

Committee: Development	Date: 14 th September 2010	Classification: Unrestricted	Agenda Item Number: 6.1
Report of: Director of Development and Renewal		Title: Town Planning Application	
Case Officer: Nasser Farooq		Ref No: PA/10/00037	
		Ward: Weavers (February 2002 onwards)	

1. APPLICATION DETAILS

Location: Rochelle School, Arnold Circus, London, E2 7ES
Existing Use:
Proposal: Continued use of Rochelle Canteen (use class A3), independent of the Rochelle Centre with ancillary off - site catering operation.

Drawing Nos/Documents: 1. Un-numbered Site Plan
2. Un-numbered Location Plan
3. 4SK.008
4. Supplementary documents for Rochelle School
5. Design and Access Statement
7. Planning Impact Statement
8. Management Plan

Applicant: Mr Anthony Bennett
Ownership: Mr James Moores
Historic Building: Grade II (the site is comprised of two Grade II listed buildings. The main building is located nearest to Arnold Circus and the second building fronts Club Row, the former school walls are also grade II Listed).
Conservation Area: Boundary Estate

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of this planning application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan 1998, the Council's Interim Planning Guidance for the purposes of Development Control (October 2007), Core Strategy Development Plan Document (Submission Version December 2009) associated supplementary planning guidance, the London Plan 2008 (Consolidated with Alterations since 2004) and Government Planning Policy Guidance and has found that:

- 1) The change of use of the approved ancillary canteen to a fully independent canteen (Use Class A3) provides a service which compliments the surrounding commercial and residential uses, without adversely affecting amenity or the free flow of traffic. As such, the proposed change of use is considered acceptable in-line with saved policy S7 of the Unitary

Development Plan (1998) which seeks to ensure such applications protect the amenity of nearby residents and the free flow of traffic.

2) Subject to conditions, the proposed independent café and ancillary catering facilities would not have an adverse impact upon the amenity of neighbouring residential properties and therefore accords with Saved Policies DEV2, DEV50 and HSG15 of the Tower Hamlets Unitary Development Plan 1998, and policy DEV1 of the Interim Planning Guidance (2007), which seek to protect the amenity of residents of the Borough.

3) The proposed change of use is not considered to have an adverse impact on the character and appearance of the Boundary Estate Conservation Area. As such the proposal is considered acceptable and in line with policy CON2(2) of the Council's Interim Planning Guidance (2007), which seeks to ensure development proposals preserve the setting of the Boundary Estate Conservation Area.

4) Subject to condition 3 (implementation of the service management plan) transport matters, including access and servicing, are considered acceptable and in line with saved policies DEV1 and T16 of the adopted Unitary Development Plan (1998) and policies DEV17 and DEV19 of the Interim Planning Guidance (2007). These policies seek to ensure developments can be supported within the existing transport infrastructure.

5) The proposed change of use is not considered to have an adverse impact on the historic fabric or identity of the listed building. As such the proposal is considered acceptable and in line with policy CON1 of the Council's Interim Planning Guidance (2007), which seeks to ensure development proposals preserve the historic fabric and setting of the Councils Listed Buildings.

3.0 RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission.

3.2 That the Corporate Director of Development and Renewal is delegated power to impose the following conditions [and informatives] on the planning permission to secure the following:

3.3 Conditions

1) Development approved in accordance with the plans

2) Hours of operation

Canteen: 9.30am to 4pm Monday to Fridays

Off-site Catering: 7.30am to 11pm

3) Implementation of service management plan.

4) Any other condition(s) considered necessary by the Corporate Director Development & Renewal.

3.4 Informatives for Planning Permission

3.5 1) Any other informative(s) considered necessary by the Corporate Director Development & Renewal.

4. Background

- 4.1 This application for planning permission was reported to Development Committee on 18th August 2010 with an officer recommendation for approval.
- 4.2 Members' indicated that they were minded to refuse the planning application because of concerns over:
1. Overlooking
 2. Parking, as a result of deliveries
 3. Parking, for patrons of the site.
 4. Noise disturbance
 5. Impact on adjoining area

5.0 Legislative framework

- 5.1 Guidance is clear that, should a Committee resolve to overturn the planning officer's recommendation, careful consideration is required as to whether the Council can justify the reason for refusals at appeal.
- 5.2 Should the reasons for refusal not be justified then costs could be awarded against the Council.
- 5.3 Paragraph 1.4.2 of the Planning Inspectorates guidance on appeals sets out "a number of core principles which underpin the operation of a well-functioning appeal system". These include a requirement that:

"where the elected members' decision differs from that recommended by their officers, it is essential that their reasons for doing so are...clear, precise and comprehensive."

- 5.4 The same paragraph emphasises:

"the importance of using the costs regime properly to regulate the system and ensure that all who use it act reasonably and do not lead others to incur unnecessary expense."

- 5.5 The ministerial statement in Annexe A includes the following indication of the policy approach of the Secretary of State which has clear implications concerning possible awards of costs against planning authorities:

"In anticipation of the possibility of appeal, local planning authorities should ensure that their reasons for a decision are clear, precise and comprehensive, especially when the decision taken by elected members differs from that recommended by their officers. When refusing an application, local planning authorities should consider carefully whether they have a sufficiently strong case, capable of being argued at appeal, on the basis of the material before them."

- 5.6 More detailed guidance of relevance to this appeal appears in part B of the Annex:

"B20. Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all

respects. If they fail to do so, costs may be awarded against the authority.

B21. While planning authorities are expected to consider the views of local residents when determining a planning application, the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence. Planning authorities should therefore make their own objective appraisal and ensure that valid planning reasons are stated and substantial evidence provided.”

- 5.7 Taking the above into consideration, officers have assessed the reasons for refusal given by Members.

6.0 Assessment of reasons for refusal.

Overlooking

- 6.1 Overlooking was cited as a reason for refusal. Officers consider that the majority of the site is screened at ground floor level by a brick wall measuring at least 2m in height. Therefore, the views that are afforded to patrons of the site to residential properties are at oblique angles.
- 6.2 In addition to this, the centre of the outdoor area is some 52 metres from Walton House, and 32 metres from the northeast corner of Clifton House. These are the nearest affected residential properties to the site. The Councils Unitary Development Plan suggests a distance of more than 18m is likely to result in minimal impact in terms of overlooking.
- 6.3 Furthermore, the proposals do not involve the construction of a new building. They simply involve the formalisation of its existing use. Consequently, overlooking impacts are not a significant consideration for this application as both the building, and its use as a canteen, are well established (and benefit from planning permission).
- 6.4 Should the Committee wish to retain this reason for refusal, they would need to provide evidence that significant overlooking was occurring within the 18m area outlined in Council policy. Since such evidence does not exist, it is strongly recommended that this reason for refusal is not included on the decision letter.

Noise disturbances

- 6.5 Members suggested that the impact of the proposal in terms of noise was a justified reason for refusal, contrary to the advice from Council officers who outlined that since the existence of the café, Environmental Health had not received any specific complaints regarding noise nuisances from the café.
- 6.6 In addition to this, officers outlined that the hours of operation of the café were no later than 4.30pm. As such, any noise encountered would be during the day and outside typically noise sensitive hours.
- 6.7 Furthermore, it is important to understand that the Rochelle Canteen is a very small operation measuring approximately 30m² in area with just 36 seats.

- 6.8 In these circumstances, it is not considered that the proposal would have sufficient impact on residents amenity to warrant a refusal of the application and that there is no evidence that would justify such a refusal, against officer's recommendation.

Parking as a result on deliveries and patrons of the site.

- 6.9 The third suggested reason for refusal is on Highway grounds. The Committee recommended that the application be refused on the grounds of an increase in vehicular movement within the area and the servicing arrangements that exist.
- 6.10 This suggestion was contrary to the advice given by both planning and highway officers who advised that the small scale nature of the proposal was unlikely to result in an adverse impact on the highway network.
- 6.11 Furthermore, the canteen operates within the hours of the Control Parking Zone, therefore, any patrons driving from outside the area would not be able to park within the vicinity. As such, the impact on the highway was likely to be minimal.
- 6.12 In light of the above, officers do not consider that there is any evidence to support a reason for refusal, and in the absence of such evidence against the Councils expert officer's support, such a reason for refusal could not be sustained.

Impact on the conservation area

- 6.13 Councillors cited the impact of the application on the Conservation Area as a reason for refusal. Officers consider that this is not a sound reason for refusal for the following reasons.
- 6.14 Firstly, the site has an approved consent to be used as an ancillary café. Therefore, the principle of having a café at this site has already been assessed and considered acceptable within the conservation area.
- 6.15 In terms of the potential for impacts on the character and appearance of the conservation area, given that the building already exists, (and planning permission was granted for its conversion and associated works), the proposal cannot be considered as having any unacceptable impact on character and appearance as nothing is proposed to change the current situation.
- 6.16 Secondly, the canteen is located within the compounds of a former school, within the Boundary Estate. This school building along, with the former workshops (Marlow workshops), the retail uses (Calvert Avenue) and the Virginia School, illustrate that whilst the area is predominately residential, it contains a mixture of different uses which are in keeping with the character of the area.
- 6.17 For the Council to sustain a reason for refusal, it needs to be demonstrated that in accordance with the advice given in PPS5- Planning and the Historic Environment, the retention of the canteen will materially harm the significance of the heritage asset or its setting.
- 6.18 There is no evidence to support this argument. As such, officers cannot recommend this as a reason for refusal.

7. Suggested reasons for refusal

- 7.1 Should members still feel that the basis for refusing the application and the reasons for refusal are sound, then Council officers suggest the following reasons for refusal.

1. The proposed development makes inadequate provision for servicing and will therefore lead to congestion and obstruction of Arnold Circus and the surrounding streets, to the detriment of the local amenity. As such, the proposal is contrary to saved Policies DEV2 and T16 of the Unitary Development Plan (1998) which seek to ensure development proposals do not result in a deterioration in the environment of residential areas.

2. The proposed development makes inadequate provision for car parking and will therefore lead to congestion and obstruction of Arnold Circus and the surrounding streets, to the detriment of the local amenity and the free flow of traffic. As such, the proposal is contrary to saved Policies DEV2 and T16 of the Unitary Development Plan (1998) which seek to ensure development proposals do not result in a deterioration in the environment of residential areas.

3. The proposed use would result in an unacceptable degree of overlooking and loss of privacy to the detriment of the amenity of occupiers of adjacent residential properties, contrary to saved policies DEV2 and HSG15 of the Unitary Development Plan (1998) and Policy DEV1 of the Interim Planning Guidance (2007) which seek to preserve residential amenity.

4. The cumulative impact of the noise, disturbance and related activities that would result from these premises would be harmful to the living conditions of adjacent residents and would therefore be contrary to saved policies DEV2, DEV50 and HSG15 of the Unitary Development Plan (1998) and Policy DEV1 of the Interim Planning Guidance (2007) which seek to preserve residential amenity.

5. It is considered that the proposal, by reason of its commercial use in a predominately residential area, would adversely affect the character of the Boundary Estate Conservation Area. As such, the proposal is contrary to Council Policy CON2 of the Interim Planning Guidance (2007) which seeks to ensure new uses are not detrimental to the character, fabric or appearance of conservation areas and their settings.

8.0 Conclusions

- 8.1 All other relevant policies and considerations have been taken into account. The Council consider Planning permission should be granted for the reasons set out in the RECOMMENDATION section at the beginning of this report.