

Committee: Development Committee	Date: 14 ^h May 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Town Planning Application
Case Officer: Shahara Ali-Hempstead	Ref No: PA/15/00044
	Ward: Spitalfields and Banglatown

1. APPLICATION DETAILS

Location:	144-146 Commercial Street, London, E1 6NU
Existing Use:	Restaurant (Use Class A3) at ground floor, ancillary storage at basement and residential on upper floors
Proposal:	<p>A new single storey roof extension within the existing roof void to create a 1 x 1 bed residential unit</p> <p>Construction of four storey rear extension to facilitate new stair case</p> <p>Reconfiguration of window arrangement at the rear</p> <p>Refurbishment of the front façade</p> <p>Installation of a green roof</p> <p>Internal reconfiguration consisting of:</p> <p>Relocation of residential stair case</p> <p>Conversion of existing 2 x 1 bed flats to 2 x 2 bed flats at first and second floor level.</p>
Drawing Nos/Documents:	0500, 0501, 502/B, 1000, 1001, 1002, 1003, 1100, 1101, 1200, 2000/D, 2001/D, 2002/D, 2003/D, 2004/D, 2005/D, 2100/D, 2101/D, 2200/B, 2201 and Planning Brochure Rev D prepared by KYSON
Applicant:	BL & R Bard Trust
Ownership:	BL & R Bard Trust
Historic Building:	N/A
Conservation Area:	Brick Lane and Fournier Street

2. EXECUTIVE SUMMARY

- 2.1 The report considers an application for a single storey roof extension within the existing roof void to create a 1 x 1 bed residential unit, construction of four storey rear extension to facilitate new stair case, refurbishment of the front façade and installation of a green roof. Conversion of existing 2 x 1 bed flats to 2 x 2 bed flats at first and second floor level.
- 2.2 Officers have considered the particular circumstances of this application against the provisions of the Local Plan and other material considerations as set out in this report, and recommend approval of planning permission.
- 2.3 Construction of the third floor roof extension and external alterations are acceptable

in terms of design. As such, the proposal conforms to policies SP10 of the adopted Core Strategy (2010) and policy DM25 of the adopted Managing Development (2013). These policies seek to ensure development proposals preserve the Myrdle Street Conservation Area.

- 2.4 The conversion of the existing 2 x 1 bed flats to 2 x 2 bed flats at first and second floor level would be in accordance with policies DM3 and DM4 of the Managing Development Document (2013) which requires development to provide a balance of housing types and have adequate provision of internal space in order to provide an appropriate living environment.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to conditions.

- 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. Time limit – Three Years.
2. Compliance with plans - Development in accordance with the approved schedule of drawings and documents.
3. Details and materials including details of refurbishment to the front façade
4. Noise insulation measures
5. Car free agreement
6. Cycle parking details
7. Details of the green roof

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application site currently accommodates a café (Use Class A3) at ground floor level and two residential units (Use Class C3) at first and second floor level. The residential accommodation is accessed via a separate door from the front. The application site is located within a mid-terrace; consisting of three and four storey properties.

- 4.2 The proposal involves the following:

- Single storey roof extension to create 1 x 1 bed residential unit.
- Relocation of residential stair case through the construction of four storey rear extension to facilitate the new stair case
- Reconfiguration to the windows at the rear.
- Conversion of existing 2 x 1 bed flats to 2 x 2 bed flats at first and second floor level
- Refurbishment of the front façade
- Installation of a green roof

- 4.3 The application site forms two properties Nos 144 and 146 Commercial Street located to the north east of Commercial Road within a terrace. 144 is a three storey attractive Victorian building, whilst in disrepair the building has retained most of its original features. No. 146 is of a different design and unlike no.144 it has a rendered frontage with little architectural detailing. The site is bounded by no's 148-150 Commercial Street to the north, no. 6 Wheler Street to the north east and no. 142 Commercial Street to the south east.
- 4.4 The application site is locally listed and is located adjacent to grade II listed building at no.142 Commercial Street known as The Commercial Tavern Public House.
- 4.5 The site lies within the Brick Lane and Fournier Street Conservation Area, which was designated in July 1969 as 'Fournier Street'. It was extended in 1978 and again in 1998, when its name was changed to reflect Brick Lane's contribution to the character of the area. It was further extended to the west and south west in October 2008. It contains some of the most architecturally and historically significant buildings in the Borough, including the exceptional group of 18th century houses around Fournier Street. They comprise the most important early Georgian quarter in England and include Christ Church Spitalfields, designed by Nicholas Hawksmoor.
- 4.6 The site is located within the City Fringe Core Growth area and City Fringe Activity Area (which is part of the Tower Hamlets Activity Area 'THAA'). The site also forms part of the Greater London Authority (GLA) Draft City Fringe Opportunity Area Planning Framework (December 2014).

Planning History

- 4.7 PA/14/03602
Planning permission refused on 27/02/2015 for two additional storeys to create 2 x 1 bed residential units. Construction of five storey rear extension to facilitate new stair case, refurbishment of the front façade and installation of a green roof. Internal reconfiguration consisting of relocation of residential stair case, conversion of existing 2 x 1 bed flats to 2 x 2 bed flats at first and second floor level

Reason for refusal states:

- 1. The proposed two storey roof extension, by virtue of its height, design, relationship and prominent location would have an unacceptable impact upon the character and appearance of the Brick Lane and Fournier Street Conservation Area. This would be contrary to National Planning Policy Framework (2012), policies 7.4, 7.6 and 7.8 of the London Plan (2011), policies SP10 and SP12 of the Core Strategy (2010), and policy DM24 and DM27 of the Managing Development Document (2013) and supplementary guidance of the Brick Lane and Fournier Street Conservation Area Appraisal. These policies seek to ensure appropriate design, to preserve the character and appearance and protect and enhance the Boroughs conservation areas.*
- 2. The proposed two storey roof extension, by virtue of its prominent location on Commercial Street would have an unacceptable impact upon the views within the Brick Lane and Fournier Street Conservation Area and the heritage assets of the Grade II listed building adjoining the site at 142 Commercial Street and the host locally listed buildings. This would be contrary to National Planning Policy Framework (2012), policies 7.4, 7.6 and 7.8 of the London*

Plan (2011), policies SP10 and SP12 of the Core Strategy (2010), and policy DM24 and DM27 of the Managing Development Document (2013) and supplementary guidance of the Brick Lane and Fournier Street Conservation Area Appraisal. These policies and guidance seek to ensure appropriate design which preserves the character and appearance and protects and enhances the Boroughs heritage assets.

3. *In the absence of a daylight and sunlight assessment the Local Planning Authority is not satisfied that the impact of the proposals on the amenity of the neighbouring properties is acceptable (particularly with reference to no. 6 Wheler Street and 142 Commercial Street). The authority is therefore not satisfied that the proposal accords with policy SP10 of the Core Strategy 2010 and policy DM25 of the Managing Development Document (2013) which seek to protect residential amenity.*

4.8 The current application submitted overcomes the reasons for refusal; this is fully discussed within section 8 of the report.

5. POLICY FRAMEWORK

5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.

5.2 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:

5.3 **Government Planning Policy Guidance/Statements:**
The National Planning Policy Framework 2012 (NPPF)
The National Planning Practice Guidance 2014 (NPPG)

5.4 **Spatial Development Strategy for Greater London (London Plan) consolidated with alterations since 2011 (March 2015):**
4.7 - Retail and Town Centre Development
7.15 - Reducing Noise and Enhancing Soundscapes

5.5 **Core Strategy Development Plan Document 2025 (adopted September 2010):**
SP01 - Refocusing on Town Centres
SP02 – Urban living for everyone
SP03 - Creating Healthy and Liveable Neighbourhoods
SP10 - Creating Distinct and Durable Places

5.6 **Managing Development Document (Adopted 2013):**
DM1 - Development within Town Centre Hierarchy
DM2 - Protecting local shops
DM3 - Delivering homes
DM4 - Housing standards and amenity space
DM11 – Living Buildings and biodiversity
DM15 - Local job creation and investment
DM24 - Place Sensitive Design
DM25 - Amenity

5.7 **Supplementary Planning Guidance:**

5.8 **London Plan Supplementary Planning Guidance/Documents**

Housing Nov 2012

Shaping neighbourhoods: Character and context 2014

Sustainable Design & Construction April 2014

Draft City Fringe Opportunity Area Planning Framework (December 2014)

6. CONSULTATION RESPONSE

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

6.2 The following were consulted regarding the application:

6.3 **LBTH Transportation & Highways**

The proposed development is located on TfL road. Therefore, TfL should be consulted for further details.

Highways have no objection to this proposal subject to following issues are resolved before the application is granted.

CYCLE SPACES: The applicant have stated that cycle storage will be located within the stair case area. However, no details are provided about type of cycle stands used and if there is sufficient available within stair case area. Therefore, the applicant is required to provide this information.

CAR PARKING: The proposal site is located in an area of excellent public transport accessibility (PTAL 6a) and connectivity. Therefore, Highways would require a car and permit free agreement to be secured via S106.

REFUSE FACILITY: The applicant has not stated where refuse facility will be located for both residential and commercial units. It is not acceptable to store bins on the highway and Highways would object to any such proposal.

[Officer Comment: All highways matters are discussed fully within section 8.29 – 8.35 of the report]

6.4 **LBTH Waste Policy and Development**

No comments received to date

6.5 **LBTH Biodiversity**

There are not likely to be any significant adverse impacts on biodiversity. The building is a long way from any significant bat feeding habitat, such as treelines or water, so there is not a significant likelihood that bats would roost there. The application site consists entirely of buildings and hard surfaces. There will, therefore, be no adverse impacts on biodiversity.

The plans indicate a green roof on the new building. No details of the type of green roof are provided. To contribute to a target in the Local Biodiversity Action Plan (LBAP), this should be a biodiverse roof, following the best practice guidance

published by Buglife), rather than a roof comprising a sedum mat.

Another way to contribute to LBAP targets would be to provide bat boxes and nest boxes for birds, such as boxes for swifts, house sparrows and/or house martins on the buildings.

Please condition details for the green roof.

[Officer Comment: As per officers request a condition will be secured for details of the green roof to be submitted.]

7. LOCAL REPRESENTATION

7.1 A total of 123 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. A site notice was also displayed and the application was advertised in East End Life. 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: 1 Objecting: 1 Supporting: 0
No of petitions received: 1 objecting containing 32 signatories

7.2 The following issues were raised in objection to the proposal that are material to the determination of the application, and they are addressed in the next section of this report:

- Intensification of residential accommodation
- Proposed roof addition is inappropriate and unsympathetic visually to the surrounding conservation area
- Loss of sunlight to neighbouring windows
- Noise complaints from future occupier regarding the existing pub

[Officer Comment: The above issues are discussed within the material planning consideration section 8 of the report.]

8. MATERIAL PLANNING CONSIDERATIONS

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

1. The suitability of the third floor roof extension and the quality of accommodation provided.

Land use

8.2 Delivering new housing is a key priority both locally and nationally as outlined within the NPPF, and in accordance with polices 3.3 and 3.4 of the London Plan (2015), the Mayor seeks to maximise the provision of additional housing in London, where possible.

- 8.3 Housing targets identified in policy SP02 (1) of the Core Strategy indicate that Tower Hamlets is aiming to provide 43,275 new homes between 2010 to 2025. Officers consider that the application site is well placed to contribute to the identified need.
- 8.4 There are two flats on site and the applicant is seeking to convert the 2 x 1 bed flats to 2 x 2 bed flats and extend the existing building to create 1 x 1 bed flat (a net increase of one unit).
- 8.5 The proposal will retain the mixed-use character of the site, which is consistent within Commercial Street. Given the above, the principle of additional housing on site is considered desirable in policy terms subject to other land use considerations.

Design and Impacts of Proposed Extension

- 8.6 The site lies to the east of Commercial Street within the Brick Lane and Fournier Street Conservation Area. The site consists of two properties which have been amalgamated internally. They are locally listed traditional three storey stock brick buildings with a commercial ground floor. Decorative lintels and arched window details including string courses and a parapet cornice can be found at no. 144. Adjacent to site lies a grade II listed building at no.142 Commercial Street known as The Commercial Tavern Public House.
- 8.7 Policy DM24 and DM27 require development to be sensitive to and enhance local character and to take into account the surrounding scale, height, mass and form of development. Developments are also required to protect and enhance the boroughs heritage assets.
- 8.8 When determining planning applications within a conservation area the proposal will have to be considered in accordance with the tests under section 72 of the Planning (Listed Building and Conservation Area) Act. These tests require that, in exercising their powers with respect to any buildings in a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 8.9 The proposal sets out a number of alterations and extensions to the existing building. Further to pre-application discussions and refusal of a two storey extension the proposal has been amended and now consists of an addition of a single storey to the three storey buildings. The depth of the four storey staircase has also been reduced from approximately 3.5m to 0.45m.
- 8.10 The proposed third roof extension will accommodate 1 x 1 bed unit. The proposal also includes the reconfiguration of the internal arrangement to accommodate 2 x 2 bed residential units as opposed to the existing 2 x one bedroom residential unit located over first and second floor level. In addition, a four storey extension will be constructed to the rear south to accommodate a stairwell to access the residential units. The existing rear windows will be removed and replaced with full height windows with juliet balconies.
- 8.11 At ground floor level, the separate access to the southern extent of the site will be retained and this will provide access to the residential units. The existing access to the commercial unit will also be retained.
- 8.12 The single storey addition to the roof will be constructed in matt black metal cladding with full height flash glazing to the front and rear.

No. 144 is a three storey attractive Victorian building, whilst in disrepair the building has retained most of its original feature. No. 146 is of a different design and unlike no.144 it has a rendered frontage with little architectural detailing left.

- 8.13 The third floor roof extension will be located behind the existing high parapet wall, the extension to the front will measure 0.4 meters above the existing parapet. The proposed single storey roof addition is designed in a modern contemporary format and due to its setback behind the parapet wall and slight projection above the parapet; it does not appear to be intrusive or detrimental to the host building.
- 8.14 Following the reason for refusal of the previous application the applicant has taken on board the concerns raised by the Conservation Officer. The reduction in the height of the extension has substantially reduced its impact on the adjoining grade II listed Public House The Commercial Tavern House at no. 144 and on the wider Brick Lane and Fournier Street Conservation Area
- 8.15 Section 7 of the NPPF requires good design in development proposals and Section 12 requires heritage assets, including conservation areas, to be conserved and enhanced and the setting of listed buildings not to be adversely affected by development.
- 8.16 Section 72(1) of the Listed Buildings & Conservation Areas Act (1990) gives the Local Planning Authority a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 8.17 The extension is appropriate in terms of scale and mass given the prominence of the existing buildings. The proposed design will preserve and enhance the Brick Lane and Fournier Street Conservation area. Details of materials would be secured by condition to ensure the quality and durability of the materials.
- 8.18 Subject to condition it is considered that the proposed development is appropriate in terms of design, finished appearance and building height within the context of the surrounding built form. As such, it is considered that the proposal would preserve the character and appearance of the Brick Lane and Fournier Street Conservation Area as required by S72 of the Listed Building and Conservation Area Act 1990 and in accordance with Policy SP10 (2) of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Managing Development Document (Adopted 2013), and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development is well designed and that it preserves or enhances the character and appearance of the Borough's Conservation Areas and historic buildings.

Housing:

- 8.19 The internal space standards are set out in detail in the Mayor of London Housing SPG and re-iterated in policy DM4 of the Council's Managing Development Document.
- 8.20 Whilst the mix would not comply with policy, it is considered that in this instance due to the layout of the internal floor space, the constraints of the site, which prevents a larger extension the proposed mix is acceptable.
- 8.21 The proposed 1 bed unit at third floor measures 59sq metres and the 2 bed units measure approximately 62.11sq metres in compliance with the relevant policy

standards.

- 8.22 All units would be dual aspect and benefit from adequate privacy; sunlight and daylight. Private amenity space will be provided for the new 1 bed unit which is considered acceptable.
- 8.23 On balance the proposal is therefore in accordance with policies DM3 and DM4 of the Managing Development Document (2013) which requires development to provide a balance of housing types and have adequate provision of internal space in order to provide an appropriate living environment.

Amenity of adjoining occupiers

- 8.24 The main amenity consideration to this proposal is the impact upon the neighbours on either sides of the application site and neighbour to the rear. It is noted the upper floors of no's 148-150 Commercial Street and no. 6 Wheeler Street are in residential use. The top floor of the public house at 142 Commercial Street is also in residential use. All properties have rear windows where the proposed rear extension is to be located.
- 8.25 An objection has been received from 142 Commercial Street stating that the proposed rear four storey extension will result in loss of light to their windows. A site visit to the property established that there are two windows located to the rear; both windows serve a stair well.
- 8.26 The applicant has taken on board the concerns raised by the adjoining neighbour and has amended the plans by reducing the depth of the staircase and relocating the staircase within the building envelope with a slight projection of 0.45 metres.
- 8.27 It is considered that the amendments to the plans have considerably reduced the amenity impacts on the neighbouring buildings and have thus alleviated the concerns raised.
- 8.28 In the light of the amendments made it is considered that the proposal will not have a detrimental impact on the amenity of neighbouring properties in compliance with policy SP10 of the Core Strategy 2010 and policy DM25 of the Managing Development Document (2013) which seek to protect residential amenity.
- 8.29 Concerns have also been raised by the occupants of the public house in relation to the potential for more complaints to be made about the noise from the public house from additional residents, which could in turn impact negatively on this established business. In this case only one additional unit would be created and would be introduced into an environment which is already predominantly residential on the upper floors. It is not considered that this is a significant issue which would warrant a refusal of the application. On the assumption that the public house is operating responsibly there should be no reason to assume additional noise complaints would come forward as a result of this proposal.

Highways and Transport

- 8.30 The subject site is located in an area with excellent access to public transport (PTAL 6a). LBTH Highways had no objections to this application. The servicing arrangements for the existing restaurant would continue, and the increase in floor space would not lead to any significant increase in servicing trips.

- 8.31 Commercial Street has very limited on street parking bays and together with the excellent PTAL rating, it is unlikely that there will be a significant increase in vehicular trips from customers to be of concern.
- 8.32 The site is accessible by a range of transport modes including bus, cycling, walking and by car. Policy DM20 of the Managing Development Document (2013) supports development where it is integrated with the transport network.
- 8.33 The proposed development provides no vehicular parking as it is within an area of good public transport accessibility (PTAL 6a). This is supported by Highways Officers.
- 8.34 Policies 6.13 of the London Plan, policy SP09 of the Core Strategy and policy DM22 of the Managing Development Document (2013) seek to encourage sustainable non-car modes of transport and to limit car use by restricting car parking provision and refers to the parking standards set out in appendix 2 for the provision of parking for different types of development.
- 8.35 The scheme does not make provision for car parking which is acceptable. The Councils Highways Department have been consulted and required a condition ensure the new flats are subject to a car free agreement.
- 8.36 A space is available under the new staircase for cycle parking, however details of the number and type of cycle stands would be requested by condition. The upper floor flats currently do not have a cycle store so this is considered to be a benefit of the scheme.

Waste Refuse and Recyclables Storage

- 8.37 The two units which are currently located on the upper floor levels store their refuse in an area within the kitchen and bring refuse bags down to the street on collection day. This arrangement would continue for the extra unit and is considered acceptable.

Biodiversity

- 8.38 The proposal includes a green roof. This contributed to the borough biodiversity targets and meets with the aims of policy DM11 which states that 'developments will be required to provide elements of a 'living building'.

9.0 Human Rights Considerations

- 9.1 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:-
- 9.2 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

9.3 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"*.

9.4 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.

9.5 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.

9.6 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.

9.7 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

9.8 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.

9.9 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.

10.0 Equalities Act Considerations

10.1 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.

11.0 Conclusions

- 11.1 All other relevant policies and considerations have been taken into account. Planning permission should be GRANTED. The details of the decision are set out in the RECOMMENDATION at the beginning of this report.

12.0 Site Map

