

**Application for Planning Permission**

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<b>Reference</b>	PA/20/00415
<b>Site</b>	140, 146 Brick Lane and 25 Woodseer Street, London, E1 6RU
<b>Ward</b>	Spitalfields and Banglatown
<b>Proposal</b>	Redevelopment to include erection of a part five storey office building (Class B1) plus rooftop plant with ground floor and first floor commercial units (Class A1/A3) and two storey basement for provision of plant, servicing, storage and a gym (Class D2) (140 Brick Lane - Plot S1), linked to the reconfigured ground floor of the adjacent building and provision for commercial units (Class A1) (146 Brick Lane - Plot H), refurbishment and two storey extension of the adjacent building (25 Woodseer Street - Plot S2) for office use (Class B1) with ground floor commercial unit (Class A3), plus rooftop plant and external landscaping.
<b>Summary Recommendation</b>	Grant planning permission subject to conditions and a legal agreement
<b>Applicant</b>	Old Truman Brewery Limited
<b>Architect/agent</b>	DP9
<b>Case Officer</b>	Patrick Harmsworth
<b>Key dates</b>	Application validated 06/05/2020 First round of public consultation finished on 05/06/2020 Second round of public consultation finished on 20/01/2021 Development Committee on 27/04/2021

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**1. BACKGROUND**

- 1.1 This application was considered by the Development Planning Committee on 27 April 2021. A copy of the original report is appended (Appendix 1).
- 1.2 As set out in the Minutes of the meeting, the Committee expressed concern that further exploration was needed on the planning obligations in relation to the terms and provision of affordable workspace; the provision of independent retail with a focus on supporting existing local businesses; and the community cohesion aspects of these matters.
- 1.3 The application was therefore deferred by Members to allow officers and the applicant to negotiate on these matters. Several changes have now been made to the proposed affordable workspace and independent retail commitments in order to address the reasons for deferral. These are set out in this report and also appended (Appendix 2). The officer recommendation remains to grant planning permission and has been updated to reflect the outcome of the negotiations.

1.4 Prior to the Committee meeting on 27<sup>th</sup> April 2021, a Committee site visit took place (attended by the 4 Committee Members and Officers) on Thursday 22 April 2021. The Committee viewed the site and noted the key features of the scheme including: the relationship with surrounding properties, the areas to be developed, the approximate position of the buildings and the proposed open space and access points.

## **2. UPDATE ON REPRESENTATIONS**

2.1 As set out in the original report (Appendix 1), up to April 2021 the number of representations received in response to notification and publicity of the application was as follows:

- a. 7,051 letters of objection; and
- b. 79 letters of support.

2.2 Since then, a further 425 objections and 3 letters of support have been received from residents (up to 2 September 2021). There are no additional issues highlighted within these representations that are not already summarised in section 4 of the original report or require further assessment.

## **3. CONSIDERATION OF THE COMMITTEE'S REASONS FOR DEFERRAL**

### **Affordable Workspace**

#### Proposed amount and duration

3.1. The Council's Local Plan Policy D.EMP2 requires a minimum of 10% of employment floorspace on major schemes to be provided at a minimum 10% below market rates for at least 10 years. The London Plan requires affordable workspace to be provided for 15 years.

3.2. At Development Committee, the proposals included the allocation of not less than 10% of the workspace within the development to be not less than 30% below the indicative market rate for a period of 10 years.

3.3. Following deferral, the applicant has increased their offer to provide affordable workspace that is not less than 45% below the indicative market rent for a period of 15 years.

3.4. The proposed 45% 'discount' on workspace would exceed the Council's Local Plan policy requirement but would be in line with Policy SPITAL7 of the draft Spitalfields Neighbourhood plan. Although still in draft, the Neighbourhood Plan policies now carry significant weight, having been subject to examination and recommended for referendum. The proposed 15-year duration of the affordable workspace would exceed the minimum durations required in the Local Plan (10 years) and draft Neighbourhood Plan (12 years); and would meet the requirements of London Plan policy.

#### Size of business

3.5. At Development Committee, the application did not include restrictions on the size of business that the affordable workspace would be secured for. This has now been negotiated to comprise the definition of "small" businesses under the Companies Act 2006. Using the current definition, this would mean satisfying two or more of the following criteria in a financial year:

- Turnover not more than £10.2m
- Balance sheet total not more than £5.1m
- Employees not more than 50

### Proposed 'Affordable Workspace Strategy'

- 3.6. An Affordable Workspace Strategy, to be submitted and secured as part of the section 106 agreement, was originally proposed. Since the deferral of the application, the details of the Strategy have been negotiated and developed, with the aim of ensuring that the affordable workspace is focused on and prioritised for local businesses in keeping with the nature and character of the wider Brick Lane and Spitalfields area. The strategy would comprise the following:
- Fit out and specification of the affordable workspace which shall be a 'Category A' specification, referring to the basic finishing of an interior space.
  - A marketing strategy which consists of:
    - an initial marketing period of three months to be focussed on local marketing only as per the range of methodologies below;
      - i. engagement and outreach through the Truman Brewery's business network;
      - ii. promotion via the Truman Brewery's mailing lists;
      - iii. promotion via the Truman Brewery's social media channels;
      - iv. hosting 'open house' type events targeted at local micro and small enterprises to showcase the affordable workspace available;
      - v. promotion through Truman Brewery associated projects such as Free Range and Fashion East;
      - vi. engaging independent and local commercial property agents based in and around Spitalfields; and
      - vii. promotion via the contacts and strategies developed by the Council's Growth and Economic Development Team.
    - giving priority with first applications and nominations for lettings to be offered to prospective occupiers who are based 'locally', that is, existing Tower Hamlets business rates payees; existing Tower Hamlets council tax payees; or businesses based within a three miles radius of the Development; and
    - a strategy for seeking occupiers that are in keeping with the nature and character of existing workspace occupiers within the Truman Brewery estate and the wider Brick Lane and Spitalfields area, with a strong focus on attracting independents.

### **Independent Retail**

#### Proposed amount and duration

- 3.7. The Local Plan does not contain a specific requirement to secure independent retail floorspace and the planning system is concerned with the use of land and buildings and not the occupier. However, principle 11 of the City Fringe development principles (in the Local Plan) seeks to reinforce the City Fringe character of small independent shops and businesses. In response to this sub-area principle, the applicant has proposed to secure independent retail units as part of the proposed development.

- 3.8. At Development Committee, the proposed amount of retail floorspace targeted towards independent retailers comprised of three retail units (20% of all retail units) for a period of no less than twenty years. This remains unchanged.

#### Size of business

- 3.9. At Development Committee, the agreed definition of 'independent retail' referred to small to medium-sized businesses that operate no more than ten similar retail outlets in London; or employ no more than 250 persons (full time equivalent).
- 3.10. To address the reason for deferral, similar to the affordable workspace obligation above, this definition has been negotiated to comprise the definition of "small" businesses under the Companies Act 2006. Using the current definition, this would mean satisfying two or more of the following criteria in a financial year:
- Turnover not more than £10.2m
  - Balance sheet total not more than £5.1m
  - Employees not more than 50

#### Proposed 'Independent Retail Strategy'

- 3.11. Similar to the Affordable Workspace Strategy above, the obligation to provide an Independent Retail Strategy has been developed further. Principally, the Strategy includes an initial three-month period for local marketing only; giving priority for lettings to potential occupiers who are based locally; and a strategy for seeking retail occupiers that are in keeping with the nature and character of the local area. The details are set out in full in paragraph 3.6 above, which also apply to this obligation.
- 3.12. The strategy would also include details of the fit out and specification of the independent retail units.
- 3.13. It is of note that the Section 106 clause would 're-start' if and when an independent retail unit vacates during the 20-year period.

#### **Compatibility with Regulations for Planning Obligations**

- 3.14. Regulation 122 of The Community Infrastructure Levy Regulations 2010 applies to planning obligations secured under Section 106 of the 1990 Act. Paragraph (2) of Regulation 122 states that an obligation may only constitute a reason for granting permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

- 3.15. The proposed obligations for affordable workspace and independent retail are deemed to meet the tests in Regulation 122, considering the site-specific circumstances and local context of the development and the material considerations identified by officers and the committee.

#### **Summary**

- 3.16. In summary, the proposed amendments to the proposed planning obligations - the increased provision and duration of affordable workspace; the addition details provided in relation to

local marketing; prioritisation of local businesses; selection of occupiers that reinforce the unique character of the area; and the quality of commercial spaces - would respond to the Committee's reasons for deferral.

- 3.17. The agreed definition 'small business' is appropriate for both obligations to ensure that occupiers are small in scale whilst maintaining flexibility to capture a range of micro, small and medium-sized enterprises.
- 3.18. Overall, these obligations would provide additional benefits to local businesses and the local community; and address the reasons for deferral. The obligations are provided in the context of a scheme that otherwise complies with the adopted development plan.

#### 4. RECOMMENDATION

- 4.1. That **conditional planning permission is GRANTED** subject to the prior completion of a legal agreement to secure the following amended planning obligations

##### Financial Obligations

- a. £33,900.00 towards construction phase employment skills training
- b. 151,869.10 towards end-user phase employment skills training
- c. £196,650.00 towards carbon off-setting
- d. £500 per heads of term

##### Non-Financial Obligations

- a. Economic incentives
  - i. Access to employment
  - ii. 20% local procurement
  - iii. 20% local labour in construction
  - iv. 3 construction phase apprenticeships
  - v. 2 end-user phase apprenticeships
- b. Affordable workspace
  - i. 10% of the proposed office space shall be affordable workspace at 45% discount from market rates for a minimum period of 15 years. Fitted out to Category 'A' specification and applicable to 'small businesses' only.
  - ii. Submission and approval of an Affordable Workspace Strategy, prior to the completion of the Construction Phase of the Development setting out in full the local marketing strategy.
  - iii. Priority given to lettings to existing businesses who are based locally.
  - iv. A strategy for seeking occupiers that are in keeping with the nature and character of existing workspace occupiers within the Truman Brewery estate and the wider Brick Lane and Spitalfields area, with a strong focus on attracting local independents.
- c. Independent Retail
  - i. 3no. independent retail units shall be secured for a period of 20 years.
  - ii. Submission and approval of an Independent Retail Strategy, prior to the completion of the Construction Phase of the Development setting out in full the local marketing strategy.
  - iii. Priority given to lettings to existing businesses who are based locally.
  - iv. A strategy for seeking occupiers that are in keeping with the nature and character of existing workspace occupiers within the Truman Brewery estate and the wider Brick Lane and Spitalfields area, with a strong focus on attracting local independents.
- d. Transport matters:

- i. S278 Agreement (works to Brick Lane/Woodseer Street)
- e. Public access to site; restricting development on threshold of site to the north to facilitate future pedestrian connection to the street network to the north in the event that the site to the north is brought forward for development.
- f. Compliance with Considerate Constructors Scheme

4.2. That the Corporate Director of Place is delegated the power to impose conditions and informatives to address the following matters:

### **Planning Conditions**

4.3. The conditions apply to each phase of the proposed development, insofar as they are relevant to that phase.

4.4. Compliance:

1. Permission valid for 3 years;
2. Development in accordance with approved plans;
3. Restrictions on demolition and construction activities (including hours of working in accordance with the Code of Construction Practice)
4. Provision and retention of cycle parking;
5. Limits on external plant noise;
6. Compliance with approved energy strategy;
7. Opening times of the Black Eagle Passage Gate (Monday to Sunday; 8am to 11pm).
8. Emissions from Non-road mobile machinery;
9. Air Quality Standards for Boilers and CHP Units
10. Details of kitchen extraction systems
11. Land Use – Proposed land uses being retail, employment, restaurants and gym, shall be maintained for the life time of the development.
12. Removal of permitted development rights to change within Class E.
13. Limiting use of the terrace areas on Woodseer Street to working hours only
14. Removal of permitted development rights for new boundary treatment
15. Timing of demolition and vegetation clearance (breeding birds) – between September and February

4.5. Pre-commencement:

16. Approval of onsite and or offsite air quality mitigation measures will be needed as required by the London Plan.
17. Approval of Demolition, Construction Environmental Management and Logistics Pan (Including Dust and Emissions Management Plan)
18. Approval of Land contamination remediation and mitigation
19. Approval and implementation of a scheme for archaeological investigation
20. Detailed surface water drainage scheme

4.6. Pre-superstructure works:

21. Approval of detailed design drawings and external facing materials including samples
22. Approval of landscaping details (including maintenance regime for green walls)
23. Secure by Design Accreditation

4.7. Prior to occupation:

24. Waste strategy and management
25. Service Management Plan
26. Land contamination verification report

27. Details of extraction, ventilation and external plant equipment
28. Full delivery, servicing and management plan
29. Travel Plan
30. BREEAM 'Excellent'
31. Submission of post completion verification report including as built calculations (SBEM) to demonstrate the reduction in CO2 emissions have been delivered on site
32. Public art installation on the corner building Design of Black Eagle Passage Gate

4.8. Informatives:

1. Subject to s278 agreement
2. Subject to s106 agreement
3. Development is CIL liable.
4. Basement works to be agreed with Highways structures team
5. Archaeology - Written schemes of investigation
6. Thames Water informatives