

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STRATEGIC DEVELOPMENT COMMITTEE

HELD AT 7.00 P.M. ON THURSDAY, 19 NOVEMBER 2015

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

Members Present:

Councillor Marc Francis (Chair) (Applications 5.1 and 6.4 only)
Councillor Asma Begum
Councillor Andrew Cregan (Applications 5.1 and 6.4 only)
Councillor Muhammad Ansar Mustaqim
Councillor Julia Dockerill
Councillor Dave Chesterton (Applications 6.1-6.4)
Councillor Khaled Uddin Ahmed (Applications 6.1-6.3)
Councillor Denise Jones (Applications 6.1-6.4)

Other Councillors Present:

None

Apologies:

Councillor Helal Uddin
Councillor Danny Hassell
Councillor Shahed Ali
Councillor Gulam Robbani

Officers Present:

Paul Buckenham	– (Development Control Manager, Development and Renewal)
Gillian Dawson	– (Team Leader, Legal Services, Law, Probity and Governance)
Graham White	– (Interim Service Head, Legal Services, Law, Probity and Governance)
Jane Jin	– (Team Leader, Development and Renewal)
Jerry Bell	– (East Area Manager, Planning Services, Development and Renewal)
Esha Banwait	– (Planning Officer, Development and Renewal)
Gareth Gwynne	– (Planning Officer, Development and Renewal)

Zoe Folley

– (Committee Officer, Directorate
Law, Probity and Governance)

AGENDA ORDER

During the meeting the Committee agreed to vary the order of business. To aid clarity, the Minutes are presented in the order that the items originally appeared on the agenda. The order the business was taken in at the meeting was as follows:

- Item 1 – Declarations of Disclosable Pecuniary Interests.
- Item 2 – Minutes of the Previous Meeting.
- Item 3 – Recommendations.
- Items 4 – Procedure for Hearing objections and meeting guidance
- Item 5.1 Land at corner of Broomfield Street and Upper North Street known as "Phoenix Works", London, E14 6BX (PA/15/00641)
- Item 6.4 Enterprise House, 21 Buckle Street, London, E1 8NN (PA/15/01141)
- Item 6.1 47 Brierly Gardens, London E2 0TF and 55 Brierly Gardens, London E2 0TF (PA/15/01337- PA/15/01832)
- Item 6.2 47 Brierly Gardens, London E2 0TF (PA/15/01337)
- Item 6.3 55 Brierly Gardens, Location E2 0TF (PA/15/01832)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of interest were made.

2. MINUTES OF THE PREVIOUS MEETING(S)

That the minutes of the meeting of the Committee held on 8 October 2015 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

5.1 Land at corner of Broomfield Street and Upper North Street known as "Phoenix Works", London, E14 6BX (PA/15/00641)

Paul Buckenham (Development Control Manager) introduced and presented the application for the demolition of existing buildings and erection of new primarily residential buildings ranging in height.

It was noted that the application was previously considered at the last Committee meeting on 8th October 2015 where Members resolved to defer the application for a site visit.

At that visit, Members requested further information about two issues: the height of the application buildings in relation to that of the surrounding buildings and the impact of the proposed development on neighbouring amenity in terms of daylight and sunlight. Accordingly, the report now before Members clarified these issues.

Before presenting these findings, the Committee were reminded of the key features of the scheme including the site location and surrounds, the layout of the proposal, the access arrangements, the proximity to Bartlett Park, Craig Court and Werner Tower. The Committee also noted views of the proposal from the surrounding area.

In relation to the comparative height, it was reported that given the modest height difference between the tallest element of the proposal and the neighbouring buildings, that this was considered acceptable. The scheme would be in keeping with the surrounding area. In terms of sunlight and daylight, it was reported that most of the windows within Werner Court and Craig Tower met the requirements in policy save for some exceptions. Details of the findings were set out in the report and reported to the Committee.

In conclusion, the additional information had been carefully considered and the Officer recommendation remained to grant the scheme.

In response to the presentation, Members asked questions about:

- the quality of the social housing (in view of the recent scrutiny review).
- the impact on the canal tow path at the front of the proposal given the width of the tow path.

- the possibility of imposing a condition regarding the cleaning and maintenance of the tow path.
- the wind mitigations measures in respect of the children's play area.
- the public transport rating for the site given the density of the scheme.
- the bulk scale and massing of the scheme.
- overdevelopment of the site given the sunlight and daylight impact
- conflict with the Council's Core Strategy that supported medium to lower rise developments in this particular area.
- the cycle storage plans
- the lack of lifts given the proposed number of storeys within the scheme.

In response, Officers explained that it would be possible to review the landscaping condition to include details of the wind mitigation measures in the child play space. It was also possible that a protocol is prepared and agreed between the applicant and the Canal and Rivers Trust concerning the cleaning and maintenance of the canal tow path. In relation to this point, the Committee received legal advice on what this could and could not cover in view of land ownership issues. The Committee then moved and unanimously agreed that, if granted, a condition should be added to the permission that no development take place until a protocol is agreed between the Canal and Rivers Trust and the applicant regarding the maintenance of the tow path.

It was considered that the proposed density range of the scheme could be accommodated and complied with the London Plan given the lack of adverse impact from the development and that it would optimise use of a brownfield site. It was clarified that whilst at the upper end of the London Plan density range, the Plan stated that the matrix should not be applied mechanistically. Instead the scheme should be assessed on its impacts. In addition, the density broadly reflected that for nearby schemes.

The Committee must take into account adopted planning policy rather than policy that had yet to be adopted in relation the recent scrutiny review. There would be a condition to ensure the cycle storage would be safe and secure. In terms of the quality of the housing, this would be tenure blind.

On a vote of 1 in favour of the Officer recommendation to grant planning permission 3 against and 1 abstention, the Committee did not agree the Officer recommendation to grant planning permission

Accordingly, Councillor Marc Francis proposed and Councillor Andrew Cregan seconded a motion that the planning permission be not accepted (for the reasons set out below) and on vote of 3 in favour, 1 against and 1 abstentions, it was **RESOLVED:**

That the Officer recommendation to grant planning permission be **NOT ACCEPTED** at Land at corner of Broomfield Street and Upper North Street known as "Phoenix Works", London, E14 6BX (PA/15/00641) for

- Demolition of existing buildings on the site and erection of buildings that range in height from 3 to 14 storeys containing 153 units including 28 undercroft and surface car parking spaces and a central landscaped courtyard (PA/15/00641)

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

- Overdevelopment of the site.
- Height, build and massing.
- Impact on neighbouring amenity in terms of daylight and sunlight, particularly the properties at the north of the site.
- Impact on the towpath
- Conflict with the Council's Core Strategy's Vision in respect of the area.

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. PLANNING APPLICATIONS FOR DECISION

6.1 47 Brierly Gardens, London E2 0TF and 55 Brierly Gardens, London E2 0TF (PA/15/01337- PA/15/01832)

Councillor Dave Chesterton (Chair) for items – 6.1- 6.3

Graham White (Deputy Monitoring Officer and Interim Service Head Legal Services) presented the report. He advised that at its meeting on 3 September 2015, the Development Committee considered and granted the above applications submitted by Tower Hamlets Homes. Since that meeting, a Judicial Review pre-action protocol letter had been received about an alleged conflict of interest by two of the Committee Members that participated and determined the item given they were Directors of Tower Hamlets Homes. The letter asserts that due to this, there was a procedural irregularity and the decision was unlawful.

It was reported that whilst their actions satisfied the requirements of the Members' Code of Conduct (only requiring the disclosure of Disclosable Pecuniary Interests in accordance with law), the Members were still required to follow the Council's own Planning Code of Conduct. This Code defines a personal and prejudicial interest as one where:

'a member of the public who knows the relevant facts would reasonably think that the personal interest is so significant that it is likely to prejudice the Member's judgement of the public interest when taking a decision and it is a decision that effects the financial interest of a body with which the Member is associated with or relates to a regulatory matter such as determining a

planning application'

The effect of having such an interest is that the Member must leave the meeting room and not try to influence the debate. It is arguable whether the Councillors' interests were a personal and prejudicial interest as defined above. However to test this matter in court would be a high risk approach. The Council would incur significant costs in the event of not being successful.

The situation could be remedied without incurring costs by this application being considered and determined afresh at this Committee and for those Members' affected to step aside.

The terms of reference of the Strategic Development Committee provides that it may consider any matter listed in the terms of reference of the Development Committee where legal proceedings in relation to the matter are in existence or in contemplation.

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

1. That it be accepted that the decisions of the Development Committee of 3 September 2015 in respect of applications PA/15/01337 and PA/15/01832 were procedurally flawed and invalid; and
2. That the applications be considered afresh.

6.2 47 Brierly Gardens, London E2 0TF (PA/15/01337)

Update report tabled.

Paul Buckenham (Development Control Manager) introduced the item for a new single storey rear extension which facilitates the provision of two new bedrooms, alongside a reconfigured living/dining/ kitchen.

The Chair invited registered speakers to address the Committee.

Stephen Smillie and Mary Smillie (local residents) spoke in objection. They objected to the impact of the extension on their property with regard to:

- Loss of amenity in terms of outlook and privacy due to the scale of the proposal, design, position of the roof light and proximity to neighbours.
- Safety and security issues given the position of the handrail in relation to the extension allowing easy access to their property. This conflicted with planning policy promoting safe and secure schemes. It was considered that the measures suggested at the last meeting (anti climb spikes and anti - climb paint) would be ineffective and unsightly.
- Out of character with the appearance of the neighbouring properties and the wider estate.
- Lack of consultation with neighbours as stated by the ward Councillor.
- Insufficient consideration to the objectors petition.

Overall, they considered that scheme would adversely affect their quality of life.

At the request of the speakers and agreement of the Chair, Officers circulated the representations submitted by the local residents from the planning file to Committee Members.

The speakers then replied to questions of clarification from Members on the above points. In terms of the consultation, Officers drew attention to the statutory consultation carried out by the Council. However they could not comment on the scope of the applicant's consultation.

Muhammad Shahid, (Tower Hamlets Homes) and Mr Abdul Kadir Mohamoud (occupant) spoke in support. They stressed the need for the extension to alleviate overcrowding at the property in view of the occupants medical needs. They also described the proposed layout, the impact on the garden and the stepped back design to reduce the impact of the scheme. The speakers considered that incidents of anti - social behaviour in the area were relatively few and far between.

In response to Members' questions, they referred to the problems with overcrowding at the property. They considered that the site could accommodate the additional rooms, avoiding the need for the occupants to find alternative accommodation. They also referred to the reasons why the property met the criteria for improvements under the THH extensions programme and the consultation carried out by the Council. In response to further questions, Officers informed Members that rent issues were not a material planning issue in this case since the scheme did not trigger the Council's affordability policy. Members must consider the material planning issues only.

Esha Banwait (Planning Officer) presented the detailed report and update.

She explained the application site and the surrounding area including listed buildings and Conservation Areas.

She also explained the flat roof design providing the shortest possible height for the scheme, the dimensions of the proposed extension that would be subservient to the main building (whilst slightly visible at street level). She also explained the proposed internal changes and the plans to re provide the ramp enabling access to the rear garden. A sufficient level of the green space would be retained.

The Committee also noted the plans to install new windows and a door, the proposed materials that were in keeping with the area and the separation distance between the proposal and the neighbouring Conservations Areas. The results of the Council's consultation were also noted.

Overall, given the above, it was considered that the extension would be an

appropriate form of development and would preserve the setting of the area.

Concern had been raised about neighbouring amenity. However no adverse impacts were anticipated in terms of loss of outlook, privacy, overshadowing, daylight or sunlight due to various factors. The measures to ensure this were noted.

In view of the concerns around the security of neighbours, the Applicant had suggested that anti climb measures could be installed at the development. The Committee may wish to consider the merits of this.

In view of the merits of the scheme, Officers were recommended that it be granted.

In response to Members, it was noted that details of the roof light would be secured by condition. The proposed glazing would be of a standard that would be unbreakable as recommended by the Crime Prevention Officer to prevent illegitimate access to the extension. Officers were supportive of this measure given the specialist advice.

Officers were mindful of the concerns about the application of anti - climb measures (as suggested by the applicant) given their impact on the appearance of the property. It was felt that the scheme with the conditions would not need this anyway. Furthermore, given the crime statistics for the area for the average number of burglaries (shown to Members at this point), it would be very difficult to justify such additional features on the grounds of crime prevention.

In response to further questions about overlooking from the roof light, it was noted that steps could be taken to avoid this. Following a discussion on the merits of this, Councillor Denise Jones proposed and Councillor Khaled Uddin Ahmed seconded a condition requiring that the roof light be obscure glazed to protect the privacy of the nearest properties. This was agreed.

Officers also answered questions about the proposed materials, referring to the condition in the committee and update about this.

On a vote of 5 in favour and 1 against, the Committee **RESOLVED:**

That planning permission be **GRANTED** at 47 Brierly Gardens, London E2 0TF for a new 4.6m x 4.1m single storey rear extension which facilitates the provision of two new bedrooms, alongside a reconfigured living/dining/ kitchen (PA/15/01337) subject to the conditions and informative set out in the committee report and the update reports and an condition requiring that details of the roof light to include obscured glazing be submitted to the Council for approval.

6.3 55 Brierly Gardens, Location E2 OTF (PA/15/01832)

Update report tabled.

Paul Buckenham (Development Control Manager) introduced the item for erection of rear extension and demolition of existing ramp to be replaced with a new ramped access.

The Chair invited registered speakers to address the Committee.

Alison Russell and Geoff Browning (local residents) spoke in objection about the impact of the proposal in terms of:

- Poor design out of keeping with the well planned existing development.
- Lack of consultation with residents by the applicant.
- Impact on the green space.
- Harm to neighbouring amenity in terms of loss of outlook and increased sense of enclosure (together with the extension at 47)
- Increased crime risk from the scheme due to the flat roof and the loss of surveillance.

In response to questions from Members, the speakers referred to recent incidents of anti social behaviour in the area, successfully addressed according to the speakers by neighbourhood surveillance. The application would prevent such action in the future.

At the request of the speakers and agreement of the Chair, Officers circulated the representations submitted by the local residents from the planning file to Committee Members.

Mariola Viegas (Applicant's agent) and Muhammad Shahid (Tower Hamlets Homes) spoke in support. They stressed the need for the extension to alleviate overcrowding at the property in view of the occupants medical needs. No suitable alternative property for the occupants could be found under the THH scheme. The occupant was currently on the housing waiting list. They also referred to the planned internal changes to provide wheelchair accessible accommodation, the stepped back design minimising the impact of the scheme and to potential ant-climb measures. If approved, further consultation would be carried with residents about the details of the scheme.

In response to questions, they outlined the criteria for selecting properties for this scheme and why this property was considered suitable. They also answered questions about the consultation including the applicant's own consultation and the wider consultation carried out by planning.

Officers reminded Members that the application must be determined on the planning merits rather than the occupants individual circumstances.

Esha Banwait (Planning Officer) presented the detailed report and update.

She explained the application site and surrounds including listed buildings and Conservations Areas.

She also described the proposed scale of the extension, the flat roof design, the internal layout, the replacement ramp enabling access to the garden and the amount of green space to be retained. It was considered that a sufficient level of amenity space would be retained for residents.

The Committee also noted the position of the new windows and door, the proposed materials in keeping with the area and the separation distances with the Conservations Areas. The results of the consultation was also noted.

Overall given the above, it was considered that the extension would be an appropriate form of development that would be subservient to the main building and preserve the setting of the area.

In terms of amenity, no adverse impacts were expected in terms of overlooking, privacy, overshadowing, daylight and sunlight. The measures to ensure this were noted.

In view of the concerns around the security of neighbouring, the Applicant had suggested that anti climb measures could be installed at the property. The Committee may wish to consider the merits of this.

Officers were recommending that the application was granted planning permission.

On a vote of 4 in favour 0 against and 2 abstentions, the Committee **RESOLVED:**

That planning permission be **GRANTED** at 55 Brierly Gardens, E2 0TF for the erection of rear extension and demolition of existing ramp to be replaced with a new ramped access (PA/15/01832) subject to the conditions and informative set out in the Committee report and the updates.

6.4 Enterprise House, 21 Buckle Street, London, E1 8NN (PA/15/01141)

Update report tabled.

Paul Buckenham (Development Control Manager) introduced the item for the demolition of existing 6 storey office building and erection of a ground plus 17 storey mixed use building.

The Chair then invited registered speaker to address the Committee.

Roland Jeffery Director (Historic Chapels Trust) spoke in objection to the application. He objected to the impact on the area especially the nearby historic German school and church, given the height of the scheme and proximity to the boundary line. He also expressed concern about the

appearance of the proposal and the impact on use of the church yard given the risk of objects falling from the proposed balconies above. Many of the historic societies objected to the application. The speaker then responded to questions of clarification from Members regarding the above.

Justin Kenworthy (Applicant's Agent) spoke in support drawing attention to the site location. He highlighted the merits of the scheme in terms of delivering offices, hotel floor space, jobs and other improvements with 'breathing space' around the development. The plans would protect the setting of the listed buildings and the principle of taller developments in the immediate area had already been established. The church would form a focal point of the proposed arrangements of the buildings. Compared to other schemes, the impact on daylight and sunlight would be relatively minor in nature. In response to questions, the speaker clarified the proposed use.

Gareth Gwynne (Planning Officer, Development and Renewal) gave a detailed presentation on the application explaining the site location, (where the principle of tall buildings had not been established) showing views of the site from the surrounding area. Consultation had been carried out and the results and the issues raised were noted. He described the height, layout, design of the scheme and the measures to protect privacy. In terms of the land use, the proposal was acceptable.

The scheme was recommended for refusal for a number of reasons relating to the impact on the surrounding area, the serious harm to the nearby cluster of listed buildings, the impact on residential amenity due to the scheme's overbearing nature amongst other matters. It was considered the negative aspects of the application outweighed the limited public benefits.

In response to questions from Members, Officers listed the proposed public benefits of the scheme including the financial contributions.

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

That planning permission be **REFUSED** at Enterprise House, 21 Buckle Street, London, E1 8NN for the demolition of existing 6 storey office building and erection of a ground plus 17 storey mixed use building (AOD 74.7m to parapet) comprising 1,185sq.m of office space (B1 Use Class) and 106 (C1 Use Class) serviced apartments (2,985sq.m) together with ancillary facilities and associated cycle parking (PA/15/01141) for the following reasons as set out in the Committee report subject to any Direction by the London Mayor:

- 1) The proposed development would cause substantial harm to the amenities and living conditions of occupiers of adjoining and adjacent residential properties through substantial loss of daylight and sunlight, significant loss of outlook, overbearing nature of the development including undue sense of enclosure. As such the development would be contrary to NPPF, as set out paragraphs 14, 17 and 56 of the NPPF and policies SP10 of the Core Strategy (2010) and DM25 of the Managing Development Document (2013) which seek to ensure that

development does not result in unacceptable material deterioration of daylight and sunlight conditions for future and existing residents.

- 2) The proposed development exhibits clear and demonstrable signs of overdevelopment by virtue of:
 - a) its adverse amenity impacts to residential neighbours;
 - b) from its detrimental townscape impacts resulting from the proposed height, scale and mass of the development set on a small, tightly confined site situated upon a narrow street and set within an established lower scale urban street block;
 - c) the proposed developments unacceptable relationship to other tall development set to the east and north of the site that limits the opportunity to achieve a tall building on this site that is compatible with objectives of sustainable development and delivering high quality place-making within Aldgate.

As such the scheme would fail to provide a sustainable form of development in accordance with paragraphs 17, 56, 61 of the NPPF and would be contrary to the Development Plan, in particular policies 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2015), policies SP02, SP06, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies, DM23, DM24, DM25, DM26, DM27 the Tower Hamlets' Managing Development Document and the Borough's strategic framework guidance for the area set out in the Aldgate Masterplan Interim Guidance (2007), that taken as a whole, have an overarching objective of achieving place-making of the highest quality,

- 3) The proposed development would result in significant harm to the setting of the Grade II* listed St George's German Church and to the Grade II listed Dispensary Building, the former St George's German and English Schools, the former St George's German and English Infants' School by reason of the height, scale, mass of the development set in immediate proximity to these designated heritage assets and the developments impact upon local townscape views of this cluster of listed buildings. The public benefits associated with the proposal, include upgraded employment floorspace, additional short term visitor accommodation housing are not considered to overcome the harm to the setting of the neighbouring listed buildings.

As a result the proposal is not considered to be in accordance with paragraphs 128 to 134 of the NPPF and is contrary to Development Plan Policy 7.8 of the London Plan (2015), policies SP10 of the Core Strategy 2010 and DM24 and DM27 of the Managing Development Document 2013

- 4) In the absence of a legal agreement to secure agreed and policy compliant financial and non-financial contributions including for

Employment, Skills, Training and Enterprise, Highways and Energy and Sustainability the development fails to mitigate its impact on local services, amenities and infrastructure. The above would be contrary to the requirements of Policies SP02 and SP13 of the LBTH Core Strategy, Policies 8.2 of the London Plan and the Planning Obligations SPD.

The meeting ended at 10.30 p.m.

Chair, Councillor Marc Francis
Strategic Development Committee