

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 5.30 P.M. ON WEDNESDAY, 14 JUNE 2017

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

Members Present:

Councillor Marc Francis (Chair)

Councillor Helal Uddin

Councillor Suluk Ahmed

Councillor Andrew Cregan

Councillor Sabina Akhtar

Councillor Peter Golds (Substitute for Councillor Chris Chapman)

Councillor Danny Hassell (Substitute for Councillor John Pierce)

Other Councillors Present:

None

Apologies:

Councillor John Pierce

Councillor Chris Chapman

Officers Present:

Fleur Francis

(Team Leader - Planning, Governance)

Paul Buckenham

(Development Control Manager,
Planning Services, Place)

Jennifer Chivers

(Planning Officer, Place)

Kamlesh Harris

(Planning Officer, Place)

Tim Ross

(Team Leader, Planning Services Place)

Zoe Folley

(Committee Officer, Governance)

1. ELECTION OF VICE-CHAIR FOR THE COMMITTEE FOR 2017/18

It was proposed by Councillor Helal Uddin and seconded by Councillor Danny Hassell and **RESOLVED**

That Councillor John Pierce be elected Vice-Chair of the Development Committee for the Municipal Year 2017/2018

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of interest were made.

3. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 10 May 2017 be agreed as a correct record and signed by the Chair.

4. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

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, Place 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, Place is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision
- 3) To note the procedure for hearing objections at meetings of the Development Committee and the meeting guidance.

4.1 Development Committee Terms of Reference, Quorum, Membership and Dates of Meetings

The Committee **RESOLVED**:

That the Development Committee's Terms of Reference, Quorum, Membership and Dates of future meetings be noted as set out in Appendices 1, 2 and 3 to this report.

5. DEFERRED ITEMS

5.1 106 Commercial Street (PA/16/03535)

Update report tabled.

Paul Buckenham (Development Control Manager) introduced the application for conversion of building (class B1/B8) to fine dining food market (Class A3).

The Committee were reminded that at its previous meeting on 10th May 2017, the Committee were minded to refuse the application, contrary to the Officers recommendations due to concerns about the following issues.

- Impact from the use
- Impact on the setting of the Conservation Area
- Impact of the proposal on the external appearance of the building particularly the roof
- The access arrangements given the level of anti-social behaviour in the area;
- Overcrowding in the area and the safety implications of this
- Noise disturbance
- Increased congestion in Commercial Street
- Servicing arrangements.

Officers had since draft detailed reasons for refusal around these reasons as set out in the report that also contained their advice on the strength of the reasons.

Tim Ross (Planning Services) presented the report. The Committee were reminded of the site location and surrounds and the nature of the proposal. Regarding land use and road safety, it was noted that the policy directed this type of premises to central locations. However, it could be considered that due to the volume of visitor numbers and the internal configuration, that the plans would result in the over intensification of use of the site and impact on road safety. Therefore, a reason on these grounds could form a reason for refusal. Regarding the impact on the Conservation Area, Officers felt that it could reasonably be considered that the proposal would cause some harm in this regard and would not be outweighed by the public benefits of the application. Therefore, this also could be sustained as a reason. Regarding the noise disturbance, it could be considered that the development had the potential to cause some harm to amenity throughout the later evening that could not be controlled by condition. Therefore it was considered that a reason on this third ground could also be defended.

In respect of the concerns around ASB and the servicing arrangements, there was a lack of evidence to support these reasons.

Officers remained of the view that the application should be granted planning permission, however if they were minded to refuse the scheme, they were invited to consider the three suggested reasons in the Committee report.

On a vote of 0 in favour of the Officer recommendation to grant planning permission, 4 against and 0 abstentions, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be refused for the reasons set out in the Committee report dated 14 June 2017 and on a vote of 4 in favour, 0 against and 0 abstentions, the Committee **RESOLVED:**

That planning permission be **REFUSED** at 106 Commercial Street for the conversion of building (class B1/B8) to fine dining food market (Class A3) for

the following reasons as set out in the Committee report, dated 14 June 2017(PA/16/03535):

Land use/ road safety

1. The proposed development by reason of its configuration of internal uses and space would result in an over intensification of use which would restrict to the ability of customers to safely access and exit the site, the ability to move within and around the building, the inability to control the number of visitors in the site and to ensure that new development does not have an adverse impact upon the safety and capacity of the street network. The proposal is therefore inappropriate development and contrary to policy 7.3 and 7.4 of the London Plan (2016), policies SP01 and SP09 of the Tower Hamlets Core Strategy (2010), and policies DM20 DM23 and DM25 of the Tower Hamlets Managing Development Document (2013).

Impact on the conservation area

2. The proposed development by virtue of the impact to the external appearance of the roof and the loss of the slate roof, and proposed acoustic roof would cause less than substantial harm to the character and appearance of the Brick Lane and Fournier Street Conservation Area and would fail to preserve or enhance the character of this heritage asset. The harm identified to the designated heritage asset is not outweighed by the public benefits of the scheme. The scheme would therefore be contrary to paragraph 134 of the National Planning Policy Framework, and policies SP10 of the Core Strategy (2010) and policies DM24 and DM27 in the Managing Development Document (2013).

Noise

3. The proposed development would cause harm to the amenity and living conditions of occupiers of adjoining residential properties through the overbearing impact of noise and disturbance generated as large numbers of customers enter and exit the development. The development would therefore be contrary to policies SP10 of the Core Strategy (2010) and DM25 of the Managing Development Document (2013) which seek to protect amenity for future and existing residents.

5.2 Millwall Outer Dock, London, E14 9RP (PA/16/01798)

Paul Buckenham presented the application for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

The Committee were reminded that at its previous meeting on 10 May 2017, the Committee were minded to refuse the application, contrary to the Officers recommendations due to concerns over:

- The loss of open water space as a result of the proposal.
- Adverse impact on waterborne recreation and navigability within Millwall Outer Dock as a result of permanently moored vessels.
- The proposed servicing strategy (via Muirfield Crescent) would conflict with the free flow of pedestrians and cyclists and as such would represent a safety hazard.

In response Officers had since draft detailed reasons for refusal around these reasons as set out in the report that also contained their advice on the strength of the reasons. The Committee were reminded of the site location and the impact of the scheme on the water space. Officers considered that the plans would have a limited impact on the water space, however in defending this reason, could refer to the issues raised in objection to this. In response, Members referred to the concerns raised at the last meeting about the impact from noise from the nearby data centre and it was noted that there were measures to minimise such impacts. They also discussed further with Officers the strength of the reasons for refusal.

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

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be refused for the reasons set out in the Committee report dated 14 June 2017 and on a vote of 5 in favour, 0 against and 0 abstentions, the Committee **RESOLVED:**

That planning permission be **REFUSED** at Millwall Outer Dock, London, E14 9RP for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure for the following reasons as set out in the Committee report, dated 14 June 2017(PA/16/01798):

Reasons for Refusal:

Loss of Open Water Space

1. The proposed development by reason of its resultant loss of open water space and its failure to protect the open character of the Blue Ribbon Network would not improve the quality of the water space and is therefore inappropriate development. The development is therefore contrary to policy 7.28 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010), and policy DM12 of the Tower Hamlets Managing Development Document (2013).

Impact Upon Waterborne Recreation and Navigability

2. The proposed development by reasons of its siting and scale would adversely impact upon the ability of Millwall Outer Dock to be used for

waterborne recreation and would also negatively impact upon the navigability of Millwall Outer Dock. The development is therefore contrary to policies 7.27 and 7.30 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010), and policy DM12 of the Tower Hamlets Managing Development Document (2013).

Servicing Arrangements

3. The proposed servicing strategy by reasons of its conflict with the free flow of pedestrians and cyclists would adversely impact the safety of the transport network. As a result the proposal is contrary to policies 6.3, 6.9 and 6.10 of the London Plan (2016), policy SP09 of the Tower Hamlets Core Strategy (2010), and policy DM20 of the Tower Hamlets Managing Development Document (2013).

6. PLANNING APPLICATIONS FOR DECISION

6.1 87 Turner Street, Good Samaritan Public House (PA/16/00988)

Update report tabled.

Paul Buckenham introduced the application for the refurbishment of existing public house (A4) along with 3 storey extension to the west elevation to allow for the use of the upper stories as residential (C3) and associated works

The Chair invited registered speakers to address the Committee.

It was noted that one of the registered objectors was unable to attend the meeting who was intending to read a statement on behalf of a neighbour. Therefore with the agreement of the Chair, it had been decided to include the statement in full in the update report.

Alex Learner (local resident) spoke in objection. He expressed concern about the proposed land use and the impact on the conservation areas and noted that the plans had attracted a large number of objections in the form of an online petition. He also expressed concerns about the daylight and sunlight impacts, particularly the loss of light to the first and second floor units of neighbouring properties that breached policy. He also considered that the assessment in the report was selective and failed to adequately report the full extent of the impacts. In response to Members, he clarified his concerns about the sunlight and daylight impacts due to the proximity of the proposal to neighbouring properties. He also answered questions about the impact on the public house. The changes to the layout might result in the overspill of customers onto the public realm.

Luke Emmerton (Applicant's representative) spoke in support of the application. The applicant emphasised that the public house would be retained and contained measures to improve its facilities and expand the basement area. The title of the objectors petition was misleading as it implied

that it would be lost which was not the case. Furthermore, the changes to planning law meant that any further proposal to change the use of the premises to anything other than a public house use could not be done under the permitted development regime and would need planning permission. The plans would result in additional residential units and preserve the setting of the surrounding area. There would be no direct overlooking and the loss of light would be acceptable and typical for an urban environment.

In response to questions about the impact of the changes on the viability of the public house, he stated that the current facilities were not fit for purpose and the plans sought to address this. There would be no loss of public house floor space on the ground floor and the basement area would be increased. He also provided further reassurances on the impact on neighbouring amenity, particularly to the properties at Gwynne House in terms of overlooking and loss of light.

Jenifer Chivers (Planning Officer) gave a presentation on the application, highlighting the site and surrounds and the nature of the existing use that contained the public house.

She advised of the key features of the application. The application sought to refurbish the existing public house at ground floor and basement level and extend the building to create residential units. It was proposed to replace the existing roof to facilitate the proposal. Consultation had been carried out and the key issues were noted. In terms of the land use, Officers were satisfied that the plans would safeguard the public house and not put at risk its viability given the nature of the plans and the recent changes to planning law. The Committee also received reassurances about the height and appearance of the scheme, the servicing and waste plans and the impact on neighbouring amenity. Officers were recommending that the application was granted permission.

The Committee sought assurances about the proposed materials. Members wished to ensure that it would be appropriate for the surrounding area. Officer confirmed that there would be a condition requiring details of the materials to be submitted to ensure they would complement the area. The proposals had been considered by colleagues in the design and conservation team and they were satisfied with the plans subject to the conditions.

The Committee also sought further clarity on the level of light loss to neighbouring buildings. In response, Officer drew attention to the assessment in the Committee report that showed that a number of properties at Gwynne House would experience a minor to moderate adverse impact on sunlighting and daylighting. Overall the results could be considered as acceptable.

The Committee also asked about the impact on the public house. Reassurances were sought that its temporary closure would not harm its viability in the long term and make its conversion to a residential development more likely by increasing the residential element. Officers gave further reassurance that the intention was that the public house would be retained and enhanced. There would also be noise insulation and post completion

noise testing to preserve the amenity of the occupants of the residential units. The Committee were keen to ensure that the public house remained a functioning public house. To ensure this, it was discussed with Officers if an additional condition could be added to the permission placing a threshold on the number of the residential units to be occupied prior to the public house coming back into use. Officers reminded the committee of the need for any condition to meet the tests in policy and the various factors that should be taken into account in considering such a condition, such as the potential for this to delay the occupation of the residential units. Councillor Marc Francis proposed an additional condition requiring no more than 50% of the residential units be occupied prior to bringing the public house back into operation. This condition was put to the vote and agreed.

In response to further questions, Officers informed members of the statement on the online petition.

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

That the planning permission at 87 Turner Street, Good Samaritan Public House be **GRANTED** for the refurbishment of existing public house (A4) along with 3 storey extension to the west elevation to allow for the use of the upper stories as residential (C3) and associated works (PA/16/00988) subject to the conditions and informatives set out in the Committee report and the additional condition that requiring that no more than 50% of the residential units be occupied prior to bringing the public house back into operation.

6.2 Royal Duchess Public House, 543 Commercial Road, London E1PA/16/03300

Update report tabled.

With the permission of the Chair, Elaine King the Chair of Pitsea Estate Tennant Residents Association addressed the meeting. She stated that she had submitted the online petition. She expressed concern about the adequacy of the developers consultation, direct overlooking to neighbours due to the closeness to neighbouring properties, that the application would create a sense of enclosure and that the height was out of keeping with the surrounding building heights. There would also be a lack of affordable housing. In response to members she answered questions about the height. The height of the building would exceed that of neighbouring buildings which were set back, in contrast with the proposal.

Rob Piggott, (Applicant's representative) and Alison Arnaud (Tower Hamlets College) spoke in support. Mr Piggott spoke about the changes made to the scheme to reduce its height. He considered that it was an appropriate form of development for the area and the appearance was consistent with the surrounding area that included buildings of up to 7 stories in height. The Council's officers and the developers own specialist heritage experts were of the view that the impact on the setting of the area would be less than substantial. The plans would provide a range of benefits including good

quality homes with a focus on family rented homes and a much needed education facility. The applicant had looked at the possibility of further reducing the height, but it was found that this would harm the viability of the plans. Ms Arnaud also spoke in support of the proposed education facility. She explained that it would include a Community café providing amongst other benefits, work experience opportunities for students.

In response to questions, it was confirmed that all of the child play space would be located on the roof terrace and the application would only marginally fall short of the play space requirement in policy should the private gardens be taken into account as well. They also answered questions about the height of the building and the proposed materials.

Kamlesh Harris (Planning Services) presented the report explaining the nature of the site and surrounds that was predominantly residential and had excellent transport links. The plans sought to provide a residential led development that would vary in height but generally exceed the surrounding building heights. There would be a policy compliant level of affordable housing including family housing.

Consultation had been carried out and the results were noted. Turning to the assessment, it was noted that the provision of a residential lead scheme in the area with an education facility could be supported and complied with policy and the loss of the public house was considered acceptable. The house mix could also be considered as acceptable. However, the residential density exceeded the guidance in the London Plan for a site with a Public Transport level rating of 5 and there was also a shortfall of child play space. There were also concerns about the quality of the internal amenity for the future occupants. So for the reasons set out in the committee report, Officers were recommending that the application was refused permission.

Members agreed that the scheme displayed symptoms of overdevelopment. However they welcomed the plans to accommodate a community facility within the development. The Committee questioned whether it had been factored into the viability assessment and whether it would affect the amount of affordable housing that could be secured. Officers confirmed that the plans included a flexible retail community use. It would be relatively small in size. The unit had been classified as a retail unit for the purposes of the assessment.

The Committee also asked about the child play space and it was noted that it had been positioned away from the busy roads and there would be a condition, if granted, requiring details of the proposed equipment be approved.

The Committee also asked about the third reason for refusal regarding the lack of a legal agreement to secure financial and non-financial obligations and it was noted that it was standard practice to include such a reason for refusal in case the matter went to appeal.

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

That planning permission at Royal Duchess Public House, 543 Commercial Road, London E1 be **REFUSED** subject to any direction by the London Mayor for the erection of a part 6, part 7 and part 8 storey building comprising 30 residential units (use class C3) and 70sqm of flexible floor space (Use Classes A1/A2/A3/B1/D1) together with associated access, cycle parking and landscaping (PA/16/03300) for the following reasons as set out in the Committee report

Reason 1 – harm to local heritage

1. The proposed development by virtue of its excessive height and scale would be visually intrusive in the backdrop of the Grade II listed buildings at Albert Gardens, Marion Richardson School, the Troxy Building and the would also be harmful to the setting of the Albert Gardens and York Square Conservation Areas. The proposal would fail to respect the restrained scale of the adjacent conservation areas, creating a visually dominant development that would be visible from the public realm. The public benefits associated with the proposal, which include thirty new homes, including nine affordable dwellings, and additional jobs generated from 70sqm of retail/ community floorspace, are not considered to overcome the harm to the setting of the neighbouring listed buildings.

As a result the scheme would also fail to comply with sections 61 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the National Planning Policy Framework (NPPF) objectives in particular paragraph 14, and section 12 of the NPPF, the London Plan, in particular policies 3.5, 3.7, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8 of the London Plan (2016), policies SP02, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies, DM4, DM23, DM24, DM25, DM26, DM27 the Tower Hamlets' Managing Development Document and the priorities and principles of the Limehouse Vision (Core Strategy 2010) which seek to deliver place-making of the highest quality in accordance with the principle of sustainable development, including preserving, protecting or enhancing heritage assets.

Reason 2 – overdevelopment and poor quality design

2. The proposed development exhibits poor quality design and demonstrable signs of overdevelopment by virtue of:
 - a) lack of privacy for the occupiers of the proposed development due to overlooking associated with inter-visibility between windows and balconies of the proposed residential dwellings;
 - b) the loss of street trees which provide significant landscape and visual amenity value;

c) the proposal for a tall building in this location would fail to adhere to the principles of good design and place-making by virtue of its height and scale which would result in an unsympathetic built form that would not positively respond to and mediate with existing developments within the immediate surroundings. The detrimental townscape impacts result from the proposed height, scale and mass of the development which is set on a small, tightly confined site situated in a narrow street and set within an established lower scale of the adjoining housing estate and bounding conservation areas;

d) proposed density significantly above the Greater London Authority's density matrix guidance and the scheme would fail to demonstrate the exceptional circumstances and design quality required to justify the excessive density; and

e) the proposal provides insufficient child play space and poor quality private amenity spaces for the proposed maisonettes and the ground floor wheelchair accessible unit which will suffer from the overbearing nature of the development including an undue sense of enclosure.

As such, the scheme would fail to provide a sustainable form of development in accordance with paragraphs 14, 17, 56 and 61 of the NPPF and would be contrary to the Development Plan, in particular policies 3.6, 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 and DM27 the Tower Hamlets' Managing Development Document and the Borough's vision for Limehouse, that taken as a whole, have an overarching objective of achieving place-making of the highest quality.

Reason 3 – lack of a legal agreement to mitigate the impacts of the proposed Development

3. No agreed planning obligations in the form of policy compliant financial and nonfinancial contributions have been secured to mitigate the impacts of the development. As a result, the proposal would fail to meet the requirements of policies SP02 and SP13 of the adopted Core Strategy (2010), policy 8.2 of the London Plan, the Planning Obligations SPD (April 2016) which seek to agree planning obligations between the Local Planning Authority and developers so as to mitigate, compensate and prescribe matters relating to the development.

7. OTHER PLANNING MATTERS

None.

The meeting ended at 7.40 p.m.

Chair, Councillor Marc Francis
Development Committee