

Committee: Development Committee	Date: 23 rd August 2018	Classification: Unrestricted
Report of: Director of Place		Title: Applications for Planning Permission
Case Officer: Daria Halip		Ref No: PA/18/00472
		Ward: Shadwell

1.0 APPLICATION DETAILS

Location: Dean Swift Public House, 2-6 Deancross Street, London, E1 2QA

Existing Use: Public House (use class A4)

Proposal: Demolition of existing building and redevelopment of site for mixed use purposes. Erection of six storey building comprising of 7 x residential apartments and non-residential floorspace at ground and basement floor (Use Class A4 / D1 / B1). Cycle parking and associated works.

Drawings:

TP(00)00 P2	TP(00)02 P3
TP(00)01 P2	TP(10)00 P3
TP(10)51 P1	TP(10)01 P3
TP(10)52 P1	TP(10)02 P3
TP(10)53 P1	TP(10)03 P3
TP(11)51 P1	TP(10)04 P3
TP(11)52 P1	TP(10)B1 P3
TP(11)53 P1	TP(10)RF P3
TP(11)54 P1	TP(10)11 P2
TP(12)51 P2	TP(10)12 P2
TP(12)52 P2	TP(10)13 P2
	TP(10)14 P2
	TP(11)01 P2
	TP(11)02 P2
	TP(11)03 P2
	TP(11)04 P2
	TP(12)01 P4
	TP(12)02 P4
	TP(12)03 P4
	TP(12)04 P4
	AM(10)00 P4
	AM(10)01 P3
	AM(10)02 P3
	AM(10)03 P3
	AM(10)04 P3
	AM(10)B1 P4
	AM(10)R F P3

Documents: Noise impact assessment
Statement of community involvement
Planning Statement including Heritage Statement

Ownership/applicant: ENSCO 864 Ltd

Historic Building: The building has been identified for local listing

Conservation Area: Not in a conservation area.

Commercial Road Conservation area is located approximately 18m east of the site

2.0 EXECUTIVE SUMMARY

- 2.1 This report considers the application for the demolition of a public house to replace it with a five storey building in mixed use; flexible space at ground and basement level (use class A4/ D1/ B1) and residential (use class C3) on the upper floors.
- 2.2 Seven residential apartments are proposed on the upper floors: 4x 1bed units, 2x 2bed units, and 1x3 bed units.
- 2.3 The proposed development is considered to be contrary to policy in terms of land use, design, amenity and provision of refuse storage facilities.
- 2.4 All other policies have been considered and the development found compliant.
- 2.5 The proposed development was part of a pre-application discussion. The Council advised the applicant then that 'the loss of the public house is generally not supported' by the Council's policies. The Council also made observations on the overall poor design of the proposed building and refuse storage, suggestions which have not been carefully considered at the application submission stage. This is discussed in section 8 of this report.
- 2.6 A petition containing 56 signatures has been received in favour of the application.
- 2.7 Given the level of support for the proposal against officers' recommendation, under the Council's Constitution, the application is required to be referred to the Council's Development Committee for determination.
- 2.8 Officers are recommending refusal based on the principle of land use, poor design, public amenity and inadequate provision of refuse facilities, in accordance with the Council's Core Strategy 2010, Managing Development Document 2013, the emerging Local Plan and London Plan 2016.

3.0 RECOMMENDATION

- 3.1 That the Committee resolve to **REFUSE** planning permission for the following reasons:

Loss of community asset

1. The proposed development, on account of the loss of the existing public house and the poor quality of the replacement commercial unit, would result in the loss of a community asset for which no satisfactory justification has been presented. The development therefore fails to address the policy requirements under policy DM8(2)(3) of the Council's Managing Development Document 2013 and policy D.CF4 of the Council's Emerging Local Plan as well as Policy 4.8 of the London Plan (2016).

Design

2. The proposed development, on account of its bulk, scale, detailed design, height, proportions, inactive ground floor frontage, plot coverage and the loss of the existing building, would result in a development of poor overall design quality, with a cramped layout that fails to respond sensitively to site constraints or its wider context. As such, the development fails to meet the policy requirements under policy DM24 in the Council's Managing Development Document 2013 and policy SP10 Creating distinct and durable places of the Core Strategy (2010).

Standard of accommodation

3. Two of the proposed residential units fail to meet the minimum internal floor space requirements, resulting in a cramped and poor quality standard of accommodation, contrary to the policy requirements under policy DM4 in the Managing Development Document 2013.

Impact on neighbouring amenity

4. The proposal, on account of its position 7 metres away from bedroom windows to three flats at number 298 Commercial Road, would introduce unacceptable loss of privacy, unreasonable levels of overlooking, and significant loss of light and outlook, to the detriment of the amenities of the occupiers of those flats. The scheme is therefore contrary to policy DM25 of the Council's Managing Development Document 2013 and policy SP10 of the Core Strategy 2010.

4.0 PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1. The application site is a two storey building which operates as a pub. It is located to the west of Deancross Street and close to the junction with Commercial Road to the north.
- 4.2. The application site is adjacent to two residential blocks of flats to the north and south, car parking for the residential tower block known as Winterton House, to the west and Deancross Street to the east. The local area is primarily residential in character with few local corner shops serving the local community. Watney Market town centre is located in close proximity to the north and west of the application site. Immediately opposite to the east is the boundary of the Commercial Road Conservation Area and the Grade II listed terraces at 300-334 Commercial Road.



Existing Site Plan

- 4.3. The building is not listed and sits outside the conservation area, however it is proposed for local listing as recognition to its positive contribution to the character of the locality and settings of the Commercial Road Conservation Area.
- 4.4. There are no other policy designations at this site.



The Existing Public House

Proposal

- 4.5. Demolition of existing public house and redevelopment of site for mixed use purposes. The development would comprise the erection of six storey building comprising of seven residential apartments and non-residential floorspace at ground and basement floor level for mixed uses including drinking establishments, (use class A4/ D1/ B1). An image of the proposal is shown below.



A view of the proposed front elevation from the street

Relevant planning history

- 4.6. Pre- application advice: PF/17/00103 Demolition of existing building and redevelopment of site for residential purposes. Erection of five storey building comprising of nine apartments
- 4.7. The principle of the loss of the pub was not supported at the pre-application stage, unless robust evidence could be provided to demonstrate that the unit is unviable to operate as a public house. Where a replacement facility is proposed, this should be of an appropriate standard to a pub use.
- 4.8. Other key issues raised in respect of the proposed scheme included the overall height, detailed design, amenity, cycle parking and refuse store.

5.0 POLICY FRAMEWORK

- 5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

5.2 Government Planning Policy

National Planning Policy Framework 2018
National Planning Practice Guidance

5.3 London Plan FALP 2016

- 2.9 - Inner London
- 2.14 - Areas for regeneration
- 3.1 - Ensuring equal life chances for all
- 3.3 - Increasing housing supply
- 3.4 - Optimising housing potential
- 3.5 - Quality and design of housing developments
- 5.3 - Sustainable design and construction
- 5.18 - Construction, excavation and demolition waste
- 6.3 - Assessing effects of development on transport capacity
- 6.9 - Cycling
- 6.10 - Walking
- 6.13 - Parking
- 7.1 - Building London's neighbourhoods and communities
- 7.4 - Local character
- 7.5 - Public realm
- 7.6 - Architecture
- 7.8 - Heritage assets and archaeology

5.4 Core Strategy 2010

- SP02 - Urban living for everyone
- SP03 - Creating healthy and liveable neighbourhoods
- SP05 - Dealing with waste
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating distinct and durable places

5.5 Managing Development Document 2013

- DM0 - Delivering Sustainable Development
- DM3 - Delivering homes
- DM4 - Housing standards and amenity space
- DM8 - Community infrastructure
- DM14 - Managing Waste
- DM20 - Supporting a sustainable transport network
- DM22 - Parking
- DM23 - Streets and the public realm
- DM24 - Place sensitive design
- DM25 - Amenity
- DM27 - Heritage and the historic environments

5.6 Supplementary Planning Guidance/Documents and Other Documents

- Commercial Road Conservation Area Character Appraisal (2007)
- Pubs in Tower Hamlets – An evidence base study (April 2017)

5.7 Tower Hamlets Community Plan objectives

- A Great Place to Live

- A Prosperous Community
- A Safe and Supportive Community
- A Healthy Community

- 5.8 Statutory public consultation on the draft London Plan commenced on the 1st of December 2017 and will close on 2nd March 2018. This is the first substantive consultation of the London Plan, but it has been informed by the consultation on 'A City for All Londoners' which took place in Autumn/Winter 2016.
- 5.9 The current 2016 consolidation London Plan is still the adopted Development Plan. However the Draft London Plan is a material consideration in planning decisions. It gains more weight as it moves through the process to adoption, however the weight given to it is a matter for the decision maker.
- 5.10 The Council are in the process of finalising the new Local Plan which, once adopted, will be the key strategic document to guide and manage development in the borough until 2031.
- 5.12 Statutory public consultation on the 'Regulation 19' version of the above emerging plan commenced on Monday 2nd October 2017 and closed on Monday 13th November 2017. Weighting of draft policies is guided by paragraph 216 of the National Planning Policy Framework and paragraph 19 of the Planning Practice Guidance (Local Plans). These provide that from the day of publication a new Local Plan may be given weight (unless material considerations indicate otherwise) according to the stage of preparation of the emerging local plan, the extent to which there are unresolved objections to the relevant policies, and the degree of consistency of the relevant policies in the draft plan to the policies in the NPPF. Accordingly as Local Plans pass progress through formal stages before adoption they accrue weight for the purposes of determining planning applications. As the Regulation 19 version has not been considered by an Inspector, its weight remains limited. Nonetheless, it can be used to help guide planning applications and weight can be ascribed to policies in accordance with the advice set out in paragraph 216 of the NPPF.

6.0 CONSULTATION RESPONSE

- 6.1 The views of the Directorate of Place are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The summary of consultation responses received is provided below.
- 6.2 The following were consulted regarding the application:

External Consultees

Transport for London (TfL)

- 6.3 No objection provided a construction management plan is secured by way of condition.

Internal Consultees

LBTH Highways Department

Car Parking

- 6.4 Highways require a section 106 'car and permit' free agreement for the residential element of the development as it is located in very good PTAL area (PTAL 6a).
- 6.5 No objection to cycle parking. The proposal would be policy compliant in terms of cycle parking provision
- 6.6 Details of deliveries and servicing commercial and residential unit to be provided for the Council's approval prior to determination.

LBTH Waste Policy and Development - Waste Management

- 6.7 The bin store is large enough to store all containers with at least 150mm distance between each container and that the width of the door is large enough with catches or stays. The bin store must also be step free. All bins must meet the British Standard EN 840 Waste Collection Service The applicant should ensure there is a dropped kerb from bin store to collection point that is within 10 meters trolleying distance if none exist. Internal Storage All residential units should be provided with internal waste storage preferably within the kitchen units with the following capacity: Refuse – 40 litres Recycling – 40 litres Food waste – 10 litres.

LBTH Design and Conservation

- 6.8 The loss of the pub is not supported. Whilst the building is not a designated asset, it is considered that it makes a positive contribution to the townscape character and the setting of the adjacent Commercial Road Conservation Area, and as such is considered to be a non-designated heritage asset. The building is being considered for local listing and as a consequence, the Council resists its loss.

The prevailing height in the locality is 2-4 storeys high. The proposal would introduce a five storey building; provision of commercial unit at ground floor which would normally be taller than a standard storey height would push the building considerably taller than the five storey being proposed. The completed building would have an incongruous and overbearing relationship to its neighbour, detrimental to the overall townscape at this location or the setting of the adjacent conservation area.

The proposal has a building footprint that covers the majority of the site. The extent of the plot coverage proposed is uncharacteristic of the local area; the proposed development leads to a cramped layout that fails to provide a sensitive response to its site constraints, and gives rise to concerns about the overdevelopment on site.

Symptoms of the overdevelopment of the site can be seen in the inability to accommodate refuse and recycling inside the building envelope, ground floor which is predominantly inactive, a rear building line which extends to edge of the site boundary, a courtyard that is inaccessible and the need for privacy screens within north facing windows to address privacy issues introduced by the development.

The introduction of contemporary building may in principle be supported. However, the current form proposed would result in a bulky and inelegant building that is poorly designed and detailed. Of particular concern are:

- the failure to create a building which references or positively responds to its context,
- the poor proportions of the which gives it a squat appearance,
- the poor proportions of the roof storey which gives the building a top heavy and bulky appearance,
- the entrance to the commercial/community use is meanly sized and lacks street presence,

- the northern elevation demonstrates a lack of clear design intent which is reflected in the lack of consistency in window alignment and the inconsistent application of materials such as glazed brick to the ground floor;
- the predominantly blank western elevation which offers little visual interest when viewed from the car park;
- lack of information about the design of the louvres which is intended to be applied to the bedroom windows onto the northern elevation. These are referenced in the submitted DAS but omitted on the plans. Their latter addition would change the appearance of this elevation.

7.0 LOCAL REPRESENTATION

Statutory notification

- 7.1 52 Letters were sent to occupiers of neighbouring properties. A site notices was displayed outside the application site. The following responses were received in relation to that scheme.

One petition received, containing 56 signatures in favour of the development:

- The development will provide urgently needed housing in Shadwell and Tower Hamlets, which is suffering a housing crisis. The proposal will deliver homes to rent and buy.
- It will include a ground floor space for use by the community either to retain the pub, or for a health centre or for office space for local businesses.

No individual responses were received either in support or objection to the application.

8.0 MATERIAL PLANNING CONSIDERATIONS

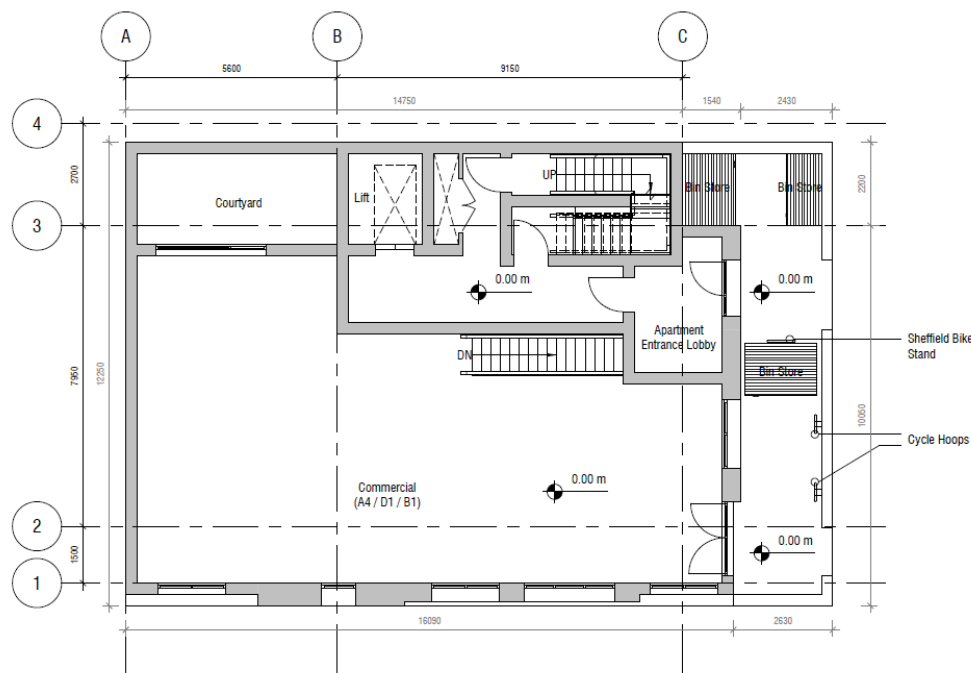
- 8.1 The main planning issues raised by the application that the Committee are requested to consider are:

- i. Land Use
- ii. Design
- iii. Amenity
- iv. Highways and Servicing

Land use

- 8.2 Paragraph 92 of the NPPF acknowledges the importance of community and social value of public houses.
- 8.3 Policy 4.8 of the London Plan and DM8 in the Council's Managing Development Document 2013 (MDD) refer to public houses as a community facility. These policies protect community facilities where they meet an identified need and the building is considered suitable for its use. Furthermore, the Council's emerging policy D.CF4 requires robust marketing evidence to be provided demonstrating that the public house has no prospect to further operate neither as a pub nor as an alternative community use. Where a public house is replaced or re-provided, adequate floorspace must be provided to ensure the continued viability of the public house.

- 8.4 The proposal seeks permission for the construction of a five storey building in mixed use with a flexible A4, D1, B1 use at basement and ground floor level and residential units on the upper floors (seven residential units).
- 8.5 The overall floor space occupied by the existing pub is 203sqm over the basement and ground floor with an additional 98sqm at first floor used as ancillary space including extensive garden space at the rear. The proposal would see the loss of the garden and allows for a reduced area of 155sqm of commercial space.
- 8.6 The submitted ground floor plan shows no indication of the bar area, appropriate seating, storage, toilets, kitchen with relevant equipment including the location of extraction flue, smoking area, etc. Furthermore, development is also has a limited active frontage, inappropriate for its intended use.



Proposed ground floor plan

- 8.7 The development seeks to meet the policy requirements through the re-provision of floorspace for pub use, but only as an option as (D1) community and office uses are also applied for. The layout is clearly shown to allow for a flexible use, however it would be insufficient to be practically let as a pub. It is likely that this space would remain empty or only implemented as office or (D1) community use were permission to be granted.. No marketing or other evidence has been presented to demonstrate that the existing pub does not remain viable. The proposal would therefore result in the loss of a community use contrary to policy DM8.
- 8.8 Notwithstanding the above, the principle of some housing provision on the site is supported in policy terms by NPPF Paragraph 50 and policy SP02 of the Council's Core Strategy 2010.

Design

- 8.9 The National Planning Policy Framework attaches great importance to the design of the built environment.

- 8.10 In accordance with paragraph 58 of the NPPF, new developments should:
- function well and add to the overall quality of the area,
 - establish a strong sense of place, creating attractive and comfortable places to live,
 - respond to local character and history, and reflect the identity of local surroundings and materials,
 - create safe and accessible environments, and
 - be visually attractive as a result of good architecture and appropriate landscaping.
- 8.11 Chapter 7 of the London Plan places an emphasis on robust design in new development. Policy 7.4 specifically seeks high quality urban design having regard to the local character, pattern and grain of the existing spaces and streets. Policy 7.6 seeks the highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and to optimise the potential of the site.
- 8.12 The Council's policy SP10 sets out the broad design requirements for new development to ensure that buildings, spaces and places are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds. Further guidance is provided through policy DM24 of the Managing Development Document. Policy DM26 gives detailed guidance on tall buildings and specifies that building heights should be considered in accordance with the town centre hierarchy, and sensitive to the context of its surroundings. Policies SP09 and DM23 seek to deliver a high-quality public realm consisting of streets and spaces that are safe, attractive and integrated with buildings that respond to and overlook public spaces.
- 8.13 Height: The proposed five storey development would sit within an area where the prevailing height is of 2 to 4 storeys. The ground floor commercial use and the overly large roof storey results in a building that appears considerably taller than its neighbours. As such the development would be incongruous and overbearing, detrimental to the settings of the adjacent conservation area and overall character of the locality including the appearance of the building in its own right.
- 8.14 Plot coverage: The development has a building footprint that covers the majority of the site, in an attempt to maximise its development potential. This approach has led to a cramped layout that fails to provide a sensitive response to its site constraints due to overdevelopment of the site. Symptoms of the overdevelopment of the site can be seen in, a ground floor which is predominantly inactive, a rear building line which extends to the edge of the site boundary, a courtyard that is inaccessible and the need for privacy screens within north facing windows to address privacy issues introduced by the development.
- 8.15 Architectural detailing: The overall quality of the new development is poor. The proportions of the ground floor give it a squat appearance; its proportion, particularly the height, is not considered to be suitable for commercial or community use. The proportions of the roof top storey which is taller than the floor storeys below, gives the building a top heavy and bulky appearance. The entrance to the commercial/ community space at ground floor level is subdued and lacks street presence. The northern elevation demonstrates a lack of clear design intent which is reflected in the lack of consistency in window alignment and the inconsistent application of materials such as glazed brick to the ground floor. The predominantly blank western elevation offers little visual interest when viewed from the car park.

- 8.16 Whilst Deanswift Public House is not a designated heritage asset, it is considered to make a positive contribution to the townscape character and the setting of the adjacent Commercial Road Conservation Area, and as such, it is considered to be a non-designated heritage asset. Although it would be difficult for the Council to resist its demolition, any replacement building would be expected to be of a similarly high architectural quality. The proposed development falls demonstrably short on this measure.
- 8.17 For the reasons above, the proposed development would not result in a high quality building that would make a positive contribution to the locality, and as such, the development would be contrary to the above listed policies.

Standard of residential accommodation

- 8.18 London Plan 2016 policy 3.5, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document seek to ensure that all new housing is appropriately sized, high-quality and well-designed. Specific standards are provided by the Mayor of London Housing SPG to ensure that the new units would be “fit for purpose in the long term, comfortable, safe, accessible, environmentally sustainable and spacious enough to accommodate the needs of occupants throughout their lifetime.”
- 8.19 Five of the seven proposed units would meet the baseline internal floorspace standard. Two one bedroom flats would fall by approximately 3sqm under the minimum requirement in terms of internal floor space. The proposal fails to meet the policy requirements in terms of provision of minimum floor space and therefore unacceptable. The development would be new built and not a conversion of a pre-existing building where the development would have to work with the existing limitations on site. Although a minor shortfall, given the other issues identified with the development, this further demonstrates the lack of care that has gone into progressing the design. The resulting poor standard of these units constitutes a further reason for refusal.
- 8.20 All residential units meet the minimum standard provision of private amenity space.

Inclusive Access

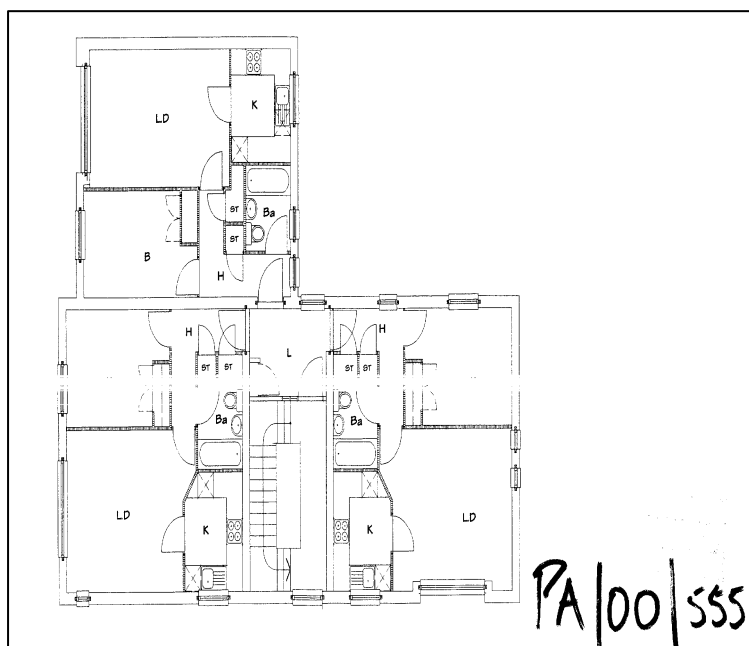
- 8.21 Policy 3.8 of the London Plan and Policy SP02 of the Core Strategy require that all new housing is built to Lifetime Homes Standards and that 10% is designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- 8.22 One bed flat located at first floor level is wheelchair accessible being 10% larger than the standard one bed units.

Amenity

Daylight/ Sunlight Impact - Residential

- 8.24 The closest residential address most likely to be impacted by the development is the block of flats at 298 Commercial Road, located to the north of the site and 10-14 Deancross Street to the south.

- 8.25 298 Commercial Road contains one bedroom flats, with three units laid out on each floor. The bedroom window serving one of these residential units on each floor is facing the proposed development.
- 8.26 A daylight/sunlight assessment has been submitted to support the application. In terms of the impact on 298 Commercial Road, the report relies on a 'mirror image' assessment with regard to the impact on daylight to demonstrate that there would not be significant harm. This uses a hypothetical development of the same scale as No.298 on the application site as a benchmark for calculating existing daylight levels. However, the BRE guidance notes that assessing daylight in this way is only appropriate where affected windows are very close to the boundary and rely excessively on 'borrowed' light. This is not considered to apply in this instance, as the affected windows have a reasonable set back from the boundary. Furthermore, it has not been established as to what scale of development on the application site would be appropriate in design terms.
- 8.27. It is considered therefore that the raw data for loss of light to No.298, which is also provided in the daylight/sunlight report, is more appropriate for assessing the amenity impact of the development. This indicates the loss of light that neighbours would actually experience were the development to proceed.
- 8.28. Using this data, the submitted Daylight/Sunlight Assessment indicates that these bedrooms (ref W1) at first, second and third floor at the rear of No.298 will be significantly impacted by the proposal, experiencing a drop in Vertical Sky Component VSC to 0.61, 0.64 and 0.7 respectively of their former values. The BRE Guideline set out that reduction of VSC to a window of 0.8 of its former value would be significant. . The bedrooms are however single aspect units, a factor which adds to the overall consideration when assessing the amount of daylight received by the existing residential units. Given that this degree of loss of light is clearly in excess of that defined as significant by the BRE guidance, and due to the lack of mitigating factors in favour of development, this is considered to be further grounds for refusal of the scheme. The daylight report indicates that the impact on 10-14 Deancross Street would be acceptable.



Typical floor layout at 298 Commercial Road

- 8.27 Assessments of loss of sunlight and overshadowing to the neighbouring open space have been provided by the Daylight/Sunlight report. These are within the parameters set out in the BRE guidance and are therefore considered acceptable.

Overshadowing

- 8.28 The rear courtyard would receive 33% of 2 hours of sunlight on the 21st March (BRE Guidance), significantly below the recommended BRE guideline (at least half of the amenity space should receive at least 2h of sunlight on 21st March).
- 8.29 The submitted Daylight Assessment indicates that the courtyard exists as a result of the step back introduced to address any overlooking issues to the neighbouring properties at 298 Commercial Road. Furthermore, the submitted Design and Access Statement (section 3.14.3) details that the courtyard could be potentially be used to locate the plant equipment for the non-residential unit. The applicant suggests that given that the courtyard does not meet the function of an outdoor space, the BRE Guidance is less relevant in this regard.
- 8.30 In line of the above, the courtyard is fundamentally redundant amenity space which could potentially result in plant storage, an element which introduces other amenity and design concerns, including noise, vibration and visual appearance, detrimental to the overall quality of the development.

Overlooking, loss of privacy and outlook

- 8.31 The proposal would sit at approximately 7m away fronting 298 Commercial Road, looking directly into the bedrooms of the neighbouring property facing south. The submitted Design and Access Statement indicates that the proposal could address this issue by introducing opaque glass fins to create privacy screens to these windows.
- 8.32 The submitted north elevation drawing contains no reference to the introduction of privacy screens to the relevant windows. These windows are single aspect bedroom windows, north facing; no information has been provided to demonstrate the efficiency of the privacy screens in retaining the overall daylight distribution internally, in line with the BRE standards.
- 8.33 In line of the above, it is considered that the proposal would introduce unacceptable levels of overlooking and loss of privacy. Even if loss of privacy could be mitigated successfully, the development would present an over-bearing impact and severely limit the outlook from the windows at 298 Commercial Road. The loss of daylight, overlooking and impact on outlook to flat at No.298 constitute further grounds for refusing permission as contrary to policy DM25 in the Council's Managing Development Document.

Transport, Access and Servicing

- 8.34 Overall, the proposal's likely highways and transport impact are considered to be acceptable by the Council's Transportation & Highways section, except refuse storage and servicing. The relevant issues are discussed below.

Cycle Parking

- 8.35 The development provides 12 secure cycle parking spaces located at basement level, in line with the policy requirements under policy DM22 of the MDD.

Car Parking

- 8.36 The development, were it to have been recommended for approval, would be subject to a 'car free' planning obligation restricting future occupiers from obtaining residential on-street car parking permits.
- 8.37 No on street disabled accessible parking space is proposed. However this could have been resolved by way of condition were all other aspects of the scheme acceptable.

Servicing and Refuse Storage

Refuse storage

- 8.38 Waste at this location is collected weekly. The development would therefore be required to accommodate a week's worth of waste for both the residential development as well as the ground floor commercial unit.
- 8.39 The proposed bins are unaesthetically located at the front of the development, adjacent to the main entrance to both residential and commercial unit respectively.
- 8.40 The front courtyard of a pub development would normally be used as outdoor space by the pub users making it unsuitable for waste storage. The location of the waste bins adjacent to the entrance to both the commercial and residential units would cause disturbance to the residents and commercial space users in terms of visual blight, threat to public health and odour emanating from bins. This arrangement further undermines the design quality of the proposal, both in visual terms and regarding the viability of a pub use at ground floor level.

Servicing

- 8.41 No information has been provided on servicing arrangements for the proposed commercial unit. However, given the scale of development, it is likely that this could have been addressed by condition.

9.0 Human Rights Considerations

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
 - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
 - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First

Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

- 9.3 This report has outlined the consultation that has been undertaken on the planning Application and the opportunities for people to make representations to the Council as local planning authority.
- 9.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 9.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

10.0 EQUALITIES ACT CONSIDERATIONS

- 10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. The Council considered the proposed development would not conflict with any of the above considerations. While, no on street disabled accessible parking space is proposed. Council holds that it may resolved by way of condition were all other aspects of the scheme acceptable

11.0 CONCLUSION

- 11.1 All other relevant policies and considerations have been taken into account. Planning permission should be REFUSED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report

[illegible]

