

LONDON BOROUGH OF TOWER HAMLETS

DEVELOPMENT COMMITTEE - 9 AUGUST 2017

UPDATE REPORT OF DIVISIONAL DIRECTOR OF PLANNING AND BUILDING CONTROL

Agenda item no	Reference no	Location	Proposal / Title
5.1	PA/17/00250	114 -150 Hackney Road, London, E2 7QL	Mixed use redevelopment of site including part demolition, part retention, part extension of existing buildings alongside erection of complete new buildings ranging in height from four storeys to six storeys above a shared basement, to house a maximum of 9 residential units (Class C3), 12,600 sqm (GEA) of employment floorspace (Class B1), 1,340 sqm (GEA) of flexible office and retail floorspace at ground floor level (falling within Use Classes B1/A1-A5) and provision of 316 sqm (GEA) of Public House (Class A4), along with associated landscaping and public realm improvements, cycle parking provision, plant and storage

1.0 CORRECTIONS AND CLARIFICATIONS

- 1.1 Paragraph 3.9 Correction - the maximum size of any A1/A2/A3/A4 uses classes are limited to a maximum floorspace of **349 sqm** (excluding the Joiners Arms replacement A4 quantum)
- 1.2 Paragraph 3.11 - for clarity - it is the same developer for both this site and to 97-137 Hackney Road on the opposite side.
- 1.3 Paragraph 13.28 Correction - Tower Hamlets CIL liability would be approximately £129,000 (subject to indexation) and the Mayor of London CIL is approximately £173,845 (subject to indexation).
- 1.3 For clarity a draft of the 'first right of refusal' clause is appended to this update report

2.0 ADDITIONAL REPRESENTATION

- 2.1 The Mayor of London's Culture at Risk Team provided the following summary of the GLA's engagement with the planning application for the proposed development of 114-150 Hackney Road that would demolish The Joiner's Arms, a much-loved and long-running late night LGBT+ venue.

"At the request of Tower Hamlets (TH), Amy Lamé, the Mayor's Night Czar, convened a meeting at City Hall on 19 May 2017 between TH planning officers, the applicant and Friends of the Joiner's Arms to discuss how best to address the potential loss of The Joiner's Arms. Amy has also met with New Joiners Arms Shoreditch Ltd and I have provided further guidance to Tower Hamlets upon request.

This work is in light of research that shows London's LGBT+ venues are in crisis, with a 58% loss of spaces in the past decade. One of the hardest-hit boroughs is Tower Hamlets, which has lost 73% of its LGBT+ venues since 2006. Despite LGBT+ venues often being thriving and successful businesses, the study shows that they are closing because of external pressures such as large-scale developments.

In response to the findings, the Mayor announced a series of initial measures to help stem the flow of closures, including instructing Amy to make protecting LGBT+ venues an urgent priority by acting as a mediator between developers, venue owners and others to stem closures. We have also developed a new LGBT+ Venues Charter to help safeguard venues for the LGBT+ community.

At the meeting on 19 May 2017, Amy stated that she is broadly supportive of the principle behind the 'First Right of Refusal' option to an LGBT+ venue operator in the draft Head of Terms, on the basis that it would create the best possible conditions to ensure a like-for-like replacement of the Joiner's Arms. At the request of TH, I have since provided detailed views of what this could include. For example:

- marketing the space to potential LGBT+ venue operators for an adequate amount of time (e.g. six months), and in an appropriate way (e.g. trade and LGBT+ press)*
- ensuring commercial costs, such as rent and capital cost for fit out, are not prohibitive to potential LGBT+ venue operators*
- ensuring conditions relating to licencing do not limit the viability of proposals going forward. The popularity of The Joiner's Arms was largely predicated a late night venue and setting prescriptive licencing conditions at the planning stage could limit its potential viability going forward. It would be preferable to keep the licence as flexible as possible at this stage so that licence applications can be judged on their individual merits at the relevant time*

2.2 The Council received an addendum objection from the Friends of the Joiners Arms which raised the following additional planning considerations:

- Number of new jobs exaggerated – demand for new office space falling*
- New office would lead to more parking pressure*
- Inconsistencies in officer report regarding size of A4 unit*
- Limited opening hours do not amount to re-provision on the community asset/ facility.*
- No guarantee the new pub would be licenced*
- Proposed venue would not meet secured by design requirements*
- Occupancy of residential uses prioritised over the A4 unit opening hours*
- Clarification whether a further A4 unit is proposed not for LGBT+ community*
- Is there adequate provision for deliveries for a new bar/pub*
- Draft 'First Right of Refusal' clause too loose (refers to a number of issues).*
- Site contamination – has investigation been carried out?*

2.3 In response, officers can confirm that the number of jobs is based on 11.3sqm per Full Time Employee (in line with findings from a recent GLA report for inner London). The development is car free and is well served by

public transport and cycle storage/ changing facilities provided. The report refers to both 916sqm (GEA) and 287sqm (GIA) replacement usable floorspace and these figures are not inconsistent with one another.

- 2.4 Licencing of premises is not a planning matter although a condition is recommended limiting opening hours to protect residential amenity. Secured by design accreditation would be conditioned and is considered to be achievable. The flexible uses allow for a further A4 use to come forward which could be used by a LGBT+ venue but does not benefit from the first right of refusal clause. A loading bay on Hackney Road provided for deliveries, and a service management plan would be secured by condition. A site contamination investigation report was submitted with the application and remediation would be conditioned to ensure contaminants do not present a public health risk.
- 2.5 The Council received an addendum objection from the previous owner/operator of the Joiners Arms has withdrawn his interest in taking the lease and requested that his details are removed from the s106. Request consideration of alternative proposals that will address the concerns and objections raised in relation to the A4 consent and the s.106 agreement, namely:
- *Relocation of A4 within the Applicant's Development. Corner of Hackney Rd/ Strouts Place suggested, and review s106 so less in favour of the developer.*
 - *Relocation of A4 outside the Applicant's Development and would expect the applicant to enter into a short-term tenancy agreement and act as a guarantor for the rental payment for say a period pf 5 years. After which there would be an option for the tenant to take on the full lease and all future obligations. It may be appropriate also that applicant agrees to set aside a provisional sum to allow for some refurbishment works in relation to the selected premises if required.*
- 2.6 Reference in the s106 clause has been removed. Previously it was a requirement for this party to be notified of the developer's intention to invite expressions of interest for the lease.
- 2.7 No change to officer's recommendations. Committee is invited to take additional representations into account in their determination of the application

3.0 RECOMMENDATION

- 3.1 Officer's recommendation is unchanged to GRANT planning permission subject to the conditions and planning obligations set out in the officer's report.

APPENDIX 1 – draft Head of Terms for Right of First Refusal Clause in s106 for 114-150 Hackney Road

DRAFT Heads of Terms

Hackney Road, 114-150 - s106 Agreement (PA/17/00250) (DRDBC.861)
Without prejudice and subject to contract

These Heads of Terms are not intended to create any legally binding obligations but shall be subject to committee approval and completion of the s106 agreement.

Lease of A4 establishment

Definitions

'Friends of the Joiners Arms' means [DETAILS TO BE CONFIRMED]

'GLA' means the Greater London Authority;

'Interested Party' means a business which proposes operating a Lesbian, Gay, Bisexual and Transgender focused venue and has the financial standing to enter into the Lease including the ability to provide a surety, guarantee and/or rent deposit which would be acceptable to a reasonable landlord;

'Lesbian, Gay, Bisexual and Transgender focused venue' means a venue which adopts the LGBT+ Venues Charter published by the GLA;

'Lease' means a lease of the Public House granted on commercial terms and at Open Market Rent by the Owner;

'Notice' means the notice to be sent, no sooner than upon completion of Shell and Core of the Development, directly to the Friends of the Joiners Arms and also to be published in the local press advising of the prospective grant of the Lease and inviting any Interested Party to express an interest in taking the Lease within a period of no less than 1 month from publication of the notice. The notice shall also advise parties what information needs to be submitted as part of their expression of interest in order to evaluate them against the Selection Criteria;

'Open Market Rent' means the rent at which the Public House might reasonably be expected to achieve in the open market;

'Public House' means the 316 sqm (GEA) Class A4 unit forming part of the Development as shown on Plan [XX];

'Selection Criteria' means the criteria on which the Owner will determine if a business meets the requirements of an Interested Party and evaluate parties should there be more than one expression of interest.

'Shell and Core' means the structure and building envelope will be completed, including all elements of outside walls and roofs where relevant, and will be wind and water tight and the relevant building regulations shall be complied with insofar as they apply to shell space. All external access ways will be included up to the main entrance door of the Public House. The following mains services will be installed;

- i. Electricity – provision of a main cut out;

- ii. Gas – provision of a sleeve;
- iii. Water – provision of a sleeve; and
- iv. Telecommunications – provision of a duct.

1. The Owner shall not grant the Lease unless and until it has published the Notice.
2. No later than 28 days before the Notice is published the Owner shall provide for approval by the GLA the Selection Criteria, with such approval not to be unreasonably withheld or delayed.
3. If more than one Interested Party expresses an interest in taking the Lease, the Owner shall;
 - (a) provide the GLA with the expressions of interest no later than [X] days after the period specified in the Notice; and
 - (b) invite comments on the selection of the Interested Party within a period of 28 days following the submission to them. The Owner shall have due regard to any comments received from the GLA within the said period of 28 days.
4. Subject to paragraph 8 below, the Owner will use reasonable endeavours to grant the Lease to any Interested Party which has responded to the Notice.
5. A Lease granted to an Interested Party shall include a covenant requiring the Public House to be operated as a Lesbian, Gay, Bisexual and Transgender focused venue for the duration of the Lease.
6. A Lease granted to an Interested Party shall provide for a rent free period of 12 months at the beginning of the tenancy but only on the basis that the Interested Party will carry out and complete all fit out works to the Public House that are necessary for its intended use.
7. Subject to paragraph 8 below, the Public House shall remain a Lesbian, Gay, Bisexual and Transgender focused venue for a minimum of 12 years from the date of Practical Completion of the Development, unless otherwise agreed in writing by the Council.
8. Subject to paragraph 9, if:
 - (a) no Interested Party responds to the Notice;
 - (b) despite using reasonable endeavours, the Owner has not been able to agree the Heads of Terms for the Lease with an Interested Party within 2 months of receipt of the Interested Party's response to the Notice; or
 - (c) despite agreeing Heads of Terms within the said period of 2 months and using reasonable endeavours to enter into a Lease, the Owner has not been able to grant the Lease to an Interested Party within a further 3 months of the Heads of Terms being agreed,then the Owner may grant the Lease to any person or organisation which is not an Interested Party.

9. Paragraph 8, (b) and (c) shall not apply until such time as notice has been provided to the GLA setting out the reasonable endeavours referred to in paragraph 8 (b) and (c). If no objection is received from the GLA within 28 days of submission of the said notice, the Owner may proceed with granting the Lease to any person or organisation which is not an Interested Party. If an objection is received from the GLA within 28 days of submission of the said notice, the procedure outlined in this paragraph 8 shall be repeated or the dispute resolution provisions provided in this Deed shall be commenced.
10. The Owner shall provide the Council and the GLA with details of the person or organisation to whom the Lease has been granted within 7 days of the Lease having been completed.