

Committee: Strategic Development	Date: 4 th October 2017	Classification: Unrestricted
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Report of: Director of Place	Title: Applications for Planning Permission
Case Officer: Gareth Gwynne	Ref No: PA/16/03352
	Ward: Whitechapel

1.0 APPLICATION DETAILS

Location: Enterprise House, 21 Buckle Street, London, E14 9FW

Proposal: Demolition of existing office building and erection of a 13 storey building (plus enclosed roof top level plant storey) rising to 56.32m (AOD) containing 103 unit aparthotel (C1 Use) with B1 Use Class office workspace at ground and mezzanine level with an ancillary café (A3 Use Class) and hotel reception space at ground floor, together with ancillary facilities, waste storage and associated cycle parking store.

2.0 BACKGROUND

- 2.1 The application for planning permission for the proposed development was considered by the Strategic Development Committee on 17th August 2017. The original report and the update report are appended.
- 2.2 The Committee voted against the officer's recommendation for approval and were minded to refuse the application on grounds of overdevelopment of the site giving cause to unacceptable amenity impacts to residential neighbours, townscape impacts, resultant harm to the setting of neighbouring listed building and the opportunity lost to retain office employment on site set within a context of evidence of Borough's projected oversupply of visitor accommodation against London Plan evidence base needs targets.
- 2.3 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.

3.0 COMMITTEE REASONS FOR REFUSAL

Impact on the residential amenity of neighbouring residents

- 3.1 Committee members expressed concerns regarding the amenity impacts upon neighbouring homes with a particular focus on the Altitude development and the Goldpence Apartments located within that scheme that face directly onto Plough Street. Within Block D of Aldgate Place and the Altitude development the scheme would result in 78 major adverse daylight failings to neighbouring habitable room windows assessed against BRE guidelines using the Vertical Sky Component measures and a further 65 moderate adverse VSC impacts to neighbouring residential windows. The scheme would also result in adverse sunlight impacts

including 20 rooms in Altitude development experiencing APSH levels below BRE guidance including bedrooms experiencing total losses of APSH by as much as 60%.

- 3.2 Officers acknowledged in the 17th August Development Committee Report the adverse daylight/sunlight impacts and also set out other issues in relation to outlook and sense of enclosure arising from the proposal. Taken together these residential amenity issues gave rise to a reason of refusal with the previous scheme for the site. However with this current scheme officers drew the conclusion and remain of the opinion, that taken on balance the amenity impacts are acceptable and that the scheme has demonstrably less adverse residential amenity impacts than the previously refused scheme. With specific regard to daylight/sunlight impacts officers in reaching their conclusion took into account amongst other considerations some of the affected homes have an existing low baseline of daylight (that means some large recorded VSC losses may be barely perceptible), also the presence of balconies and other architectural features in neighbouring developments that contribute to the scale of daylight/sunlight losses resulting from the proposed scheme.
- 3.3 Policy DM25 of the Local Plan requires development to protect, and where possible improve, the amenity of surrounding neighbours. Officers accept based on the tangible evidence of significant adverse impacts to neighbours from the scheme that Members can reasonably draw a different conclusion on where the balance lays with respect to the acceptability of the amenity impacts of the scheme to neighbours, in regard to Policy DM25. Furthermore It would seem reasonable for Members to put less weight on the wider public benefits of the scheme compared to Officer's deliberations in the Officer report, and therefore consider that the harm to residential amenity is not outweighed.

Overdevelopment of the site and harm to heritage assets

- 3.4 In assessing what is an acceptable scale of development for a site, and what represents over-development of a site a wide ranging number of material considerations can come to the fore.
- 3.5 Members objected to residential amenity impacts of the scheme (as set out in Paragraph 3.1 above), but Members also expressed wider concerns about the proposed scheme in relation to neighbouring development relating to the townscape and adverse impacts on a set of listed buildings (identified in the Officer's August Committee Report). A previous redevelopment scheme for the site was refused (PA/15/01141) on grounds of overdevelopment of the site. Members made reference to that previous scheme and the reasons of refusal for that scheme. Members expressed view that the unacceptable impacts with the previously refused scheme maintained a sufficient degree of validity with this current scheme.
- 3.6 The proposed development would physically adjoin the yard serving the Grade II St George's German and English Schools and the Grade II* St George German Lutheran Church and Vestry and be set less 25m from the Grade II Dispensary. The close proximity of the proposed development to the rear of this group of listed buildings and the marked disparity in scale between the two, set as they are in the same urban street block means the proposed development would be read and appear as a much more prominent and visually over-dominant presence than Block D of Aldgate Place (that occupies a comparable degree of the sky as the proposed development from the local townscape view at the corner of Alie Street and Leman Street).

- 3.7 Section 66(1) of the Planning (Listed Building and Conservation Areas) 1990 Act requires the Council in reaching a decision on a planning application to pay special regard to the desirability of preserving the setting of the listed buildings and avoiding such harm where possible. Any materially significant harm to such designated assets should be weighed against the public benefits of the proposal, in accordance with paragraph 134 of the NPPF. Members have concluded the scheme would result in significant, albeit less than substantial harm to the identified group of designated heritage assets. As considered in more detail below, the public benefits arising from the proposal are relatively limited in terms of benefit to the local economy, in addition the proposal results in discernible disbenefits to residential amenity, and therefore Members view that the public benefits do not outweigh the identified harm to heritage assets in respect of overdevelopment of the site causing harm to heritage assets.
- 3.8 Officers are of the opinion that scheme's reduction in height of this scheme compared to the previously refused scheme, set alongside the attention to detailing in the architectural treatment of the proposal and other material considerations was, on balance, sufficient to overcome the reasons of refusal in respect of townscape, adverse impacts upon designated heritage assets and the delivery of high quality place-making. Notwithstanding this conclusion reached, officers recognise that the height and overall scale of the proposal on this small and tightly confined site is very challenging in respect of residential amenity, good place-making, townscape impacts and the significance of setting to the identified set of listed buildings and accordingly a differing conclusion can be reasonably reached on the planning issues raised by the proposal (as assessed against development plan policy, the NPPF and relevant legislation) and upon that basis it is the professional view of officers that the 2nd reason for refusal in respect of overdevelopment of the site could be defended at appeal.

Supply of short stay visitor accommodation.

- 3.9 The visitor accommodation evidence base supporting the current London Plan identifies a need to supply a net additional 4,900 rooms within London Borough of Tower Hamlets between 2013-2036. This equals a need for the Borough to supply an average of 204 net additional visitor rooms per year over the period 2013-2036. The latest more up to date evidence base (set out in "*Projections for demand and supply for visitor accommodation in London to 2050*", April 2017), prepared as an evidence by the Mayor of London to inform visitor accommodation policy for the forthcoming new London Plan, identifies a need to supply a net additional 5,693 rooms within London Borough of Tower Hamlets to meet demand over the time frame 2015 to 2041. This equals a need to supply 196 hotel (C1) rooms per year. The GLA 2017 evidence base (using the hotel industry's *AMPM* database) records a confirmed hotel (C1) supply pipeline for the Borough of 1,987 for the period 2016-2018, which averages at the gross delivery of 662 hotel rooms per year over the three year time period. Based on the current trajectory of confirmed pipeline figures for additional hotel rooms being maintained over 2013-2036 or 2015-2041 timeframes and taking account of separate GLA *London Development Database* figures for loss of existing hotel rooms on the Borough, the evidence indicates the Borough is well exceeding the supply figures required to meet identified need in the Borough.
- 3.10 Members are reminded the site is located within London Plan's designated Central Activity Zone which is considered a suitable general location for visitor accommodation in respect to Policy 4.5 of London Plan, local plan policies SP06(4) and DM7. Proposal should however demonstrate there is a need for additional short stay accommodation to serve visitors and the borough's economy in accordance with

DM7(b). The pipeline supply of short stay accommodation in the borough is very strong compared to projected need based on the latest GLA evidence. The benefit to the local economy of the proposed additional rooms is likely to be relatively small due to an already strong pipeline supply and the nature of the proposed serviced apartments. Serviced apartments include kitchens and are self-contained therefore guests are likely to spend less in the local area compared to traditional hotel rooms. Furthermore serviced apartments would employ fewer staff than a traditional hotel. Moreover, when considering the impact of proposal on the borough's economy, the proposed development results in a net loss of office space (944sqm) and the associated jobs as such there is a net loss of jobs arising from this proposal. Refurbishment of the existing buildings could be reasonably be expected to deliver good quality office space and employment densities at a level akin to the proposed B1(a) office at 1st floor level. Framed within this policy context and taking the particularities of the site and the material planning considerations above it is the view of officers that the 3rd reason for refusal could be defended at appeal.

- 3.11 Committee Members concluded the scheme would cause negative impact on residential amenity to neighbours. The proposal is for a C1 Use Class led redevelopment of the site that would involve a net loss of employment floor space on the site, and with that the opportunity for the existing building to be refurbished or rebuilt to avoid this loss of employment floor space and associated density of jobs on site. The following policies supports this approach: the site lies within the identified inner core of the City Fringe as set out Mayor of London's adopted City Fringe Opportunity Area Planning Framework (OAPF). Paragraph 3.9 of the City Fringe OAPF sets out that within inner core developments affecting existing employment land use sites "should seek to re-provide at least the same quantum of employment floor"; and Policy DM7 – *Short Stay Accommodation* - of the Managing Development Document of the Borough Local Plan (DM7(1)(b)) sets out that development of visitor accommodation should not be supported where it causes harm to residential.

4.0 IMPLICATIONS OF REFUSING PLANNING PERMISSION

- 4.1 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. 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.
- 4.2 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.
- 4.3 The applicant has not made any changes to the scheme and as such officers have drafted the following reasons for refusal for members to consider:

Financial implications - award of costs

- 4.4 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.

4.5 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.

4.6 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.

5.0 **RECOMMENDATION**

5.1 Officer recommendation to **GRANT** planning permission remains unchanged.

5.2 However if members are minded to **REFUSE** planning permission the following **four Reasons of Refusal** are recommended:

1st Reason of Refusal – Harm to residential amenity

5.3 The proposed development would cause significant harm to the amenities and living conditions of occupiers of neighbouring residential properties through both major and moderate losses of daylight and sunlight, excessive loss of outlook resulting from the overbearing nature of the development including an 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 the Local Plan including Policy SP10 of the Core Strategy (2010) and DM25 of the Managing Development Document (2013) which seek to protect the amenity of residents including ensuring that development does not result in unacceptable material deterioration of daylight and sunlight conditions for future and existing residents.

2nd Reason of Refusal – Overdevelopment

5.4 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 edged by two narrow streets and set within an established lower scale urban street block;
- c) resultant harm to the significance of 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, that are not outweighed by the public benefits of the scheme, by reason of the height, scale, mass of the development set in immediate proximity to these designated heritage assets and the proposed schemes impacts upon local townscape views of this cluster of listed buildings

- c) unacceptable relationships to other developments that limits the opportunity to achieve a tall building on site or increase significantly the height of the existing building envelope on site such that it is compatible with the 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 NPPF including paragraphs 17, 56, 61, 128-134 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 (2016), policies SP02, SP06, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies, DM0, DM23, DM24, DM25, DM26, DM27 the Tower Hamlets' Managing Development Document and the Borough's vision for Aldgate, that taken as a whole, have an overarching objective of achieving place-making of the highest quality.

3rd reason of refusal – Need for short-stay accommodation insufficient to outweigh amenity harm, loss of office floorspace and harm to heritage assets.

- 5.5 The need for additional short stay accommodation to serve visitors and the borough's economy has not been adequately demonstrated given the strong pipeline supply of short stay accommodation, the limited contribution to the local economy arising from the proposed development, and the discernible disbenefits to the local economy arising from a net loss of office floorspace and associated net loss of local jobs. In addition any need for additional short stay visitor accommodation in the Borough would not outweigh the harm to residential amenity, local townscape and heritage assets.

As a result the proposal is not considered to be in accordance with the development plan including Policies DM0, DM7, DM24, DM25, DM26, DM27 of the Managing Development Document, Core Strategy Policies SP06, SP10, London Plan Policies 2.13, 4.1, 4.2, 7.4 and the objectives of the City Fringe OAPF including objectives of Paragraph 3.9 in respect of avoiding a net loss of employment floor space within the OAPF Inner Core

4th reason of refusal – Lack of a legal agreement to secure mitigation

- 5.6 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 and transport matters 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 (2016) and LBTH's Planning Obligations SPD (2016).
- 5.7 It is the professional view of officers that the above reasons for refusal could be defended at appeal