

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 6.30 P.M. ON WEDNESDAY, 17 OCTOBER 2018

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

Members Present:

Councillor John Pierce	Vice-Chair in the Chair
Councillor Mufeedah Bustin	
Councillor Peter Golds	
Councillor Gabriela Salva Macallan	
Councillor Helal Uddin	

Other Councillors Present:

Councillor Danny Hassell – Item 5.1

Officers Present:

Solomon Agutu	– (Interim Team Leader Planning, Legal Services, Governance)
Paul Buckenham	– (Development Manager, Planning Services, Place)
Kevin Crilly	– (Planning Officer, Place)
Gareth Gwynne	– (Team Leader, Planning Services, Place)
Adam Garcia	– Planning Officer, Place Directorate
Rikki Waite	– Planning Officer, Place Directorate
Antonella Burgio	– (Democratic Services)

Registered Speakers In Attendance:

Mr P Pavey – Item 5.1 (Objector)
Peter H – Item 5.1 (Objector)
Mr D Palman – Item 5.1 (Agent)
Mr N Pinney and Ms A Fenton – Item 5.3 (Objector)
Mr M Brewer and Mr J Woolstencroft – Item 5.3 (Agent and Architect)

Apologies:

Councillor Abdul Mukit MBE
Councillor Ruhul Amin

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

Councillor Helal Uddin declared a non-pecuniary non-disclosable interest in respect of agenda item 5.1 that he was the Ward Councillor in area of the planning application.

2. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting held on 27 September 2018 be approved as a correct record of proceedings.

3. RECOMMENDATIONS AND VARIED PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

The Committee **RESOLVED** that:

1. The procedure for hearing objections and meeting guidance be noted.
2. In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes be delegated to the Corporate Director, Place along the broad lines indicated at the meeting; and
3. 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 be delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision

4. DEFERRED ITEMS

There were no deferred items.

5. PLANNING APPLICATIONS FOR DECISION

5.1 Caspian Wharf 39 - 75 Violet Road, London E3 3FW (PA/15/01846)

An update report was tabled.

The Development Manager introduced the report which concerned an application to install pedestrian and vehicular gates and relocate a pedestrian gate together with the relocation of refuse storage at the Voysey Square / Seven Seas Gardens development. The application had been presented at Committee on 20 June 2018 at which time the Committee deferred the application for investigation, negotiations and consideration of the proposed amendments presented at that meeting.

The Committee heard from the Planning Case Officer who set out the relevant issues. These were; improved access, permeability and antisocial behaviour (ASB). He noted that residents had objected to the removal of illegally erected gates at Seven Seas Gardens on grounds of ASB and contended that the relocation of the gates at the entrance to Ligurian Walk would address this concern.

The Chair invited the registered speakers to address the Committee. Peter H and Mr P Pavey addressed the Committee highlighting the following matters:

- Residents' objections related solely to the removal of the pedestrian gates at Ligurian Walk which had been installed to address residents' safety concerns
- They were open during daylight hours and the benefits of their removal were unclear in regard to permeability since they gave access to an unlit canal-side wildlife area. Given the reason for their installation, the proposal to keep the gates open permanently or to remove them worked contrary to aim of designing-out crime but would promote predatory behaviour. This was evidenced in the types of serious crimes such as sexual assaults and stabbings which have been recorded.
- Crime Prevention Officers' recommendations around safety had been ignored, nor had there been regard to the Council's own policies or the Human Rights Act in proposing to remove them. Indeed it would make the area more vulnerable to crime and ASB.
- The Council's approach was inconsistent as gated developments existed elsewhere in the borough and two additional had been proposed.

The Committee then heard from the agent Mr Palman who offered the following information.

- Gates had been installed by the developer at Caspian Wharf albeit without permission to address residents fear of crime and ASB.
- After considering a range of alternatives, a revised proposal had been submitted at the meeting on 20 June which proposed additional gates at Seven Seas Gardens.
- The developer sympathised with residents' concerns and had therefore sought to provide a form of managed control.
- The compromise solution before the Committee was the result of engagement with residents over a number of years intended to rectify the authorised works undertaken and at the same time to mitigate residents' security concerns.

Following this submission, the Committee heard from Councillor Hassell, the Ward Councillor. He highlighted the following matters:

- Residents felt that the security arrangements at the time of development did not offer an assurance of safety.
- The gates currently installed and those proposed at Voysey Square were necessary to deter crime and ASB.
- The open space within the development did not form part of any through-route to other locations therefore there was little reason to retain night time access to it.

In closing objectors asked the Committee to consider the wider picture to ensure that residents felt safe while preserving access.

The Committee then questioned each of the speakers in turn and in response, they provided the following information.

Mr Palman informed the Committee:

- The pedestrian gates had been installed in the best interests of residents.

The Objectors informed the Committee:

- There had been no discussions with Safer Neighbourhood Team Officers (SNT) around ASB. Councillor Hassell added that SNT was aware that this was an area of crime.
- Concerning the location of the crimes of assault and sexual crime reported by the objectors; an assault took place in this Caspian Wharf development and a stabbing (a gang-related matter resulting from a cycle theft) also took place outside Caspian Wharf. Additionally there was out-spill ASB from the Tesco store located opposite Ligurian Walk and there had been two arrests outside the pedestrian gates the past two weeks.
- The CCTV spoken of by Councillor Hassell was not operational
- If the application should be refused and the pedestrian gates removed, residents would seek to appeal the decision.
- In the past, the Council had permitted other gated developments and new had been built recently.
- There had been 61 objections to the application; this was a high response level relative to the type of development.

The Planning Case Officer provided the following information:

- The gates to be removed were; pedestrian gates (Ligurian Walk) located near the Limehouse Cut and gates at the entrance to the parking area.
- The relocated gates would control access to the amenity space. This was a compromise solution as it had been intended that there should be free access through out.
- Details on the cost of the gates were not available.
- There were no specific crime data for this area but Ward statistics indicated lower rates than the average for the borough.

Councillor Hassell provided the following additional information:

- The Estate Management Team managed the opening and closing of the pedestrian gates at Ligurian Walk; these should remain open between dawn and dusk. However, at times when incidents of antisocial behaviour had taken place, the gates had closed earlier.
- The cafe outlined in the on Caspian Wharf proposal was not implemented; later the commercial unit had been opened as a gym.
- Additional measures that would be present at night if the gates should be removed, were CCTV and a concierge albeit with a slightly restricted view. Councillor Hassell added that, in his view, the addition of lighting to the unlit canal-side wildlife area would have a detrimental effect on residents and on wildlife.

Having considered the arguments put forward, the Committee then discussed the issues of concern and their context in relation to the application before them.

The Chair observed that:

The matters relating to the pedestrian gates (Ligurian Walk) which had been installed without permission were an enforcement matter delegated to senior officers, and not within the gift of the committee to resolve. He invited the Development Manager to give advice and the Committee was informed that enforcement of breaches of planning control is a discretionary activity and the expediency and public interest of undertaking such action needs to be taken into account. Additionally enforcement was a matter delegated to Chief Officers who would act on the basis of the Council's new Planning Compliance policy.

The original plan included free access through the development but subsequent to development the Developer, responding to residents' safety concerns, had installed gates.

Councillor Hassell contended that, notwithstanding past decisions taken, it was never the less reasonable to give access to the amenity spaces and that these should remain open. The Planning Case Officer also argued that installation of gates led to the perception of a private area additionally gating was not a good response to antisocial behaviour issues. Cllr Hassell responded that the pedestrian gates had been closed at night in response to residents' concerns around the serious crimes that had taken place.

Councillor Golds expressed concerns that officers' intervention contradicted Police advice and observed the Police had made a recommendation in regard to measures against antisocial behaviour. He enquired what course the Council would take, should permission be refused. The Development Manager advised that should the application be refused, it was unlikely that enforcement take place immediately after because it was necessary to give time to assess the application and its impacts.

Councillor Golds also highlighted that it was practice to close public parks in the borough at night and this action did not breach an open access approach, in this context he observed that the decision must be balanced around the safety of the borough and the need to consider what is best for the residents.

The Chair further observed that since there was an S106 agreement condition around public access, there would be a benefit to the developer of gating and making the development private. He enquired whether mitigation of this benefit has been discussed with the developer. The Development Manager advised where there is a permission to develop, the developer decides how much of the permission to implement. If other mitigation could be achieved, it might be done through another application and included with other mechanisms such as deed of variation. He directed the Committee to consider what would be the right outcome of the matter.

Having considered the matter, the Chair proposed that Members vote on the officer recommendation to approve the application. On a vote of 3 in favour and 2 against, the Committee

RESOLVED

That the application for the erection of a vehicular and pedestrian gate at Voysey Square, instalment of a gated link through Block A3, retention of a vehicular and pedestrian gate located at Seven Seas Gardens, relocation of pedestrian gates on Ligurian Walk and reconfiguration and location of cycle parking and refuse storage within Voysey Square **BE GRANTED** subject to conditions

Compliance conditions

- 1) Permission valid for 3 years;
- 2) Development in accordance with approved plans;

Prior to commencement conditions

- 1) Access Strategy, including hours each of the gates are open during daylight hours

5.2 Unit G1, Ground Floor, Block F, 15 Hanbury Street, London E1 6QR (PA/18/00459)

An update report was tabled.

The Development Manager introduced the report which concerned an application to use part of ground floor at Unit G1, 15 Hanbury Street E1 as a market on Saturday's trading between the hours of 10:30am and 6:00pm.

At the meeting, three interested parties made late requests to speak against the application. Responding to these requests, the applicant's agent expressed concern that should Chair exercise discretion to grant the objectors permission to speak the applicant would be disadvantaged since there would not be opportunity to prepare responses. The Chair noting the unprecedented circumstance took officer advice and , taking into account Development procedures for speaking at Committee and having verified the procedures followed by officers in notifying relevant parties of the arrangements for the meeting, determined that speaking rights may not be offered. Then, on the basis of Development procedures around hearing applications that are recommended for approval and where there are no requests to speak in objection, the Committee did not receive any verbal representations but considered the matter on the basis of the written information provided in the report and verbal information provided by the Planning Case Officer.

The Committee heard from the Planning Case Officer who set out the relevant issues. These were; the proposed hours of trading, loss of use of a car park on Saturday's, noise amenity and impact on the night-time economy. He informed the Committee that:

- Consultation had been carried out by the Council and by the applicant. 42 letters had been received out of the Council consultation and objections related to ASB and lack of public toilets.
- The application proposed to install WC facilities at Unit G1

- There were existing WC facilities at Units G4 and G5 which could be accessed by the public.
- The applicant had submitted a transport assessment which mitigated a highway safety objection.
- The site was already used as a market on Sundays.

The Planning Case Officer responded to Members' questions providing the following information:

The type of usage expected was estimated to be that 80% of trips will be shared with existing Saturday markets in the area and that the market extension would generate an additional 20%.

The assessment of the adequacy of the WC provision at Unit G1 had been scrutinised and considered in conjunction with the existing provision in the other Units on the site and also in conjunction with the transport consultation.

Impacts on residents of the merging of the end of market activity with the activity of the night-time economy in the area had been considered in the context of the proposed market activity to occur on Saturday and Sunday and it was acknowledged that activities would flow over from market activity into night-time activity in the area however the transport assessment did not capture this.

Comparing the proposal with a similar application in Commercial Street in 2017; the Committee heard that the former application had been dismissed on grounds of design and conservation and toilet provision but not because of ASB or highways issues.

In relation to a Member's observation that data showed that levels of ASB in the Cumulative Impact Zone around Shoreditch exceeded levels in other parts of Central London, in contrast to the officer report which set out that the proposal would not cumulatively accentuate any existing ASB issues in the locality, the Planning Case Officer advised that there had been correspondence with the Police and a visit and had been undertaken but no Police objection lodged.

Responding to a Member's observation that the market's size had become much reduced over recent years, and question around what economic assessment had been carried out as part of the application process and whether this had informed officers' recommendation. The Planning Case Officer advised that some local businesses supported the proposal because it increased the offer at weekends.

Concerning what constraints there were on the provision of WC facilities, the Committee was informed that a number already existed at Units G4 and G3; the new facilities would be installed within Unit G1 where the proposed market would be located. The proposed WC provision in Area G1 was to balance the ratio of male/female provision and ensure equal facilities across the site. Additionally the facilities would be open to the public.

The proposed market would be comprised of food stalls and craft business. There would be no sale of alcohol as the site did not have an premises alcohol licence.

Concerning the location of the residential areas in relation to the application site, a member of the public informed the Committee that these were: opposite the Truman Brewery, adjacent to old Spitalfields market at Lamb Street and Folgate Street.

Concerning arrangements for the removal of market waste, the Committee was informed that there was single refuse point for all located outside of the market and managed by the applicant. Wheelie Bins would be used to move waste to this area. Additionally there were pre-commencement conditions on deliveries.

The Chair proposed and, on a vote of 3 in favour and 3 against, there was no majority in favour of the recommendation.

The Chair then used his casting vote and voted for the proposal. Councillor Golds voted against the application and this is recorded at his request.

It was therefore

RESOLVED

That the application for use of part of ground floor as a market on Saturdays, trading between the hours of 10.30am - 6pm (extension to existing Sunday market) at Unit G1, Ground Floor, Block F, 15 Hanbury Street, London E1, **BE GRANTED** subject to conditions

Conditions

- 1) Three year time limit.
- 2) Compliance with approved plans and documents
- 3) Limit on hours of operation
- 4) Limits on music and amplified noise
- 5) Visitor management strategy
- 6) Provision of accessible customer toilets
- 7) Secure by design
- 8) Cycle parking
- 9) Delivery and service management plan
- 10) Waste management plan

Financial obligations

- 1) A contribution of £15,000 towards a study to be carried out of the current operation of Hanbury Street between Commercial Street and Brick Lane. This would feed into wider Borough commissioned Brick Lane pedestrianisation study currently undertaken by the local -highway authority.

The meeting then adjourned between 8:05pm and 8:08pm

5.3 5 Hollybush Place, London E2 9QX (PA/16/02713)

An update report was tabled and in his introduction the Development Manager informed the Committee that a late representation and request to speak had been made by an objector which concerned the failure to provide suitable replacement premises for a builder's merchant which was currently operating from the site. The Chair advised that the request had been assessed and since the objection concerned a material planning matter, he had exercised his discretion to grant permission to address the Committee. In accordance with Development procedure rules around speaking at Committee, the applicant was then also permitted to address the Committee and respond to the concerns raised. Development Manager then introduced the report which concerned the demolition of existing buildings and redevelopment of land to provide 55 residential units over two blocks comprising 1x6 storey building (Building B) and one part 5 and part 7 storey building (Building A) and the provision of 1625 m² (GIA) of commercial floor-space (class B1) at the lower ground and ground level with raised podium and associated landscaping, access and cycle parking at 5 Hollybush Place London E2.

The Committee heard from the Planning Case Officer who informed Members of relevant matters. These were; affordable housing tenure of 35.5%, play space, a S106 offer to mitigate loss of daylight to the nearby allotments and loss of the premises of a builders merchant. 11 objections had been received out of the consultation; these concerned car parking for visitors, amenity and proposed use of the ground floor commercial area. The loss of a builders merchant had been assessed as acceptable since commercial space would be very provided in the block in the ground and lower ground floors and the existing builders merchant would be re-accommodated on an equivalent site elsewhere in the borough.

The Chair then invited the registered speakers to address the committee Mr Pinney made representations on behalf of builders merchant Travis Perkins assisted by Ms A Fenton. Mr Pinney informed the Committee that:

- Travis Perkins was a local business. It provided building materials for local use and was also a local employer. The loss of use of the current site was detrimental to the locality and fed into a broader pattern of loss of essential services in London.
- The Council was acting contrary to policy DM15 which stated that development should not result in the loss of active and viable employment
- Travis Perkins lease agreement on the site was yet valid for 6 years
- Referencing paragraph 10.10 of the report he contended that Travis Perkins had undertaken meaningful engagement with the applicant but relocation sites offered by the applicant had not been suitable for their business. Notwithstanding, Travis Perkins welcomed the opportunity to engage properly and did not object to the proposal to redevelop if provision of a builder's yard in the locality could be retained.

The Committee then heard from agent Mr Brewer. He made the following submission:

- Since 2012, the applicant had attempted to facilitate the retention of Travis Perkins on the site or its relocation within the borough. Discussions around remaining at the current site failed to progress and therefore the applicant explored if there were suitable alternative sites. However, it had not been possible to pursue these options since Travis Perkins had not taken up opportunities to engage.
- The scheme met the Council's policy on design and employment; additionally the applicant was still committed to finding an alternative site for Travis Perkins as a condition of the application.

The Chair noting the information provided, observed that it was not in the Committee's gift to adjudicate on a tenant-landlord matter. The Committee then questioned each of the speakers and in response, they provided the following information.

The Planning Case Officer informed the Committee:

- The existing use as a builder's yard was not a Class B1 or B2 use (those which policy DM15 seeks to protect), but is a use on its own, known as "sui-generis". Officers acknowledged that it does generate some employment.
- The application would provide uplift in overall employment space, falling within class B1 and therefore suitable for a variety of small and medium businesses to occupy.
- That the pre-application discussions in 2015 had explored how accommodation for Travis Perkins could be provided but subsequently it had not been possible to pursue this option. Later there was some discussion on relocation.
- Given the specialist nature of the builders' yard, accommodation of such use on site would require a bespoke design and certainty that it would be occupied. A joint application would have provided greater certainty in this respect.
- The architect advised that he had met Travis Perkins in 2012. Then, in December 2015 a pre-application had been submitted but there was no feedback from Travis Perkins. There were also concerns around the viability of a mixed site therefore the emphasis switched from re-accommodation to relocation. Alternative sites have been offered at Caroline Street and Ailsa Wharf but Travis Perkins had not responded to the applicant on these proposals. Notwithstanding the applicant still wished to engage. The last meaningful engagement with Travis Perkins had taken place in 2015 at which time a scheme to relocate to Ailsa Wharf.
- The details of the proposal were contained in the design and access statement (prepared by Stockwool Architects), these were background documents to the report.
- The impacts of the remaining time on the lease on the application were not a planning consideration but a matter for the landlord (the applicant) and tenant (Travis Perkins).

- Play space and amenity space would be accessible by social housing and private residents
- The proposed workspace provision was to be located in a single-storey podium building and on the ground floor. Usage intended was as flexible workspace in categories B1 and B1 aimed at "City fringe" area and SMEs.
- Management of allotment gardens be the responsibility of the Council since S106 monies could not be given directly to third parties.

Mr Pinney and Ms Fenton informed the Committee:

- That concerning the extent of the consultation; the Property Director at Travis Perkins had not been approached for consultation.
- Sui generis use, such as that operated by Travis Perkins, was protected under the current London Plan.
- The applicant had not offered Travis Perkins viable alternative locations.
- A viable alternative location would be in the range of 1 mile from the current premises.
- Upon evaluation, Officers had recommended that the application be approved because; although there was pertinent concern around the loss of industrial usage, the land itself was not industrial land but part of the City Fringe Opportunity Area. Therefore the Council was looking to create more employment density. Additionally there was an overriding consideration to optimise development on a site.

Mr Brewer informed the Committee:

- The application provided increased employment and space and complied with the London Plan in regard to design quality affordable provision mixed use development sustainable ability and environmental factors.
- The London Plan 2016; this was the plan presently in force.

Before the vote was taken the Legal Officer advised on how committee should deal with three matters (1) the draft London plan was to be given little or no weight (2) the local finance considerations referred to in the report (on the facts) were not to be taken into account as the amounts of CIL and NHB were not to be spent solely in the area (3) the commercial relationship between the applicant and the builders merchants was governed by other legislation and it was not the role of the committee to decide on those issues.

There being no further matters to discuss, the Chair proposed that Members vote on the officer recommendation to approve the application and on a vote of 4 in favour and 1 against, the Committee

RESOLVED

That the application for demolition of existing buildings and redevelopment of the land to provide 55 residential units over two blocks comprising one 6 storey building (Building B) and one part 5 and part 7 storey building (Building A) and the provision of 1625 sqm (GIA) of commercial floorspace (Class B1) at lower ground and ground level, with raised podium and associated landscaping, access and cycle parking at 5 Hollybush Place, E2 **BE GRANTED** subject to conditions.

Conditions

- 1) Three year time limit
- 2) Compliance with approved plans and documents
- 3) Wheelchair adaptable and wheelchair accessible dwellings
- 4) Provision of approved cycle storage
- 5) Compliance with Energy Statement(with further details)
- 6) Hours of construction
- 7) Communal amenity/child play space to be completed prior to occupation
- 8) Delivery and Service Management Plan
- 9) Scheme of Highway Improvement Works
- 10) Secure by Design accreditation
- 11) Full details of hard and soft landscaping, including boundary treatment, play equipment and lighting
- 12) Details of noise and vibration mitigation measures
- 13) Noise insulation
- 14) Noise from plant
- 15) Air quality emission standards for boilers and CHP
- 16) Mechanical ventilation
- 17) Details of biodiversity mitigation measures including green roof
- 18) Car Permit Free
- 19) Wheelchair accessible car parking
- 20) Samples and details of all facing materials
- 21) Details of piling, all below ground works and mitigation of ground borne noise
- 22) Surface Water Drainage Scheme
- 23) Restrictions on demolition and construction activities
- 24) Potential land contamination
- 25) Details of boundary treatments
- 26) Water efficiency

Pre-Commencement Conditions:

- 1) Construction and Environment Management Plan

Financial contributions:

- 1) A contribution of **£30,000** towards improvements to the allotment to facilitate better utilisation of their site
- 2) A contribution of **£21,180** towards employment, skills, training for construction job opportunities

- 3) A contribution of **£45,581** towards the training and development of unemployed residents
- 4) A contribution of **£109,920** towards carbon off-setting to zero carbon
- 5) A contribution of **£3,000** towards monitoring (£500 per s106 HoT's) compliance with the legal agreement.

Total £210,181

Non-financial contributions:

- 1) Affordable housing (17 residential units)
- 2) Section 278 highways improvements
- 3) Access to employment
 - 20% Local Procurement
 - 20% Local Labour in Construction
 - 2 construction phase apprenticeships
- 4) Car-permit free agreement
- 5) Any other contributions considered necessary by the Corporate Director Of Place

Any other conditions considered necessary by the Corporate Director of Place

Informatives:

- 1) Thames Water –Groundwater Risk Management Permit, minimum pressure/flow rate and a Thames Water main crossing the site.
- 2) Building Control
- 3) S.278
- 4) Fire & Emergency
- 5) Footway and Carriageway
- 6) CIL
- 7) Designing out Crime

Any other informatives considered necessary by the Corporate Director of Place.

The meeting ended at 9.04 p.m.

Vice-Chair, Councillor John Pierce
Development Committee