

Committee: Development Committee	Date: 15 th October 2014	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Shahara Ali-Hempstead		Ref No: PA/14/01887	
		Ward(s): Stepney Green	

1. APPLICATION DETAILS

Location:	7 Westport Street, London E1 0RA
Existing Use:	Estate Agent (Use Class A2)
Proposal:	Change of use of part of ground floor unit from Estate Agent (Use Class A2) to mini cab call centre use (Use Class B1).
Drawing Nos:	Site location plan and PA/1413/001
Supporting Documents:	Design, Access and Impact Statement and Traffic Management Plan
Applicant:	Mr Ghalib Jayad
Owners:	London Borough of Tower Hamlets
Historic Building:	N/A
Conservation Area:	No

2. EXECUTIVE SUMMARY

2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Core Strategy (2010), the Council's Managing Development Document (April 2013), adopted supplementary planning guidance and documents, the London Plan 2011 and the National Planning Policy Framework and has found that:-

- 1) The application proposes the change of use of a small office (14.5 square metres floorspace) in an Estate Agents (Use Class A2) to a minicab call centre (Use Class B1). The office is located towards the rear of the premises and is at ground floor level.
- 2) In planning terms the minicab call centre is considered to fall within the 'B1 Office' Use Class. When a minicab call centre trades within the B1 Office Use Class the nature of the operation must be as a call centre. i.e. Cabs are ordered by telephone, and a dispatcher then contacts a minicab by telephone (or other similar electronic system). The cabs and drivers would not be based at the office, nor would a counter service be provided for customers.
- 3) It should be noted that this type of minicab call centre is different, in planning terms, from a traditional 'cab office' that acts as a base station for cab drivers, provides parking for minicabs between fares and allows customers to book cabs at a counter.

This type of operation falls outside of the 'B1 Office' Use Class and would require an application for planning permission in its own right.

- 4) On the basis that the proposal is for a minicab call centre the scheme would not have any adverse impacts on the amenity of neighbouring residents. This is because the operation would only involve 1 or 2 dispatchers taking and relaying calls in the back office. The proposals would therefore accord with the requirements of Management Development policy DM25, which seeks to protect neighbouring amenity.
- 5) On the basis that the scheme is for a minicab call centre the scheme would not have any adverse impacts on highway or pedestrian safety. This is because the nature of minicab call centre permission would not allow cab drivers to attend the premises between fares, nor would there be a counter service for customers to book cab at the premises. The scheme is therefore acceptable in terms of policy DM23 which seeks to ensure a safe highway network.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to conditions and Informatives.
- 3.2 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

Conditions

1. Development to be begun with 3 years.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in this planning permission.
3. The mini -cab operation shall be conducted as a call centre only and no facilities are to be provided on site for drivers waiting for fares or between shifts nor shall the premises be used as a pick up point for customers.

Informatives

1. The Applicant is reminded that this permission allows the use of the office as a minicab call centre. Signage should not be displayed that might attract customers to the premises.

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

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application proposes the change of use of a small office in an Estate Agent's (Use Class A2) to a mini cab call centre (Use Class B1). The office is located towards the rear of the premises and is at ground floor level.

In planning terms the minicab call centre is considered to fall within the 'B1 Office' Use

Class. When a minicab call centre trades within the B1 Office Use Class the nature of the operation must be as a call centre. I.e. Cabs are ordered by telephone, and a dispatcher then contacts a minicab by telephone (or other similar electronic system). The cabs and drivers would not be based at the office, nor would a counter service be provided for customers.

It should be noted that this type of minicab call centre is different, in planning terms, from a traditional 'cab office' that acts as a base station for cab drivers, provides parking for minicabs between fares and allows customers to book cabs at a counter. This type of operation falls outside of the 'B1 Office' Use Class and would require an application for planning permission in its own right.

Site and Surroundings

- 4.2 The application site is a ground floor property of a four storey building located to the western side of Westport Street. The site is located 60 metres from Commercial Road.
- 4.3 The vicinity of the site is of a predominantly residential character with commercial uses concentrated along Commercial Street. The site has no specific designations in the Local Plan. The site is 60 metres from the designated Limehouse neighbourhood town centre; the site lies adjacent to York Square Conservation area.

Planning History

- 4.4 The following planning decisions are relevant to the application:

PA/03/00033

Planning permission granted on 16/04/2003 for the change of use to an Estate Agency Office (Class A2).

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:

5.2 London Plan 2011 with Revised Early Minor Alterations published 11/10/2013

Policies	6.3	Assessing effects of development on transport capacity
	6.13	Parking
	7.1	Building London's neighbourhoods and communities

5.3 Adopted Core Strategy (2010)

Policies:	SP06	Maximise investment and job creation
	SP09	Creating Attractive and Safe Streets and Spaces
	SP12	Delivering Placemaking

5.4 Managing Development Document (MDD) (April 2013)

Policies	DM15	Local job creation and investment
	DM25	Amenity
	DM20	Supporting a sustainable transport network
	DM22	Parking
	DM23	Streets and the public realm

6. CONSULTATION RESPONSE

6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

London Borough of Tower Hamlets - Transportation & Highways

6.3 The applicant has submitted a Traffic Management Plan which provides additional details of how the proposed booking office will operate. This is welcomed and should be placed on file as an approved document associated with any planning permission which may be granted. It is recommended that should permission be granted that a condition prohibiting any advertising or walk up trade and I would still recommend a 12 month temporary permission as it is very close to a residential estate and the temporary permission would allow for monitoring of the operation.

6.4 **Officer Comment:** A condition has been imposed on the permission to prevent walk up trade etc. The request for a temporary permission is noted. However, Officers do not consider that it is necessary in this case. This is because the impacts of a call centre operation do not need to be considered by way of a 'trial run'. If the use operates outside of the minicab call centre type operation, it would be in breach of planning permission.

7. LOCAL REPRESENTATION

7.1 A total of 12 neighbouring properties within the area shown on the map appended to this report 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: 7 Objecting: 7 Supporting: 0
No of petitions received: 1 objecting containing 55 signatories

The following issues were raised in objection that are addressed in the next section of this report:

7.2 • Noise from mini-cab drivers waiting outside the application site

Officers Comments Amenity related matters are discussed in detail in section 8 of this Report.

7.4 • Parking problems associated with the mini-cab use

Officers Comments Highways related matters are discussed in detail in section 8 of this Report.

7.5 • Mini cab office already operates within 100 yards of the application site.

Officers Comments The issue of competition is not a material planning consideration as such it does not form part of the decision making process. In terms of concentration of use, the existence of one further mini cab office is not considered to be an over concentration of mini cab office within the edge of town centre location.

8. MATERIAL PLANNING CONSIDERATIONS

- 8.1 The main planning issues raised by the application that the committee must consider are:
1. Land Use
 2. Amenity
 3. Highways
 4. Human Rights Considerations
 5. Equality Act

8.2 **Land Use:**

- 8.3 The proposal is for the change of use of a ground floor office measuring 14.5sq meters from an estate agent (Use Class A2) to a mini cab call centre (Use Class B1).
- 8.4 The proposal is outside of any designated town centre. Policy DM2 of the Managing Development Document (2013) states development of local shops outside of town centres will only be supported where:
- a. there is demonstrable local need that cannot be met within an existing town centre;
 - b. they are of an appropriate scale to their locality;
 - c. they do not affect amenity or detract from the character of the area; and
 - d. they do not form part of, or encourage, a concentration of uses that would undermine nearby town centres.

Loss of estate agent (Use Class A2) floor space

- 8.5 The proposed change of use to a mini-cab call centre would result in the partial loss of the existing A2 use. The existing floor space measures 76sq metres; the application proposes the conversion of the back office measuring 14.5sq metres. It is considered that the partial loss of the A2 use would not undermine the remaining floor space which measures 61.5sq metres. This is sufficient to ensure the front portion of the unit remains a viable entity in its own right.

Acceptability of mini cab call centre (Use Class B1)

- 8.6 The site lies within a parade of shops consisting of a wine shop (A1 use) and two units which are in use as one grocery shop (A1 use). The upper floors of the site are in residential use and form part of an existing estate development.
- 8.7 The proposed mini cab call centre use, is considered to be compatible with the commercial character of the ground floor units. The office use will contribute to the provision of employment in the Borough and accord with policy SP06 of the Core Strategy.

Amenity

- 8.8 Part 4 b of policy SP10 of the CS and policy DM25 of the MDD seek to protect the residential amenity of the residents of the borough. These policies seek to ensure that existing residents adjacent to the site are not detrimentally affected by noise.
- 8.9 As detailed in the 'proposal' section of the report, the application is for a 'call-centre' style of operation. The office would be operational 24 hours a day. No customer waiting area is proposed, and the Applicant has submitted a management plan that confirms that drivers would not visit the premises, and that customers would not be permitted in the office.
- 8.10 The acceptability of the scheme is very much dependent on the operation to be carried out in a 'call centre' manner. On the basis that the scheme is a call centre, the only activity at the

premises would be one or two dispatchers taking calls in an office. This is only likely to generate a very low level of activity, and as such is very unlikely to cause noise and disturbance to adjoining residents.

- 8.11 Officers understand the concerns raised by residents about potential for noise and disturbance from a minicab office. A traditional minicab office would be likely to result in noise from people gathering within the minicab office or outside, minicabs arriving, departing and waiting for a fare, engine noise and car doors closing. However, this is not the nature of the use for which planning permission is being sought. If this type of operation did take place, it would not be covered by this permission and could therefore be subject to enforcement action.
- 8.12 To ensure that the use does not alter after the grant of planning permission to include customer waiting areas (or driver facilities etc) a condition would be imposed on the permission. With the imposition of conditions, Officers are satisfied that the proposal would not have any adverse impact on residential amenity.

Transport & Highways

- 8.13 The NPPF and Policy 6.1 of the London Plan 2011 seeks to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.
- 8.14 CS Policy SP08 & SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.15 The roads surrounding the site have parking restriction consisting of residential bays, multi parking bays (pay and display / permit holders). The parking restrictions apply between the hours of 08:00 – 17:30.
- 8.16 As with the Officer assessment of Amenity issues, the acceptability of the proposals is very much based on it being a call centre style operation. Providing that the only users of the premises are the 1 or 2 people dispatching cars the scheme would have very limited impact on the local highway network.
- 8.17 Council's Highways Officers have been consulted and have requested that the scheme be subject to a 12 month temporary permission to allow a 'trial run' of the nature of the operation. Officers have considered whether a temporary permission can be justified. A temporary permission is typically used where a 'trial run' is needed, for instance where the precise impacts of a use are not known. However, Officers feel that the impacts of a call centre can be readily understood. Concern about the potential for another type of minicab operation to be run from the site (that would not have permission) is not a justification for a temporary permission. Officers consider that the assessment needs to be made on the application that has actually been made. If drivers or customers do attend the site this could be subject to enforcement action.
- 8.18 On the basis that the office is run as a call centre the proposal would not have any impacts on the highway network and it is therefore considered acceptable in terms of policy SP09 of the Core Strategy and policy DM23 of the Managing Development Document.

Human Rights Considerations

- 8.19 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:-
- 8.20 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"*.
- 8.21 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.
- 8.22 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 8.23 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.
- 8.24 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.25 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions.

Equality Act consideration

- 8.26 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 and sex 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:

1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.27 In this instance there are no specific equalities that have been identified.

9.0 CONCLUSIONS

9.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted 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.

Consultation Map – 7 Westport Street

