

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE STRATEGIC DEVELOPMENT COMMITTEE**

**HELD AT 7.00 P.M. ON THURSDAY, 16 SEPTEMBER 2010**

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

**Members Present:**

Councillor Carli Harper-Penman (Chair)

Councillor Bill Turner (Vice-Chair)

Councillor Kabir Ahmed

Councillor Shahed Ali

Councillor Gloria Thienel

Councillor David Edgar

Councillor Anwar Khan

Councillor Khaled Uddin Ahmed

**Other Councillors Present:**

Councillor Tim Archer

Councillor Peter Golds

**Officers Present:**

Owen Whalley	– (Service Head Planning and Building Control, Development & Renewal)
Stephen Irvine	– (Development Control Manager, Development and Renewal)
Megan Crowe	– (Legal Services Team Leader, Planning)
Jerry Bell	– (Strategic Applications Manager Development and Renewal)
Ila Robertson	– (Applications Manager Development and Renewal)
Simon Ryan	– (Team Leader, Development and Renewal)
Shay Bugler	– (Strategic Applications Planner, Development and Renewal)
Bridget Burt	– (Senior Planning Lawyer, Legal Services, Chief Executive's)
Zoe Folley	– (Committee Officer, Democratic Services Chief Executive's)

**1. APOLOGIES FOR ABSENCE**

Apologies were received on behalf of Councillor Emma Jones, for whom Councillor Gloria Thienel was deputising.

## 2. DECLARATIONS OF INTEREST

Members declared interests in items on the agenda for the meeting as set out below:-

Councillor	Item(s)	Type of Interest	Reason
Carli Harper-Penman	7.1	Personal	Had received representations from a number of residents, Members of the Shadwell Labour Party and two sitting Councillors. The Chair stated that was happy to make public her response to these issues.
	7.3	Personal	Pledge made in the Labour Group Election Manifesto on the matter in question.  Former employer subcontracted to Job Centre Plus but not in this Borough.  Had received correspondence from Indigo Planning Ltd.
Bill Turner	7.1	Personal	Had received representations from Members of Shadwell Labour Party including Baroness Uddin who had made a public representation in

			favour.  Had received correspondence from Indigo Planning Ltd.  Member of the Scrutiny Review Panel on Childhood Obesity.
Anwar Khan	7.1	Personal	Had received correspondence from interested parties.
	7.3	Personal	Had received correspondence from Indigo Planning Ltd.
David Edgar	7.1	Personal	Had received correspondence from interested parties.
	7.3	Personal	Had received correspondence from Indigo Planning Ltd.
Kabir Ahmed	7.1, 7.3	Personal	Had received correspondence from interested parties.
Shahed Ali	7.1	Personal	Had received correspondence from interested parties.

### 3. UNRESTRICTED MINUTES

The Committee **RESOLVED**

That subject to the following amendments, the unrestricted minutes of the meeting of the Committee held on 2 August 2010 be agreed as a correct record and signed by the Chair.

Item 2 – (Pg 4 of the minutes) - Councillor Bill Turner's Declaration of Interest being amended to clarify that he had visited the Rich Mix Centre on four occasions in a 5 year period.

Item 6 – (Pg 6) – being amended to state that Councillor Shahid Ali's proposal fell without being seconded.

Item 6 (Pg 6) – Voting on the resolution – being amended to state 'on a vote of 6 for and 1 against with **1 abstention**'

#### **4. RECOMMENDATIONS**

The Committee **RESOLVED** that:

- 1) In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director, Development and Renewal along the broad lines indicated at the meeting; and
- 2) 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, Development and Renewal is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision.

#### **5. PROCEDURE FOR HEARING OBJECTIONS**

The Committee noted the procedure for hearing objections at meetings.

#### **6. DEFERRED ITEMS**

There were no deferred items.

#### **7. PLANNING APPLICATIONS FOR DECISION**

##### **7.1 375 Cable Street, London, E1 (PA/07/03290)**

Update Report Tabled.

The Chair pointed out that Councillors Shahed Ali and Anwar Khan were ineligible to vote on this item as they had not been present at the start of the item.

Mr Owen Whalley (Service Head, Planning and Building Control, Development and Renewal) presented the report regarding 375 Cable Street

seeking permission for change of use from a grocery shop to a hot food takeaway use.

Mr Stephen Irvine (Development Control Manager) presented the detailed application. Mr Irvine explained the history of the application, the outcome of the appeal against refusal and the ruling of the Judicial Review (JR). At which, the court ruled that healthy eating and proximity was capable of being a material consideration and should therefore be taken into account. Overall it was considered that the proposed change of use was acceptable in amenity terms, highways terms, in keeping with policy, and the proposed flue was acceptable and complied with policy. Suitable waste storage/collection arrangements had been secured by condition. The Council's experts had considered the scheme and had determined that it was acceptable.

However the key issue centred around the healthy lifestyles issue. The Council's Core Strategy seeks to reduce usages that may detract from healthy lifestyles. Government guidance also stated that Local Authorities should strive to manage the proliferation of fast food outlets to encourage healthy eating. A key issue was therefore whether this proposal comprised this aim.

Members considered a map of the consultation area. (Pg 33 of the agenda) showing that there were no other takeaways within this area.

It was also reported that there were two schools near the site.

The Chair then invited representations from persons who had registered for speaking rights in accordance with the procedures for hearing objections, as set out in the Council's Constitution.

Ms Emma Davidson, local resident, stated the Development Committee had recently considered a similar catering application on 18<sup>th</sup> August 2010 and decided to refuse it due to overlooking, impact on the street scene and parking. This had set a precedence. Each of the reasons for refusal were relevant to this case. This was a credit to the Council. This decision could be made again here. Residents had submitted a Freedom of Information request as the costs to the taxpayer of this scheme were unknown to residents.

Ms Davidson voiced concerns over damage to the drainage system, which was being inspected by Tower Hamlets Homes. The proposals would make this worse. She expressed concern over the validity of the signatures on the petition in favour. The signatures were ominous and were still being collected after the closing date.

Mr Charles Copeland, speaking in objection, stressed the need for Members to take into account the many objections which provided good grounds for refusal. He expressed concern at the accuracy of the noise assessment. He considered that the design of the flue was unacceptable. The report says that it would be built on the wall but it would run without cover before meeting the wall. The brick cladding was out of keeping with the area and was incongruous.

He objected to the position of the waste storage system and that this had not been adequately addressed. When asked, it was just said that 'the bin had to go somewhere'.

Mr Copeland objected to the number of fast food outlets located within walking distance of Cable Street. There were many. The report stated that the takeaway would not sell takeaway food. This was inaccurate. He requested that the Council should give credence to the Inspectors decision in Walthamstow. Insufficient consideration had been given to the policy on healthy eating and the need for young people to have a healthy start to their lives and the amenity impact on residents.

Councillor Tim Archer spoke against the application. He advised that, in his capacity as Chair of Health Scrutiny Panel, he had carried out a review of healthy eating and lifestyles. The conclusions made clear that there was a strong link between the availability of fast food, the presence of takeaways and obesity. The existence of a takeaway in Cable street would have a detrimental impact on the health of our young people. The Borough had the second highest rates of obesity, heart disease and diabetes. Life expectancy was 10 years lower in Shadwell than in Millwall.

Councillor Archer expressed concern at the close proximity of six schools to Cable Street. There were already a number of fast food outlets in the area. The Judicial Review made it quite clear that policy on healthy eating was a material planning consideration. He urged the Committee to bear these concerns in mind and to reject this application.

Councillor Peter Golds spoke in objection to the application. He drew attention to the history of the application, the Inspectors judgement, this was the fifth time it had been before a Planning Committee for consideration. He drew attention to the strength of the opposition against the application. Every time it had previously been reported to the Committee, the Police and the Local MP have rejected it. The local Greater London Assembly Member had objected to it too. Last night at Full Council, a Member had sought assurances on what the Council was doing about fast food outlets.

He claimed that a nearby residents had received a letter from the Planning Department addressed to a person who did not live there. Councillor Golds claimed that the persons address was being fraudulently used to generate support.

He felt that the takeaway would provide cheap deep fried unhealthy food.

Mr Almin Ahmed, spoke on behalf of the Applicant. He stated that the Applicant had been pursuing this application for three years. He expressed concern at financial implications for his family. The Application would meet the needs of everyone. The Applicant had spent a lot of time addressing the objections and had carried out a lot of work to address them, which had now all been completed. It would not be a typical takeaway. It would also sell

healthy food as well such as salads and sandwiches The neighbours were notified and invited to comment. He urged the Committee to support the application.

Mr Paplu Ali also spoke in favour of the application. He stated that the Applicant was a long standing business, and his last business was very valuable to the community. He had to overcome a lot of obstacles along the way. The conditions had been met. It appeared that a minority of the community were unnecessarily wasting time over issues that could easily be resolved. The fact of the matter was many people supported the proposals. The majority of the community were in favour of it. The court battle was lengthy and unfair. The Guidance on healthy eating was not planning law it was just guidance.

In reply to the presentation, Members raised the following points:

- Queried the significance of fast food outlets in contributing to health issues compared to other factors,
- what the takeaway would be selling,
- Anti Social Behaviour issues given the concerns expressed by the Police. The need to pay attention to their comments.
- Asked officers to clarify the significance of the 200 metre walking distance measurement from the premises
- Queried the number of fast food outlets in the wider area outside the consultation map area.
- The proximity of the proposed takeaway to the nearest schools, the number of school journeys that passed through Cable Street
- Expressed concern about impact on the Cycle Superhighway arising from traffic from use of a takeaway. It was already well used and needed to be kept free from traffic. Cable Street was not a wide street. Any increase in traffic would have a detrimental affect on it.

In reply to these points, Officers reported the following points.

- Referred to the difficulties in establishing a link between hot food takeaways and unhealthy lifestyles as highlighted by the Waltham Forest decision.
- It was difficult to argue that all hot food, by definition, was unhealthy and that takeaways were solely to blame for unhealthy lifestyles. It was a matter for the Committee to determine how much weight they put on the healthy eating issue given the premises proximity to schools.
- Noted the letter of support welcoming the sale of chicken and chips at the premises. It was acknowledged that, whilst they may sell this, they may also provide a range of healthier options.
- Planning Officers had met with the Police, who worked closely with the team, to discuss the application. The main issues for the Police were the reports of low level crime in the area. However there was no evidence linking anti social behaviour with the existence of a hot food takeaway.

- The nearest takeaway was located to the North East of the site and was over 300 metres away.
- As indicated in the report the nearest schools were the Bishop Challoner School and the Bluegate Field School.
- Issue around costs were not a material consideration.

In summary, Members considered that the issues around healthy eating and proximity to schools were material.

Consequently, in view of the healthy eating policy, the proximity of the premises to schools, and the concerns around impact on the Cycle Superhighway, the Committee were minded to refuse the application.

On a vote of 1 for and 4 against, the Committee **RESOLVED**:

That the planning permission at 375 Cable Street, London for change of use of the ground floor from retail (Class A1) to hot food take-away use (Class A5) and the erection of an extract duct on the side elevation be **REFUSED** for the following reasons:

- impact on the Cycle Superhighway– due to parking and traffic arising from use of the takeaway.
- proximity to schools/health consideration - The scheme, by virtue of its close proximity to schools, contradicts the government's obesity strategy seeking to locate takeaways away from schools.

## 7.2 40 Marsh Wall (PA/10/1049)

Update Report Tabled.

Mr Owen Whalley (Service Head, Planning and Building Control, Development and Renewal) presented the report regarding 40 Marsh Wall seeking the demolition of the existing building and the erection of a 38 storey hotel with a three level basement, including public open space and a coach and taxi drop of point on Marsh Wall.

Mr Simon Ryan (Deputy Team Leader, Development and Renewal) presented the detailed report. Planning permission was refused on 7<sup>th</sup> May 2010 by this Committee for a similar application (PA/09/1220). Since that time the Applicant had worked to amend the scheme to address the reasons for refusal. Mr Ryan comprehensively addressed the main matters for consideration concerning highways issues, noise impacts, height and scale of the building, the scope of the Section 106 Agreement and the coach and taxi drop arrangements. The Applicant had submitted a satisfactory travel plan designed to mitigate any highway and amenity impacts. Overall it was considered that that the scheme accorded with planning policy.



Officers also presented slides showing the design of the scheme in relation to the area.

In response to the report, members asked questions which were answered by officers regarding the scope of the Section 106 contribution, the adequacy of the off street coach parking and taxi drop off arrangements given the volume of taxis that frequented the area, and its proximity to another large hotel, the impact on nearby residential properties and the height bulk and design of the building.

Councillor Shahid Ali **MOVED** an amendment to the Section 106 agreement (requesting that funding be moved from (a) the Employment and Training Budget to (f) Community organisation contribution budget) which was seconded by Councillor Anwar Khan. On a vote of 3 for and 4 against the amendment fell.

Councillor Shahid Ali also proposed changes to the servicing proposals, requesting that they use an alternative point. Officers reported that, in finalising the travel plan, they would take into account this request.

Councillor Shahid Ali also **MOVED** that the Community organisation contribution budget (f) be changed to 'Youth Community and Arts'. This amendment was carried.

Subject to this amendment

On a vote of 5 for and 1 against with 1 abstention the Committee **RESOLVED**

1. That planning permission at 40 Marsh Wall for demolition of existing office building and erection of a 38 storey building (equivalent of 39 storeys on Manilla Street) with a three-level basement, comprising a 305 bedroom hotel (Use Class C1) with associated ancillary hotel facilities including restaurants (Use Class A3), leisure facilities (Use Class D2) and conference facilities (Use Class D1); serviced offices (Use Class B1); public open space, together with the formation of a coach and taxi drop-off point on Marsh Wall for be **GRANTED** subject to:

A. Any **direction** by **The Mayor**

B. The prior completion of a **legal agreement**, to the satisfaction of the Chief Legal Officer, to secure the following:

Financial Contributions:

- a) Employment & Training – Provide **£597,608** towards improving access to employment and training for local residents including Skillsmatch, and toward the Enterprise Team including local business support and supply chains;
- b) Transport Infrastructure Improvements - **£722,627** comprising:
  - £424,627 towards Crossrail;

- £150,000 towards footway and carriageway reconstruction beyond the immediate environs of the site;
  - £75,000 towards Mastmaker Road/Marsh Wall junction improvements;
  - £20,000 towards the provision of TfL DAISY information boards;
  - £50,000 towards the re-provision of bus stop; and
  - £3,000 towards the funding of Workplace Travel Plan monitoring;
- c) Public Art - Provide **£35,000** towards public art within the local area. This is in line with contributions secured in the Millennium Quarter;
- d) Tourism and Olympic Signage - Provide **£1,400** towards the Thames Path National Trail;
- e) Open Space Provision – **£40,260**;
- f) Youth Community and Arts. - **£100,000**;
- g) Olympic volunteering programme - **£30,000**;
- h) Tower Hamlets leisure marketing and promotion - **£108,000**; and
- i) Tower Hamlets business tourism marketing programme - **£30,250**.

Non-Financial Contributions:

- a) Car-free agreement;
- b) TV reception monitoring;
- c) Publicly accessible open space – To maintain access across the new public realm ;
- d) Code of Construction Practice - To mitigate against environmental impacts of construction;
- e) Access to Employment - To promote employment of local people during and post construction, including an employment and training strategy;
- f) Social Compact Obligation to Commit Skills - To provide training and skills development for local secondary school children, apprenticeships and developing employment linkages with the community for the duration of occupancy at the site;
- g) Servicing Management Plan – To ensure servicing is undertaken in an appropriate manner;
- h) Air quality monitoring during construction;
- i) Travel Plan;
- j) Relocation of bus stop; and
- k) Disabled bay, coach drop off and taxi parking to be provided/maintained.

Total financial contribution: **£1,665,145**.

2. That the Head of Planning and Building Control is delegated power to impose conditions [and informatives] on the planning permission to secure the following:

**Conditions**

- 1) Permission valid for 3 years;
- 2) Contamination;
- 3) Construction Management Plan;
- 4) Foul and surface water drainage;
- 5) Monitoring and protection of ground water;

- 6) Archaeology;
- 7) Air quality assessment;
- 8) Movement of freight by water;
- 9) Evacuation plan;
- 10) Scheme of necessary highways improvements to be agreed (s278 agreement);
- 11) Piling and foundations;
- 12) Landscape management;
- 13) Ventilation and extraction;
- 14) Refuse and recycling;
- 15) Service Management Plan;
- 16) Black Redstart habitat;
- 17) Brown roof details;
- 18) Accessible hotel rooms;
- 19) Access management plan;
- 20) Pedestrian audit;
- 21) Heat network;
- 22) Materials – samples and details;
- 23) BREEAM;
- 24) Relocation of bus stop;
- 25) Vehicular, cycle and service parking;
- 26) Timely provision of coach/taxi layby on Marsh Wall;
- 27) Means of access and egress for people with disabilities;
- 28) Hours of building works;
- 29) Hammer driven piling;
- 30) Noise levels;
- 31) Vibration;
- 32) Compliance with the submitted Energy Strategy;
- 33) Photovoltaic panels;
- 34) Wheel washing;
- 35) Servicing and delivery via Manilla Street;
- 36) Compliance with Flood Risk Assessment;
- 37) Hotel Use Only;
- 38) Period of hotel suite occupation no longer than 90 consecutive days;
- 39) Approved plans; and
- 40) Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal.

### **Informatives**

- 1) Section 106 agreement required;
- 2) Section 278 & 72 Highways agreements required;
- 3) Contact Thames Water regarding installation of a non-return valve, petrol/oil-interceptors, water efficiency measures and storm flows;
- 4) Changes to the current licensing exemption on dewatering;
- 5) Contact London City Airport regarding cranes and scaffolding;
- 6) Contact LBTH Environmental Health;
- 7) Contact Environment Agency;
- 8) Section 61 Agreement (Control of Pollution Act 1974) required;
- 9) Contact London Fire & Emergency Planning Authority; and

- 10) Any other informative(s) considered necessary by the Corporate Director Development & Renewal.
3. That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above. If by the date nominated in the Planning Performance Agreement the legal agreement has not been completed, the Corporate Director development & Renewal is delegated power to refuse planning permission.

### **7.3 60 Commercial Road, London E1 1LP (PA/10/1481)**

Update Report Tabled.

Mr Owen Whalley (Service Head, Planning and Building Control, Development and Renewal) presented the report regarding 60 Commercial Road, London.

The Chair then invited representations from persons who had registered for speaking rights in accordance with the procedures for hearing objections, as set out in the Council's Constitution.

Mr Jeff Field spoke in objection to the application regarding the impact on 52 – 58 Commercial Road. He considered that the application would adversely affect daylight levels to this property. He considered that the BRE assessment was wrong and that their building should have been classified as residential property. It fell within the residential dwelling category. The scheme consisting of 19 floors, was a lot higher than theirs and would have an overbearing impact on their property. Daylight and sunlight was very important to his clients amenity who expected high standards from their accommodation. The density of the scheme was three times in excess of what was required in London Plan Matrix. He urged the Committee to refuse this application.

Mr Jim Poole (Applicant's Agent) spoke in favour of the application. He reported that the previous application which was refused was subject to appeal but this would be withdrawn if this application was granted. He considered that all of the previous concerns had now been addressed and that the issues raised in objection were speculative and unsubstantiated. The Applicant had increased the Section 106 contribution in accordance with the increase in floor space which the Council considered acceptable. The Applicant had received many letter of support. He considered that the Section 106 agreement would benefit the whole community. He also referred to the plans to relocate the Job Centre to mitigate the issues around that, ensuring there was no loss of employment floor space which was welcomed.

Mr Simon Ryan, (Deputy Team Leader, Development and Renewal) introduced the report to Members, drawing attention to the further update report tabled at the meeting. A similar application had been considered previously at the Strategic Development Committee meetings in November

and December 2009, where Members were minded to refuse the application due to concerns around the design, excessive height and bulk, unacceptable loss of daylight and sunlight and insufficient Section 106 contributions. He reported that, since that time, the Applicant had made a number of changes to the scheme including increasing the Section 106 agreement and public realm benefits to mitigate the development.

Mr Ryan also drew attention to the letters of representations received that were material to the application addressing each concern. The main issues for consideration were land use, design, transport and highways issues, environmental issues, amenity and the impact on neighbouring properties. In summary it was considered that the proposed usage was in line with policy therefore the Officer recommendation was to grant.

In response to the report, Members queried the Section 106 Agreement. Specifically the community contributions. They requested that a breakdown of these plans be provided including -

- the remit of the Aldgate Master Plan area and surrounding area,
- clarification of the term open space in this context.

Concern was also expressed at the plans to provide an A4 drinking establishment given the issues with binge drinking and anti social behaviour in the area and the premises close proximity to residential properties

As a result, Councillor Shahid Ali **MOVED** a motion to remove the A4 use from the proposal which was seconded by Councillor Anwar Khan. This was unanimously **AGREED**.

Concern was also expressed at the adequacy of the health care contributions given the expected increased in demand on such services arising from the proposal.

Members also requested that the Applicant's commitment to providing in house health services be confirmed.

Officers reported that, as part of the application, a student management plan had been secured and would need to be agreed with the Council prior to occupation.

Concern was also expressed at daylight and sunlight impacts upon surrounding properties.

In view of these concerns, on a vote of 2 for and 4 against, the Committee:

### **RESOLVED**

That the planning permission at 60 Commercial Road, London E1 1LP for Demolition of existing building and erection of a 19 storey building plus basement to provide plant room; 200 sqm retail/commercial /community unit

(class A1/A2/A3/A4/B1/D1) at ground floor and student accommodation on upper floors (comprising 383 units) and ancillary uses; associated servicing and landscaping be **NOT ACCEPTED**.

The Committee indicated that they were minded to refuse the planning application because of serious concerns over:

- Inadequate s106 contributions, particularly with regard to healthcare and community projects
- Daylight and sunlight impacts upon surrounding properties
- Noise disturbance

The committee also resolved that the A4 use should be removed from the scheme.

In accordance with Development Procedural Rules, 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.

## 8. OTHER PLANNING MATTERS

Nil items.

The meeting ended at 10.05 p.m.

Chair, Councillor Carli Harper-Penman  
Strategic Development Committee