

<b>Committee:</b> Development	<b>Date:</b> 19 <sup>th</sup> October 2011	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Nasser Farooq		<b>Ref No:</b> PA/11/01717	
		<b>Ward(s):</b> East India and Lansbury	

## 1. APPLICATION DETAILS

**Location:** 249/251 East India Dock Road

**Existing Use:** Grace International Church (Use Class D1)

**Proposal:** Variation of conditions 2 (no audible noise), 4 (no more than 50 people) and 5 (hours of operation) of planning permission PA/07/165 dated 02/05/07 which allowed the continued use of premises as a place of worship.

The proposed variations are:

Condition 2 - Any speech, sound or music generated shall not be audible within neighbouring residential premises

Condition 4 - To increase the number of visitors to no more than 250. (Condition 4 currently imposes a limit of 50 people)

Condition 5 - To extend the hours of operation from the current approved hours of 9am and 10pm Monday to Saturday, and between 11am and 10pm on Sundays.  
to the following hours:

Mondays to Thursday : 10am to 11pm

Fridays : 10am to 12am (midnight)

Saturdays: 10am to 11pm and;

Sundays 11am to 11pm.

**Drawing Nos:** EAS\_P\_101 and EAS\_P\_102

**Supporting Documents:** Design and Access Statement dated June 2011.  
Transport Assessment June 2011  
Travel Plan Framework June 2011  
Acoustic Design Report dated 31 May 2011

**Applicant:** Mr Calton Morgan

**Owner:** Nabiganj Investment Co Ltd

**Historic Building:** N/A

**Conservation Area:** The rear of the site adjoins the St Frideswides Conservation Area.

## **2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS**

- 2.1 The Local Planning Authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Plan (2011), the Council's Core Strategy (2010), the London Borough of Tower Hamlets Unitary Development Plan (1998), the Council's Interim Planning Guidance (2007), associated supplementary planning guidance and Government Planning Policy Guidance and has found that:
- 2.2 The proposed variation of conditions 2, 4, and 5 to enable an extension of the hours of operations and the increase in number of visitors from 50 to 250 is likely to result in an increase in late-night noise, disturbance and general activity in the locality, which would have a detrimental impact on the amenity of nearby residential occupiers contrary to policy SP10 of the Adopted Core Strategy 2010, the objectives of saved policies DEV2 and DEV 50 of the adopted Tower Hamlets Unitary Development Plan 1998, together with policy DEV1 of the Interim Planning Guidance (2007), which seek to preserve residential amenity.
- 2.3 The increase in number of visitors from 50 to 250 is likely to have an adverse impact on the public highway in terms of parking. As such the proposal fails to accord with policy SP09 of the Core Strategy 2010, saved policies T16 in the UDP 1998 and policy DEV19 in the Interim Planning Guidance (October 2007) which seek to ensure developments reduce the need for motor vehicles. This is supported by policies 6.11-6.13 of the London Plan (2011) which requires Councils to assess all development proposals in terms of their traffic generation and impact on traffic congestion.

## **3. RECOMMENDATION**

- 3.1 That the Committee resolve to **refuse** planning permission for the reasons set out in the summary of material planning considerations.

## **4. PROPOSAL AND LOCATION DETAILS**

### **Relevant Planning History**

- 4.1 The site has an extensive planning history. The following is the most relevant planning applications that relate to the use of the site as a place of worship.
- 4.2 On 30<sup>th</sup> January 2001, the Change of use from a car showroom to a place of worship was granted (Planning reference PA/00/01785), subject to the following conditions:

*1. The use hereby permitted shall be retained for a limited period only until 31 January 2004 on or before which date the use shall be discontinued unless a further planning permission has been granted by the Local Planning Authority.*

*Reason: There is insufficient evidence available at this stage to assess the impact of the development and permission for a limited period will allow the local planning authority to reassess the development in the light of experience of the use.*

*2. There shall be no speech, sound or music whether amplified or not generated within the building so as to be audible from outside the premises.*

*Reason: To safeguard the amenities of the area.*

*3. A sound proofing scheme designed to ensure compliance with Condition 2 shall be submitted to the Local Planning Authority within one month of the date of this permission. The approved scheme shall be implemented within one month of its approval in writing by the Local Planning Authority and thereafter shall be maintained for the duration of the use.*

*Reason: To safeguard the amenities of neighbouring premises.*

*4. No more than 50 people shall attend the premises at any one time.*

*Reason: To avoid disturbance within the surrounding area and minimise parking pressures.*

*5. The use hereby permitted shall only be carried out between the hours of 7.30 pm to 10.00 pm on Mondays, between 9.00 am to 10.00 pm on Tuesdays and Fridays, between 9.00 am and 5.00 pm on Wednesday and Thursdays, between 11.00 am and 10.00 pm on Sundays and not at all on Saturdays.*

*Reason: To safeguard the amenity of the adjoining premises and the area generally.*

4.3 On 30<sup>th</sup> March 2004, an application for the continued use of the premises for a place of worship (Planning reference PA/04/00097) was granted for a limited period only until 27 March 2007. Conditions 2, 3, 4 and 5 of PA/00/01785 were also reproduced on this consent. Given the details of condition 3 where never submitted this condition was modified requiring further sound insulation measures as necessary.

4.4 On 2<sup>nd</sup> May 2007, an application for the permanent use of the premises for a place of worship (PA/07/00165) was granted. The remaining conditions 2, 3, 4 and 5 were again reproduced on the decision notice.

In May 2008, the Planning Enforcement team received complaints regarding the non-compliance of conditions 2, 3 and 4 attached to the 2007 planning permission. This was investigated under enforcement reference ENF/08/00096 and a Breach of Condition Notice was served on the 9<sup>th</sup> January 2009 addressing conditions 2, 4 and 5.

4.5 As a result of this enforcement investigation, the applicant submitted an application to vary condition 4 to increase maximum number of people attending premises from 50 to 250 and condition 5 to vary hours of use on Fridays and Saturdays to 9 am until 11.30 pm was refused under planning reference PA/09/00161. The application was refused on 24<sup>th</sup> March 2009, for the following reasons:

*1. The extension of the hours of operations and the increase in number of visitors from 50 to 250 is likely to result in an increase in*

*late-night noise, disturbance and general activity in the locality, which would have a detrimental impact on the amenity of nearby residential occupiers contrary to the objectives of saved policies DEV2 and DEV 50 of the adopted Tower Hamlets Unitary Development Plan 1998, together with policy DEV1 of the Interim Planning Guidance (2007), which seek to preserve residential amenity.*

2. *The increase in number of visitors from 50 to 250 is likely to have an adverse impact on the public highway. No information has been submitted to show the measures undertaken to minimise traffic and parking of the development. As such the proposal does not show conformity to saved policies T16 in the UDP 1998 and policy DEV19 in the Interim Planning Guidance (October 2007) which seeks to ensure developments reduce the need for motor vehicles. This is supported by 3C.17 which requires Councils to assess all development proposals in terms of their traffic generation and impact on traffic congestion.*

- 4.6 Further noise related complaints were received by Planning Enforcement in early 2010, advising that the noise arising from the activities within the premises continued into the late evening. A site visit on the 19<sup>th</sup> April 2010 after 10pm witnessed that the use of the premises was in breach of condition 2 with noise audible from outside the property and from within the adjoining residential dwelling. In addition, officer's witnessed that there was more than 50 people within the premises. Prosecution was considered, however in May 2010, the church vacated the premises following proposed redevelopment of the premises. In the absence of any further breaches, the enforcement investigation was closed.
- 4.7 The Church has now recently returned back to the premises following refurbishment of the building, resulting in late evening noise related complaints again being received by the Council from neighbouring residents.
- 4.8 The applicant is seeking to amend the conditions attached to the 2007 planning permission as outlined in the following section of the report.

### **Proposal**

- 4.9 The applicant is seeking to vary conditions 2, 4 and 5 of PA/07/00165 to enable the following variations:

Condition 2 - Any speech, sound or music generated shall not be audible within neighbouring residential premises

Condition 4 - To increase the number of visitors to no more than 250. (Condition 4 currently imposes a limit of 50 people)

Condition 5 - To extend the hours of operation from the current approved hours of 9am and 10pm Monday to Saturday, and between 11am and 10pm on Sundays. to the following hours:

Mondays to Thursday : 10am to 11pm

Fridays : 10am to 12am (midnight)

Saturdays: 10am to 11pm and;

Sundays 11am to 11pm.

## **Site and Surroundings**

- 4.10 The application site is located within a parade of shops on the north side of East India Dock Road close to the junction with Cotton Street to the south and the Blackwall Tunnel northern approach and A12 to the east.
- 4.11 The application site also has dual frontage on Follet Street. Follet Street and the surrounding area to the north are almost exclusively residential in nature.
- 4.12 The surrounding area includes a mosque, some retail/convenience stores and restaurant/cafes all on the same side of the street.
- 4.13 The premises are single storey in height with a mezzanine level.
- 4.14 The eastern properties of Follet Street are included within the St Frideswides Conservation Area.
- 4.15 The application site is known as 'Grace Ministries'. According to their website, they provide a programme of weekly services including: Family Worship, Sunday School, Evening Worship, Prayer Meetings, Bible Studies, Youth Groups, Healing and Deliverance.

## **5. 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:

### **The London Plan Spatial Development Strategy for Greater London (July 2011)**

- 6.11 Smoothing traffic flow and tackling congestion
- 6.12 Road network capacity
- 6.13 Parking
- 7.1 Building London's neighbourhoods and communities
- 7.2 An inclusive environment

### **Core Strategy 2025 Development Plan Document (September 2010)**

- SP09 Creating Attractive and Safe Streets and Spaces
- SP10 Creating Distinct and Durable Places
- SP12 Delivering Placemaking

### **Unitary Development Plan 1998 (as saved September 2007)**

- DEV1 Design Requirements
- DEV2 Environmental Requirements
- DEV50 Noise
- T16 Traffic Priorities for New Development

### **Interim Planning Guidance for the purposes of Development Control (October 2007)**

- DEV1 Amenity
- DEV2 Character and Design

DEV19 Parking for Motor Vehicles  
RT6 Loss of Public Houses

## **Government Planning Policy Guidance/Statements**

PPS 1 Delivering Sustainable Development  
Draft National Planning Policy Framework – July 2011

### **Community Plan – One Tower Hamlets**

The following Community Plan objectives relate to the application:

A Great Place To Be  
Healthy Communities  
Prosperous Communities  
Safe and Supportive Communities

## **6. CONSULTATION RESPONSE**

- 6.1 The views of the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

### **LBTH Environmental Health**

#### *Noise and Vibration*

- 6.2 The Acoustic Design Report by RBA Acoustics dated 31 May 2011, has been reviewed and the contents of the report have not demonstrated that the stated planning conditions can be achieved.
- 6.3 Environmental Health has a history of noise complaints involving noise breakout from speech, sound or amplified music or noise generated from within the building, resulting in the detrimental impact on the amenity of nearby adjoining residential occupiers.
- 6.4 Environmental Health object to the increased use/variation or removal of the previous condition(s).
- 6.5 (*Officer's Comments* - The comments made by the Council's Environmental Health Officer are discussed further in the amenity section of the report).

### **LBTH Transportation and Highways**

- 6.6 Highways do not agree with the approach adopted for the trip generation in the submitted Transport Assessment.
- 6.6 The trip generation assessment has been undertaken using the TRICS database with no reference to the TRAVL database. TRAVL should be used in the first instance and supported where appropriate by sites from the TRICS database.
- 6.7 None of the sites selected from the TRICS database for the place of worship land use are from within inner London and are therefore considered to be inappropriate.
- 6.8 Highways do not agree with the assumption that all access to the site will be via public transport, cycling and walking and there is no justification for such an assumption. D1 uses have the potential to generate a significant number of private car trips and the current Transport Statement does not sufficiently demonstrate the

potential impacts associated with increasing the maximum capacity from 50 people to 250 people.

- 6.9 *(Officers Comments – These comments are noted and are discussed further in the highways section of the report).*

### **Transport For London (TfL)**

- 6.10 TfL are concerned by proposals to increase the number of visitors and the implications of added traffic generation upon the local highway network.
- 6.11 TfL believe it is reasonable to assume that this land use would generate additional car trips. Given the restrictions upon parking placed on the A13 through being a designated “Red Route” and the surrounding streets given the operation of a residents permit scheme, TfL believe there is not an adequate supply of car parking to cope with the likely increase in demand.
- 6.12 While TfL acknowledge the submission of a Travel Plan and the parking survey of local car parks, TfL believe it is unreasonable to assume that car users would park such a distance from the site (Between 1.5km-2km) and complete their journey by an alternative means, making illegal parking surrounding the site likely.
- 6.13 Consequently, TfL are unable to support this application and would recommend a refusal.
- 6.14 *(Officer Comments: These comments are noted and are discussed further in the highways section of the report).*

## **7. LOCAL REPRESENTATION**

- 7.1 A total of 70 neighbouring properties within the surrounding area were notified about the application and invited to comment. The application has also been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 124 Objecting: 24 Supporting: 100

No of Petitions: 2 1 in objection to the scheme with 122 signatures  
1 in support to the scheme with approximately 640 signatures (excluding those who have individually sent letters)

- 7.3 The following issues were raised in representations:

### **Representation Comments**

#### *In opposition to the application:*

- The application will result in noise nuisance to local residents both internally by noise from music and singing and also externally by closing of car doors, engines starting and patrons exiting the venue.
- The application will result in traffic congestion and obstructed pavements, causing a hazard.
- Proposed hours are unreasonable as similar venues close at 9pm.

#### *In support of the application:*

- The church has made a positive impact on its patrons
- The church is needed within the community to tackle various problems such as fighting gangs and violence, as well as helping people overcome illnesses.

## 8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the committee must consider are:

1. Impact on the Amenity of Adjoining Occupiers and the Surrounding Area
2. Traffic and Servicing Issues

### **Impact on the Amenity of Adjoining Occupiers and the Surrounding Area**

8.2 Policy SP10 of the Core Strategy 2010 (CS), saved policy DEV2 of the Unitary Development Plan 1998 (UDP) and policy DEV1 of the Interim Planning Guidance October 2007 (IPG) seek to protect the amenity of surrounding existing and future residents.

8.3 The proposed variations to conditions 2, 4 and 5 all have amenity considerations in the determination of the application. The following part of the report will therefore outline each condition and the impact of the proposed variations. This will then be followed by a collective assessment of the amenity impacts on adjoining occupiers and the surrounding area.

#### 8.4 Condition 2.

Currently the condition reads as:

*There shall be no speech, sound or music whether amplified or not generated within the building so as to be audible from outside the premises.*

The applicant is seeking to amend this condition to read:

*Any speech, sound or music generated shall not be audible within neighbouring residential premises*

8.5 The variation of this condition would enable noise and sound to be generated from the premises, as long as it was not audible within the adjacent residential properties. Thereby allowing noise that could be audible from outside the adjacent properties.

8.6 Condition 4 currently restricts the number of patrons entering the premises to 50. The applicant is seeking to extend this to 250.

8.7 Condition 5 currently restricts the hours of operation of the Church to the following hours:

Monday to Saturday 9am to 10pm.  
Sundays 11am to 10pm.

8.8 The applicant is seeking to extend these hours to the following:

Monday to Thursdays 9am to 11pm  
Fridays: 10am to 12am (midnight)  
Saturdays: 10am to 11pm and;  
Sundays 11am to 11pm.



Assessment of the proposed variation of conditions.

- 8.9 In relation to condition 2, council policies are not solely concerned with the amenity of local residents, the considerations also relate to the streetscene and the general environment. Noise from the premises on the streetscene has the potential to detract from the streetscene and create an unpleasant environment for those wishing to travel across the streets (East India Dock Road and Follet Street) and for residents wishing to return to their premises. In addition, it could also affect residents who choose to use their back gardens, balconies or even open their windows, as well as any local commercial premises.
- 8.10 Should planning permission be granted it would allow noise to be heard from outside the premises from a maximum of 250 patrons up until 11pm during Saturday to Thursday and to midnight on Fridays.
- 8.11 In order to mitigate any potential impact the applicant has submitted an acoustic design report prepared by RBA Acoustics. The report outlines that high levels of noise were generated inside the venue and as a result additional sound insulation measures are required to satisfy condition 2 of PA/0700165 which prohibits any noise audible outside the premises.
- 8.12 The report identifies that the roof, rear façade, internal façade, soil vent pipes and shutters as being acoustically weak in terms of noise breakout, and recommends a series of measures to reduce noise disturbance. These include internal acoustic works and a management plan for when patrons leave the premises.
- 8.13 This report has been reviewed by the Councils Environmental Health Noise and Vibration Officer who has advised that they do not consider that the contents of the report adequately address the noise impacts from the premises. They have also advised that they have a documented history of noise complaints dating from 2000 and 2008-2010 from the premises which they have documented as follows:
- 17/11/2000- Noise complaint from the change of use to a place of worship
  - 30/11/2000- Noise complaint from workers working until 11.20pm
  - 17/12/2000- Loud singing heard next door
  - 16/05/2008- Loud singing heard next door
  - 12/12/2008- Loud music, singing and live bands heard next door
  - 16/04/2010- Loud music heard next door
  - 04/09/2011- Loud music heard next door
- 8.14 This history is similar to the history of complaints investigated by the Councils Planning Enforcement officers as outlined in the relevant planning history above.
- 8.15 The complaints received by these departments outline that the premises on several occasions have operated in breach of the planning conditions by accommodating more than 50 people and operating past 10pm. More importantly these breaches have resulted in adverse impacts on the amenity of local residents.
- 8.16 Along with these complaints, the level of objections received from immediate residents indicates that there is currently a significant amenity impact resulting from the operations of the premises within their existing planning conditions which would only be amplified by the variations they are seeking.
- 8.17 It is considered that these objections are a result of the specific nature of the use, the standard of the building and its constrained location. Consequently, these

impacts cannot be controlled, either by further management plans nor via the imposition of further conditions.

- 8.18 Taking this into account, it is considered with certainty that an application to allow 250 persons to attend the premises up until 11pm everyday and midnight on Friday would have a significantly adverse impact on the amenity of local residents via noise nuisance.
- 8.19 It is therefore considered that the proposed development would fail to accord with policy SP10 of the CS, saved policy DEV2 of the UDP and policy DEV1 of the IPG, in terms of daylight and sunlight.

### **Traffic and Parking Issues**

- 8.20 Policies 6.1 and 6.3 of the London Plan, policy SP09 of the CS, policy T16 of the UDP and policy DEV17 of the IPG seek to restrain unnecessary motor-vehicle trip generation, integrate development with transport capacity and promote sustainable transport and the use of public transport systems.
- 8.21 In support of the application, the applicant has submitted a Transport Assessment dated June 2011. This has been reviewed by the Councils Highway Department and Transport for London (TfL), who are the highway arbitrators of East India Dock Road and the surrounding side roads.
- 8.22 Overall, the Councils Highways department do not agree with the approach adopted for the trip generation in the submitted Transport Assessment and the resulting findings of the report.
- 8.23 None of the sites selected from the TRICS database for the place of worship land use are from within inner London and are therefore considered to be inappropriate for comparison in this setting.
- 8.24 In addition to this, TfL believe it is reasonable to assume that this land use would generate additional car trips. Given the restrictions upon parking placed on the A13 being a designated "Red Route" and the surrounding streets being controlled by the operation of a residents permit scheme, TfL believe there is not an adequate supply of car parking to cope with the likely increase in demand. A number of objections to the scheme have also highlighted an existing parking problem within the vicinity as a result of the current operations of the application site.
- 8.25 Officers also consider it is unreasonable to assume as identified by the applicant that car users would park 1.5km-2km from the site and complete their journey by an alternative means, making illegal/ excessive parking around the site very likely.
- 8.26 The increase in number of visitors from 50 to 250 is therefore likely to have an adverse impact on the public highway in terms of parking. As such the proposal fails to accord with policy SP09 of the CS, saved policies T16 in the UDP and policy DEV19 in the IPG which seeks to ensure developments reduce the need for motor vehicles. This is supported by policies 6.11-6.13 of the London Plan (2011) which requires Councils to assess all development proposals in terms of their traffic generation and impact on traffic congestion.

### **9.0 Conclusions**

- 9.1 All other relevant policies and considerations have been taken into account. Planning permission should be refused for the reasons set out in the SUMMARY

OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

