

Committee: Development	Date: 16 June 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Jermaine Thomas	Ref No: PA/15/00096
	Ward: Bethnal Green

1.0 APPLICATION DETAILS

Location:	Passageway to the south of 18 Cleveland Way, London, E1
Existing Use:	Private highway
Proposal:	Erect a 2.4m high gate across the passage way
Drawings and documents:	PJP02 – 09/08/14 Design and Access Statement Technical Specification Latching Mechanism
Applicant:	Peter Pritchard
Ownership:	Lakeside Development Limited
Historic Building:	None
Conservation Area:	Abuts Stepney Green Conservation Area situated to the south

2.0 EXECUTIVE SUMMARY

- 2.1 The Local Planning Authority has considered this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document 2013 as well as the London Plan (2015) and the National Planning Policy Framework and all other material considerations and has found that:
- 2.2 The main material planning considerations are; whether the proposed security gate would restrict the movement of people, discouraging community cohesion; whether the proposal would cause unacceptable residential amenity conditions for those closer to the proposed location of the gates as a result of anti-social behaviour; and whether the proposal would be an unsightly addition and fail to preserve the appearance and character of the Stepney Green Conservation Area.
- 2.3 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels on site, however, it is considered that the statistical evidence with regards to the crime levels does not support the erection of a security

gate which is contrary to the Council's objectives of building inclusive and welcoming communities.

- 2.4 In conclusion, officers consider that the erection of a security gate is not acceptable for the reasons set out below, primarily because it would reduce permeability contrary to national, regional and local planning policies.

3.0 RECOMMENDATION

That the Committee resolve to **REFUSE** planning permission for the reasons below:

- a) The proposal would restrict full public access resulting in an unacceptable form of development that would fail to retain a permeable environment, by reason of creating a physical barrier. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 7.2 of the London Plan (2015), SP09 of the Core Strategy (2010) and DM23 of the Managing Development Document (2013). These policies require development be well connected with the surrounding area and should be easily accessible for all people.
- b) The proposed gates and fixed means of enclosure by virtue of their height and scale would appear visually intrusive and result in an inappropriate form of development that would discourage community cohesion and would therefore fail to achieve an inclusive environment and create an unacceptable level of segregation. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 3.9, 7.1-7.5 and 7.27 of the London Plan (2015), policies SP04, SP09, SP10 and SP12 of the Core Strategy (2010), and policies DM12 and DM23 of the Managing Development Document (2013). These policies require development to promote the principles of inclusive communities, improve permeability and ensure development is accessible and well connected.

4.0 PROPOSAL AND LOCATION

DETAILS

Proposal

- 4.1 The applicant seeks permission to erect a freestanding electronic pedestrian entrance gate at the entrance to the Coopers Close passage way.
- 4.2 The proposed entrance gate measures 2.96m in width and 2.4m in height and is to be made from galvanized steel and finished in black.
- 4.3 Entry would be controlled via a keypad system and only two gate keepers at any one time will have the access codes.
- 4.4 The 'gate keepers' would be responsible for the access arrangements, maintenance and repair of the gates.

Site and Surroundings

- 4.5 The application site is a pedestrian passage way from Cleveland Way and runs east towards Coopers Close.

- 4.6 The passageway is located to the south of 18 Cleveland Way and to the north of Bellevue Place and 16 Cleveland Way.
- 4.7 The passageway was provided as part of planning consent PA/84/00431 which was for the erection of eighty nine houses and flats with parking, estate roads and estate open space.
- 4.8 The passageway is private land.
- 4.9 The passageway provides access to the residential properties located within Coopers Close and leads onto Chephas Street located to the north. The Chephas Street access to Coopers Close is a vehicle access.
- 4.10 The pedestrian passageway and Coopers Close combined provide a pedestrian throughway from Cephass Street and the surrounding streets down to Cleveland Way and Mile End Road
- 4.11 There are no statutory listed buildings within the immediate vicinity.
- 4.12 The site is adjacent to the Stepney Green Conservation Area.

Planning History

- 4.13 PA/84/00431
Erection of eighty nine houses and flats with parking, estate roads and estate open space
Approved 22/02/1985
- 4.14 PA/87/00497
Conversion to form four flats.
Approved 05/08/1987

5.0 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 **Government Planning Policy**

National Planning Policy Framework 2012
National Planning Practice Guidance

5.3 **London Plan 2015**

- 3.9 - Mixed and balanced communities
- 6.3 - Assessing effects of development on transport capacity
- 7.1 - Building London’s neighbourhoods and communities
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.4 - Local character
- 7.5 - Public realm
- 7.14 - Improving air quality

5.4 **Core Strategy 2010**

- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating Distinct and Durable Places
- SP12 - Delivering placemaking

5.5 **Managing Development Document 2013**

- DM20 – Supporting a sustainable transport network
- DM23 - Streets and the public realm
- DM24 - Place-sensitive design
- DM25 - Amenity

5.6 **Supplementary Planning Documents**

N/A

6.0 **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:

LBTH Transportation & Highways

6.3 The applicant is required to confirm which direction the door will open towards. Under Section 153 of Highways Act 1980, it is not allowed to design door to open outward onto public highways. Without this information Highways cannot support the application.

6.4 Highways recommend the access to operate in a manner similar to other paths such as the Thames Path in Wapping. For example, the access should be allowed for the general public during daylight hours.

Officer comment: This is discussed further under material planning considerations.

Crime Prevention Officer

6.5 The addition of this gate is definitely a benefit to the location and residents. My only additional comment is that there may well still be groups/individuals who could use the walkway from the internal part of the development (not Cleveland Way) up to the new gate as a 'hang out' area. This is due to the ability for these people to gain access from the internal part of the development. I only mention this as a consideration for the future. It may be the case that if the above becomes a reality there would be a need to fit another similar gate at the inner end of the passage to prevent access to this space.

6.6 As mentioned, this new gate is a positive move from a security point of view.

Officer comment: This is discussed further under material planning considerations.

LBTH Design Officer

6.7 The application site is located just outside of the Stepney Green Conservation Area and the proposed gates are not considered to be harmful to its setting. However, I do object to the proposal on urban design grounds as it would result in reduced pedestrian permeability. This would be contrary to objectives of the Tower Hamlets Core Strategy (2012) that seek to create well-connected network of streets and spaces that make it easy for people to move around (SO20 and SP12). It would also be contrary to Policy DM23 of the Managing Development Document SPD (2013) which seeks to ensure that development is well-connected and improves permeability and legibility.

Officer comment: This is discussed further under material planning considerations.

7.0 LOCAL REPRESENTATION

7.1 A total of 201 letters were sent to neighbours and interested parties.

7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	Objecting: 19	Supporting: 34
Petition with signatures:	Objecting: 1x Petition with 374 Signatures	
	Supporting: 0	

The results of a survey presented on an excel spread sheet stated that 55 people supported the scheme. However, this information was gathered prior to the submission of the planning application and has not been received as formal representations to the statutory notification process. No signatures were provided and as a consequence limited weight can be afforded to the survey.

The Corporate Director of Development and Renewal has directed that the application be referred to committee as it raises borough wide issues.

7.3 The following issues were raised in objection to the proposal:

- Reduce connectivity and permeability
- It is an important thoroughfare to shops and schools
- Impact on people less mobile
- Increase opportunities for anti-social behaviour and crime
- The proposed gates not prevent anti-social behaviour problems
- Inconvenience to regular users, residents and visitors, parents and children
- Gate is not necessary
- The installation of gates form a barrier which will prevent access through the thoroughway
- The application is contrary to Tower Hamlets' planning policies.
- Management issues with the gates
- The costs of installation the gates for residents

7.4 [Officers Comments: The comments are noted and discussed in detail within the material considerations section of the report]

7.5 The following issues were raised in support to the proposal:

- Address crime and anti-social behaviour issues
- Prevent littering
- Prevent vandalising
- Reduction in nuisance and disturbance
- Improve security and safety
- Limited impact on walking distance for children and parents to school
- Address refuse and rodent issues

7.6 [Officers Comments: The comments are noted and discussed in detail within the material considerations section of the report]

8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 The application has been assessed against all relevant policies under the following report headings:

1. Crime
2. Accessibility/Permeability
3. Design
4. Amenity
5. Transportation
6. Conclusion

8.2 The application proposes no change of use at the site and therefore raises no land use implications.

Crime

8.3 The planning application proposes a security gate at the Cleveland pedestrian entrance to Coopers Close to restrict access to residents and non-residents alike. The application has been submitted to seek to address concerns raised by the applicant and residents that the unrestricted access is the cause for anti-social behaviour and incidents of crime at the application site. Full details of the levels of crime are detailed below.

8.4 According to paragraph 69 of the NPPF the planning system should encourage safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

8.5 Policy 7.3 of the Adopted London Plan (2015) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime do not undermine quality of life or cohesion. The policy goes on to highlight that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.

8.6 The Council's Core Strategy policy SP09 (2C) states that gated communities will not be supported. The supporting text for policy SP09 highlights evidence from the Urban Design Compendium 2 dated 2007 which states that a high quality urban environment and layout can help deliver social benefits, including civic pride, increased connectivity, social cohesion, reduced fears of crime and improved health and well-being. The supporting text goes on to state that a poor quality public realm can have severe negative effects on communities.

- 8.7 The Council's Managing Development Document DM23 (3) states that development will be required to improve safety and security without compromising good design and inclusive environments. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.8 The principle of erecting a security gate that discourages community cohesion is not supported by the National Planning Policy Framework (2012), the London Plan (2015) or Tower Hamlets planning policies. It is considered that only in exceptional circumstances should the Council make an exception to the policy position.
- 8.9 Whilst the comments received from the Metropolitan Police's Crime Prevention Officer are in support of the proposal, it should be considered that the Crime Prevention Officer's role is purely that of crime prevention, and officers recommendation to refuse the application takes into account a much broader set of considerations which in many instances discord with both national and local planning policies.
- 8.10 A comparative study was undertaken by officers to assess the level of crime in the area. This analysed all of the crime experienced both around the application site and in the Bethnal Green Ward (inclusive of the application site) which involved taking data available from the Metropolitan Police (website). See Figure 1 for the boundary area. It should be noted that the below statistics are a summary of all 'notifiable' crimes, and that the Metropolitan Police website defines a notifiable offence as an 'incident where the police judge that a crime has occurred. Not all incidents that are reported to the police result in a crime'.
- 8.11 The boundary area has a total of 5,244 households (according to www.neighbourhood.statistics.gov.uk), whilst the Coopers Close development has a total of 89 households (according to the original planning application). The Coopers Close development plus the surrounding properties along adjacent streets equates to 201 households. This in accordance with the consultation boundary (See Site Map). It can thus be derived from these figures that Cooper Close development represents 3.8% of the total households within Bethnal Green ward.
- 8.12 The comparative study has been undertaken by using crime statistics from the Metropolitan Police (website) for both the boundary area (see Fig.1 and Fig.3) and the immediate vicinity around Coopers Close and the proposed location of the gate (see Fig.2 and Fig.3) over the past year (March 2014 – March 2014) which represent the most recent crime statistics currently available (true of March 2015).
- 8.13 Fig.3 illustrates (on a month by month basis) the total crime rate for the boundary area along with the average crime rate per property within the boundary area and the total crime rate for immediate vicinity of the proposed gate along with the average crime rate per property around Cooper Close, Cleveland Way and Cleveland Grove. In addition to this Fig.3 also gives the breakdown (by type) of crimes reported in this area and then illustrates whether the average crime rate per property within this area was either above or below the average crime rate per property within the boundary area.

Fig.1 – Crime map of the boundary area (Bethnal Green 2015) (taken from www.police.uk)

					1x Vehicle Crime	
April- 14	246	0.047	7	0.035	2x Violence & sexual offences 1x Burglary 2x Other theft 1x Robbery 1x Vehicle Crime 1x Anti-social behaviour 1x Bicycle theft	Below
May - 14	285	0.054	12	0.06	2x Violence and sexual offences 1x Bicycle theft 6x Anti-social behaviour 2x Burglary 1x Public Order	Below
June-14	306	0.058	9	0.044	6x Anti-social behaviour 1 x Shoplifting, 2x Bicycle theft,	Below
Jul-14	293	0.055	9	0.044	1x Bicycle theft, 3x Other theft, 1x Public Order 1 x Shoplifting, 1x Vehicle Crime 2x Violence and sexual offences	Below
Aug-14	250	0.047	7	0.034	1 x Bicycle theft, 1x Burglary 4x Anti-social behaviour 1x Public Order	Below
Sep-14	298	0.057	11	0.055	7 x Anti-social behaviour 1x Burglary 1 x Other theft, 2x Vehicle Crime	Below
Oct-14	295	0.56	6	0.3	1x Burglary 1x Robbery 2x Anti-social behaviour 1 x Bicycle theft, 1x Vehicle Crime	Below
Nov-14	260	0.05	4	0.02	1 x Criminal Damage and arson 3 x Anti-Social behaviour	Below
Dec-14	215	0.04	6	0.03	1 x Other crime, 1 x Burglary 1 x Shoplifting, 1 x Violence & sexual offences 1x Drugs 1x Anti-social behaviour	Below
Jan-15	223	0.04	4	0.026	2 x Violence & sexual offences 2x Drugs	Below
Feb-15	194	0.04	13	0.064	2 x Other theft, 1 x Bicycle theft, 1 x Shoplifting, 1x Theft from person 2 x Violence & sexual offences 4x Anti-Social Behaviour	Below
Mar-15	248	0.047	5	0.25	1x Robbery 1x Anti-social behaviour 1x Vehicle Crime 1x Violence and sexual offence 1x Public Order	Below

- 8.14 Fig.3 clearly illustrates that by and large the crime rate experienced around Coopers Close, Cleveland Grove and Cleveland Way is below what would be expected, as for 10 out of the 13 months surveyed the crime rate was below the average rate experienced across the boundary area.
- 8.15 Whilst officers do observe that there is an issue with crime (most notably with anti-social behaviour issues), in light of the above evidence it cannot be considered that the crime rate experienced on and around Cooper Close is exceptional given its context, and therefore officers consider it would not be appropriate for the Council to make an exception to the policy position in this instance.
- 8.16 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, there is insufficient evidence to suggest that crime and anti-social behaviour levels are such that greater weight should be given to this argument in planning terms. In addition it should also be considered that the applicant has not demonstrated or outlined any steps that have been taken by management or in association with the police to address the current issues with anti-social behaviour in the first instance without resorting to the gating of the passage. In light of the above, it is considered on balance that the negative implications of the proposal by virtue of its potential to contribute to the segregation of communities, far outweigh the perceived benefits of providing a gated entrance to the south of 18 Cleveland Way.

ACCESSIBILITY/PERMEABILITY

- 8.17 According to paragraph 69 of the NPPF the planning system can play an important role in facilitating social interaction and inclusive communities. Paragraph 73 states that access to high quality open spaces and the opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. In paragraph 75 it is stated that all opportunities for the protection and enhancement of public rights of way and access should be taken in both the formation of planning policy and in planning decisions.
- 8.18 Policy 3.9 of the London Plan states that development should foster social diversity, repress social exclusion and strengthen communities' sense of responsibility for, and identity with, their neighbours. Policies 7.1 – 7.5 set out that development should interface appropriately with its surroundings, improve access to the blue ribbon network and open space, be inclusive and welcoming with no disabling barriers and be designed so that everyone can use them without undue separation. Policy 7.27 states that development should protect and improve existing access points to the blue ribbon network.
- 8.19 Policy SP09 (2C) states that the Council will not support developments that restrict pedestrian movement. Policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.20 Policy DM23 (1A, 1E & 1F) seeks to ensure that development should be well connected with the surrounding area and should be easily accessible for all people by; improving permeability and legibility, particularly to public transport, town centres, open spaces and social and community facilities; incorporating the principles of

inclusive design; and ensuring development and the public realm are comfortable and useable. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement. Policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development. Policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of enclosure or create unacceptable levels of noise, odour or fumes during the life of the development.

- 8.21 The erection of a security gate would restrict movement onto and off of Coopers Close contrary to NPPF paragraph 75 and London Plan policy 7.2, Core Strategy policy SP12 and Managing Development Document policy DM23. This proposal would result in a structure which would be intended to be a barrier to movement, and would subsequently restrict the movement of residents of Cooper Close and wider community. The erection of a gate would not contribute towards the Council's objectives of creating a more well-connected Borough, as the proposed location for the gate would result in a barrier to an existing thoroughfare.
- 8.22 Both national and local planning policies put an emphasis on creating mixed and inclusive communities where social interaction between all members of society is encouraged (see NPPF paragraph 69, London Plan 3.9, Core Strategy SP09 and Managing Development Document DM23). This Council has made a clear stance in its planning policies that it is against the creation of gated communities, and any proposals to discourage community cohesion will be strongly resisted.
- 8.23 Considering the above, officers conclude that the erection of a security gate such as that being proposed would be contrary to national, regional and local policy, as the proposal would restrict full public access through Bethnal Green through the loss of a legally secured publically accessible route towards Mile End Road. The proposal would to an extent encourage a 'gated' community which would be impermeable for non-residents which is against the general planning principle of inclusive communities.

Design

- 8.24 According to paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.25 Policy 7.1 and 7.4 of the London Plan states that development should promote a good quality environment, provide a character that is easy to understand and relate to and have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Development should also improve an areas visual or physical connection with natural features.
- 8.26 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.

- 8.27 The Council's Managing Development Document policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.
- 8.28 Managing Development Document Policy DM27 states that development will be required to protect and enhance the borough's heritage assets, their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'.
- 8.29 The proposed security gate at 2.4m high and 2.962m wide would be constructed in from galvanized steel and finished in black.
- 8.30 The proposed gate by reason of its height and prominence would result in an incongruous addition to Cleveland Way and as a consequence an unsightly addition to the public realm and would not preserve or enhance the character and appearance of the Stepney Green Conservation Area and a sense of impermeable public realm from the streets and surrounding areas contrary to policies DM24 and DM27 of the Managing Development Document, SP10 and SP12 of the Core Strategy (2010) 7.4, 7.6 and 7.8 of the London Plan and the advice contained within the NPPF. These policies aim to ensure that development is of high quality design and positively responds to its setting.

Amenity

- 8.31 According to paragraph 17 of the NPPF local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.32 Policy 7.14 of the London Plan states that local planning authorities should put in place strategies to achieve reductions in pollutant emissions and minimise public exposure to pollution.
- 8.33 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that development protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight); and uses design and construction techniques to reduce the impact of noise and air pollution.
- 8.34 The Council's Managing Development Document policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of enclosure or create unacceptable levels of noise, odour or fumes during the life of the development.
- 8.35 The Council's policies (see Core Strategy SP10 and Managing Development Document DM25) seek to protect, and where possible improve the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm.
- 8.36 Concerns have been raised from both those in favour and against regarding the potential amenity impacts of installing a security gate at the western end of the Coopers Close passage with regards to noise and disturbance and anti-social behaviour.
- 8.37 It is considered that the proposed gates alone would not reduce nuisance or disturbance in the area from the installation of the gates.

- 8.38 The proposed gate by reason of its separate distance and design would also not result in any significant loss of outlook, sunlight or daylight, or loss of outlook or privacy to neighbours to warrant a reason for refusal.
- 8.39 It is therefore considered that the proposal would not impact upon the amenities of neighbouring properties in accordance with policies DM25 of the Managing Development Document (2013), SP10 (4) of the Core Strategy (2010) and 7.6 of the London Plan (2015) and the intentions of the NPPF.

Transportation

- 8.40 According to paragraphs 32 and 35 of the NPPF local planning authorities should take account of whether safe and suitable access to the site can be achieved for all people; and whether development creates safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, and avoid street clutter.
- 8.41 The highways officer requested that the gate should be open in daylight hours and for use by the general public.
- 8.42 The proposed development would not result in highway safety concerns, however, it would prevent access on to the Coopers Close Estate and impact the transport (pedestrian and cyclist) network as discussed previously.

Conclusion

- 8.43 Whilst Officers acknowledge that there is some existing anti-social behaviour issues on site that concern some residents of the Cleveland Way, Cleveland Grove and Coopers Close and have led to the applicant submitting this application, this does not outweigh officer concerns that the proposal discords with planning policy at all levels and for so many different reasons. In principle, Officers do not consider the proposal to be acceptable as the proposal goes against the core principles of creating inclusive communities which is integral to the success of the Borough.
- 8.44 In light of the above, it is considered that the proposal would be contrary to national, regional and local planning policy as it restricts movement, encourages a gated community, does not incorporate the principles of inclusive design and is not sensitive to nor enhances the local character of the Stepney Green Conservation Area.

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
- 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".

9.3 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.

9.4 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.

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

9.6 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.

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, gender 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:

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

10.2 The proposal would be a potential barrier to people with impairments and thus could be seen as a proposal that could discriminate against a section of the community, which does not fall in line with The Equality Act 2010. Were Members minded to not to follow officers' recommendation, Members need to satisfy themselves that the proposal is satisfactory and could be managed to prevent discrimination.

11.0 CONCLUSION

- 11.1 All other relevant policies and considerations have been taken into account. Planning permission should be REFUSED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

12.0 SITE MAP

