a change will not have a significant impact on the character and appearance of the overall listed building compound.
- 9.10 In conclusion it is considered that the proposal would have an acceptable impact on the character of the Grade II* listed building. In line with s66 of the Planning (Listed Building and Conservation Areas) Act the development would preserve the special architectural interest of the listed building and would result in a significant benefit to the school, according with the aforementioned planning policies.

10 CONCLUSION

- 10.1 These proposals would allow the building to enhance its original function as a school whilst not adversely impacting on the historic fabric of the building. The works are considered to preserve the special historical and architectural character and appearance of the Grade II Listed Building. As such, the proposal accords with the aims of Sections 7 and 12 of the NPPF, 7.8 of the London Plan, policy SP10 of the CS, policy DM27 of the MD DPD, which seek to ensure works to listed structures preserve features of special historic and architectural interest.
- 10.2 All other relevant policies and considerations have been taken into account. Listed Building Consent should be GRANTED for the reasons set out in the EXECUTIVE SUMMARY and MATERIAL PLANNING CONSIDERATIONS sections as set out in the RECOMMENDATION at the beginning of this report.

Planning Application Site Map
PA/16/00161



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	
Consultation Area	Statutory Listed Buildings	0 30 m	

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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