

-Committee: Development Committee	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Lydia Meeson	Ref No: PA/15/00756
	Ward: St Peters

1. APPLICATION DETAILS

Location:	461 Bethnal Green Road, London, E2 9QH
Existing Use:	Gym (Use Class D2) at lower ground floor level and residential (Use Class C3) above
Proposal:	Change of use of lower ground floor from gym (Use Class D2) to 4x serviced apartments (Use Class C1).
Drawing and documents:	Site Location Plan, FV-2015-01 Rev A, FV-2015-02 Rev A, FV-2015-03, FV-2015-04, Design and Access Statement, Impact Statement, Business Management Plan, Service and Management Plan (revised), copy of advertisement, letter of correspondence from Chris Syrimis & Co., JLL Hotel Intelligence report.
Applicant:	Mr Savvas Hadjikyriacou
Ownership:	Mr Savvas Hadjikyriacou
Historic Building:	N/A
Conservation Area:	N/A

2. EXECUTIVE SUMMARY

- 2.1. This report considers an application to change the use of the lower ground floor of the building from a gym to four service apartments
- 2.2. Officers have considered the particular circumstances of this application against the provision of the Development Plans, national, regional and local guidance and other material considerations as set out in this report, and recommend approval of planning permission.
- 2.3. It is considered that the proposed loss of the gym (use class D2) would not significantly diminish the provision of fitness facilities in the Bethnal Green District Centre, due to the good provision of alternative facilities in the area. Therefore the loss of D2 facilities in this location could be approved in accordance with policy DM8

of the Managing Development Document (2013), policy SP03 of the Adopted Core Strategy (2010) and policy 3.16 of the London Plan (2015).

- 2.4. The proposed provision of serviced apartments (use class C1) is considered to be appropriate in its location in a town centre, in its scale in relation to that location and its proposed management. Therefore this proposal meets the requirements of policies DM7 of the Managing Development Document (2013), policy SP06 of the Adopted Core Strategy (2010) and policy 4.5 of the London Plan (2015).
- 2.5. The proposed change of use is not considered to have any increase amenity impacts on neighbouring residents in relation to the levels of noise and disturbance from the existing use of the property.
- 2.6. This application meets the local and regional policy requirements set out for the storage of refuse, recyclables and bicycles and proposes to be car and car-permit free.

3. RECOMMENDATION

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

3.3. Conditions

1. The development permitted should commence before the expiry of three years from the date of the permission.

2. The development permitted should be constructed in accordance with the approved plans.

3. Prior to occupation arrangements should be made to secure the development as 'car-free' through a unilateral undertaking between the Developer and the Council. The agreement should ensure that all future users or occupiers cannot apply for or obtain an on-street parking permit, should be implemented prior to occupation and retained in perpetuity unless otherwise agreed in writing from the Local Planning Authority.

4. Details of the proposed cycle storage should be submitted to the council for approval prior to commencement of works and the storage approved should be provided prior to the occupation of the development and retained permanently for the use of occupiers.

5. Details of the proposed refuse and recyclables storage should be submitted to the council for approval prior to commencement of works and the storage approved should be provided prior to the occupation of the development and retained permanently for the use of occupiers.

6. The accommodation permitted should not be occupied for more than 90 consecutive days by any tenant or visitor.

4. PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1. The application site is a part five, part seven storey red brick building located on the north side of Bethnal Green Road on the east corner of the junction with Punderson Gardens. This application regards the lower ground floor of the building which is accessed from Bethnal Green Road via an entrance in the five storey part of the building.
- 4.2. The lower ground floor of the building is currently used as a gym (use class D2) which operates as a separate business from the remainder of the building and not as ancillary to the residential apartments. The ground floor of the building has three retail units (use class A1) and a lobby for the apartments. The upper storeys (from the first floor) contain a number of residential apartments (use class C3).
- 4.3. The application site is within Bethnal Green East District Centre, which is characterised by a mixture of uses on the ground floor (predominately A1, but also A2, A3, A4 and A5), with residential accommodation on the upper floors.
- 4.4. The application site is not listed and does not lie within a designated Conservation Area.

Proposal

- 4.5. The proposal involves the following:
 - (a) Change of use of the lower ground floor from gym (use class D2) to serviced apartments (use class C1).
 - (b) Alterations to the rear façade of the property, including the removal of the extension, removal of fire escape door, installation of four windows

5. RELEVANT PLANNING HISTORY

- 5.1. **PA/86/00263**
(Former 455-463 (odd) Bethnal Green Road)
Conversion and Extension to provide 90 Flats, 10 Work-Homes, 6 Light Industrial Units, 3 Offices and 2 Retail Units
Permission granted on 23/03/1989
- 5.2. **BG/89/00120**
(Former 461 Bethnal Green Road)
Change of use of the lower ground floor to leisure/gymnasium
Planning permission granted on 16/05/1989

6. POLICY FRAMEWORK

- 6.1. 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:

6.2. Government Planning Policy Guidance/Statements

National Planning Policy Framework (March 2012) (NPPF)
National Planning Practice Guidance (March 2014)

6.3. The London Plan – Consolidated with Alterations since 2011 (March 2015)

2.15: Town Centres
3.16: Protection and Enhancement of Social Infrastructure
4.5: London's visitor Infrastructure
4.6 Support for and enhancement of arts, culture, sport and entertainment
6.1: Strategic Approach to Transport
6.3: Assessing effects of development on transport capacity
6.8: Cycling
6.13: Parking
7.4: Local Character

6.4. Site Designations

Bethnal Green District Town Centre

6.5. Tower Hamlets Core Strategy (adopted September 2010) (CS)

SP01: Refocusing on our Town Centres
SP03: Creating Healthy and Liveable Neighbourhoods
SP05: Dealing with Waste
SP06: Delivering Successful Employment Hubs
SP09: Creating Attractive and Safe Streets and Spaces
SP10: Creating Distinct and Durable Places

6.6. Managing Development Document (adopted April 2013) (MDD)

DM1: Development within the Town Centre Hierarchy
DM7: Short Stay Accommodation
DM8: Community Infrastructure
DM14: Managing Waste
DM22: Parking
DM23: Streets and the Public Realm
DM24: Place-sensitive Design
DM25: Amenity

6.7. Other Relevant Documents

N/A

7. CONSULTATION RESPONSES

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

7.2. The following were consulted regarding the application:

Internal Consultees

Highways and Transportation

- 7.3. Highways have no objection to the application.

Neighbours Representations

- 7.4. A total of 144 planning notification letters were sent to nearby properties. The application proposal was also publicised by way of a site notice and press notice. A total of 23 letters of representation were received objecting to the proposal.

A summary of the objections received

- 7.5. Noise and Disturbance – objectors expressed concern over the potential for noise from future occupiers and possible risk to existing residents’ security from short stay guests.
- 7.6. The change of the rear of the building – objectors believe there will be change in visual appearance at the rear and they believe that the proposals extend into the ‘communal areas’.
- 7.7. The safety of future occupants – objectors noted the proposed accommodation would not be wheelchair accessible and that the rear fire escape door has been removed.
Officers Response: *The issues raised in the objections are addressed in the material planning considerations section of this report.*

8. MATERIAL PLANNING CONSIDERATIONS

Land Use

- 8.1. The application proposal seeks to change the gym which totals 185sqm of D2 floorspace into 185sqm of C1 floorspace arranged as 4 no. serviced apartments, lobby and ancillary storage.

Loss of leisure facilities

- 8.2. Policy DM8 of the Managing Development Document (2013) seeks to protect existing leisure facilities. This is supported by policy SP03 of the Adopted Core Strategy (2010) and policy 3.16 of the London Plan (2015).
- 8.3. Policy DM8 states that the loss of a leisure facility will only be considered upon sufficient demonstration that there is no longer a need for the facility in the local community and the building is no longer suitable, or that the facility is adequately reprovided elsewhere in the borough.
- 8.4. The applicant has stated that the property is currently vacant due to the poor economic viability of the gym and provided correspondence from their accountant suggesting that the business is likely to make a loss for the 2014-2015 financial year. However upon the officer’s visit it was apparent that the gym is still in operation. The design and access statement draws attention to 8 other gym or fitness facilities within 0.5miles of the site, which is considered to be adequate provision of D2 space of this kind for the Bethnal Green District Centre. Therefore Officers do not believe that the loss of the gym proposed in this application would materially impact the provision of

leisure facilities within the local community and would therefore find this application acceptable.

8.5. Provision of short-stay accommodation

8.6. Policy SP06 of the Adopted Core Strategy (2010) directs serviced apartments towards Central Activities Zones, Activity Areas and major and District Centres, in accordance with policy 4.5 of the London Plan (2015).

8.7. Policy DM7 of the Managing Development Document (2013) seeks to promote the provision of visitor accommodation in such locations where: the size is appropriate to its location within the town centre hierarchy; there is a need for such accommodation; it would not compromise the supply of land for new homes; it would not create an over-concentration of such accommodation. In addition it requires serviced apartments to demonstrate that they will be managed appropriately as short stay accommodation, with occupancy for up to 90 days.

8.8. The application site is located in a town centre location, and this application proposes just four serviced apartments. Therefore officers consider the proposed short stay accommodation to be of an appropriate size to its location. In addition the modest size of the proposed accommodation would ensure that there is not an over-concentration of short stay accommodation in Bethnal Green District Centre.

8.9. Whilst other parts of this building are used for residential accommodation, since the application site is on the lower ground floor with limited lighting conditions, Officers do not believe that this location would be suitable for residential accommodation. Therefore this proposal is not considered to compromise the supply of land for new homes.

8.10. The applicant has not submitted any information to support the specific need for short stay accommodation in the Bethnal Green area. However, given its location in a district centre and its excellent transport accessibility (PTAL 6a), this site is considered to be an appropriate location for visitor accommodation in line with the aim of policy 4.5 of the London Plan to support the increase in provision of visitor accommodation across London in town centre locations with good transport accessibility. Therefore Officers would support the provision of short stay accommodation (use class C1) from this application.

8.11. The applicant has submitted a Business Management Plan, which outlines the proposed operation of the serviced apartment, including the use of a 24hr reception and the limit on time of stay. It is therefore considered that the applicant has demonstrated that they proposed to operate the short stay accommodation appropriately in accordance with policy.

8.12. Permission for this use would be subject to a condition to ensure that the units could not be occupied for more than 90 consecutive days at a time by a single occupant or single group of occupants.

Design

8.13. Policy DM24 of the Managing Development Document (2013) seeks high quality design in development, sensitive to the character of the surrounding area in terms of its use of materials, design details and building lines. This is supported by policy SP10 of the Adopted Core Strategy (2010) and policy 7.4 of the London Plan (2015).

- 8.14. This application proposes few changes to the appearance of the building, only minor changes to the rear. Contrary to objectors concerns, this application would not increase the building's coverage of the plot, but decrease it: the removal of the existing extension to the northeast of the plot would increase the yard space at the rear. It is not considered that this change would materially affect the aesthetic of the building, since this is at lower ground level and not highly visible, and this would revert to be in line with the building line of the remainder of the building. This removal is therefore supported.
- 8.15. In addition this application proposes to install aluminium framed windows of a similar style to the existing windows, which is supported as the resultant façade at ground floor level will be reflective of the style of the remainder of the host building.

Amenity

- 8.16. Policy DM25 of the Managing Development Document (2013), seeks to protect the amenity of neighbouring residents and building occupants from development in accordance with policy SP10 of the Adopted Core Strategy (2010).
- 8.17. Objectors raised particular concern over the potential for noise disturbance from the proposed use. However Officers believe that the proposed change in use would not result in a significant increase in noise emitting from the premises. The existing operation of the property involves music and equipment noise throughout its operation hours which are: 8am-11pm Sunday-Thursday and 8am-12am Fridays and Saturdays. By contrast the noise of guests in occupation is likely to be less due to its nature as visitor accommodation or for overnight stays.
- 8.18. The noise of the entrance and exit of guests is limited to the south side off the building which already has high levels of ambient noise from Bethnal Green Road. Due to the small number of users it is not considered that the additional use of the space would cause any material increase in noise levels for the other occupants of the building.
- 8.19. Objectors also raised concerns over the security of residents as a result of the proposed change in use. The provision of short stay accommodation at this location is not considered to materially affect the security of the remaining building occupants as the entrance of the building is separate from the residential entrance and the future occupants of the serviced apartments would not have any access to the communal parts of the building or the car park to the rear.

Transport

Servicing and Delivery

- 8.20. Currently the gym is serviced from Bethnal Green Road for both deliveries to the premises and commercial refuse and recycling collection (of sacks left on the street on the day of collection).
- 8.21. This application proposes to retain servicing and deliveries via Bethnal Green Road. Although the proposed change of use would involve increased deliveries to the premises for laundry items, due to the small size of the proposed development it is not considered that this would materially impact the congestion on Bethnal Green Road. Equally, due its small size and temporary nature the proposed accommodation is not considered by Officers to result in a material increase in refuse and recycling that would make on-street sack collection inappropriate.

Car & Cycle Parking

- 8.22. The NPPF and Policies 6.1 and 6.9 of the London Plan (2011), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.23. Currently the gym provides no cycle storage and does not benefit from parking in the rear car park or any other off-street parking facilities; the only parking provision being pay and display bays in front of the premises on Bethnal Green Road.
- 8.24. The proposal does not include any on site car parking and the site has an excellent Public Transport Accessibility Rating (PTAL 6a). The proposal has been assessed by the Council's Highway and Transportation Team, who have raised no objection to nil parking provision and in view of this a car free development would be encouraged. It is considered that this objective can be secured by a condition to secure a permit free development through a unilateral undertaking between the Owner and the Council.
- 8.25. The Parking Addendum to chapter 6 of the London Plan (2015) sets minimum parking standards of 1 cycle space per 20 bedrooms for developments with C1 use. The scheme proposes secure storage for 5 bicycles in the southwest corner of the lower ground floor, by way of wall mounted cycle racks. This provision would exceed the minimum provision of cycle spaces; and, whilst it is noted that the lower ground floor location and lack of lift is not the most desirable access arrangement, Officers consider that there is no other suitable arrangement. Since the size of the curtilage at ground floor level is not sufficient for a lift or alternative storage space, basement level cycle storage is considered acceptable. In addition alternative location of the storage space under the stairs to the rear of the property is considered inappropriate by Officers because there is no access through the rear of the property and therefore the journey to the accommodation from the store would be too lengthy to enable ease of use.
- 8.26. Therefore, subject to a condition to ensure that this facility is provided prior to occupation and retained, it is considered that the proposals would accord with the above policy requirements.

Refuse and Recyclables Storage

- 8.27. Policy SP05 in the adopted Core Strategy (2010) states developments which are likely to produce significant quantities of waste must include adequate arrangements for its collection and storage. This is further emphasised by policy DM14 of the Managing Development Document.
- 8.28. Currently refuse and recycling is stored in a storage room at the northeast corner of the property, although the details of this provision in terms of bin capacity, etc. is not known.
- 8.29. The scheme proposes a small storage area for refuse and recyclables in the south of the building accessed via the cycle storage. This is not located on ground floor level and there is no lift to facilitate the removal of refuse and recyclables from the property. However, given the lack of a viable alternative location for this within the site (as considered with the cycle storage) and it is considered that this provision is acceptable.

Other Issues

- 8.30. Objectors raised concerns over the proposal's lack of accessibility for wheelchair users or less mobile persons. Although efforts could have been made to provide wheelchair accessible accommodation, given the current lack of accessibility and the constraints of the size and level of the site, Officers consider that this is acceptable in this instance.
- 8.31. Objectors also note that the rear fire escape at the site would be removed under these proposals. Whilst Officers would wish to ensure safe means of egress for occupiers in the event of a fire, the specific requirements for this development are covered under building regulations legislation and are not a material planning consideration; therefore this would not be considered a reason for refusal.

9. 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 Conventions rights are likely to be relevant including:
- (a) Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the 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;
 - (b) 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's interest (Convention Article 8); and
 - (c) Peaceful enjoyment of possession (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 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. 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.

- 9.5. Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power and duties. Any interference with a Convention right must be necessary and proportionate.
- 9.6. Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 9.7. 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.
- 9.8. 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. EQUALITIES

- 10.1. The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation there are no identified equality considerations.

11. FINANCIAL CONSIDERATIONS

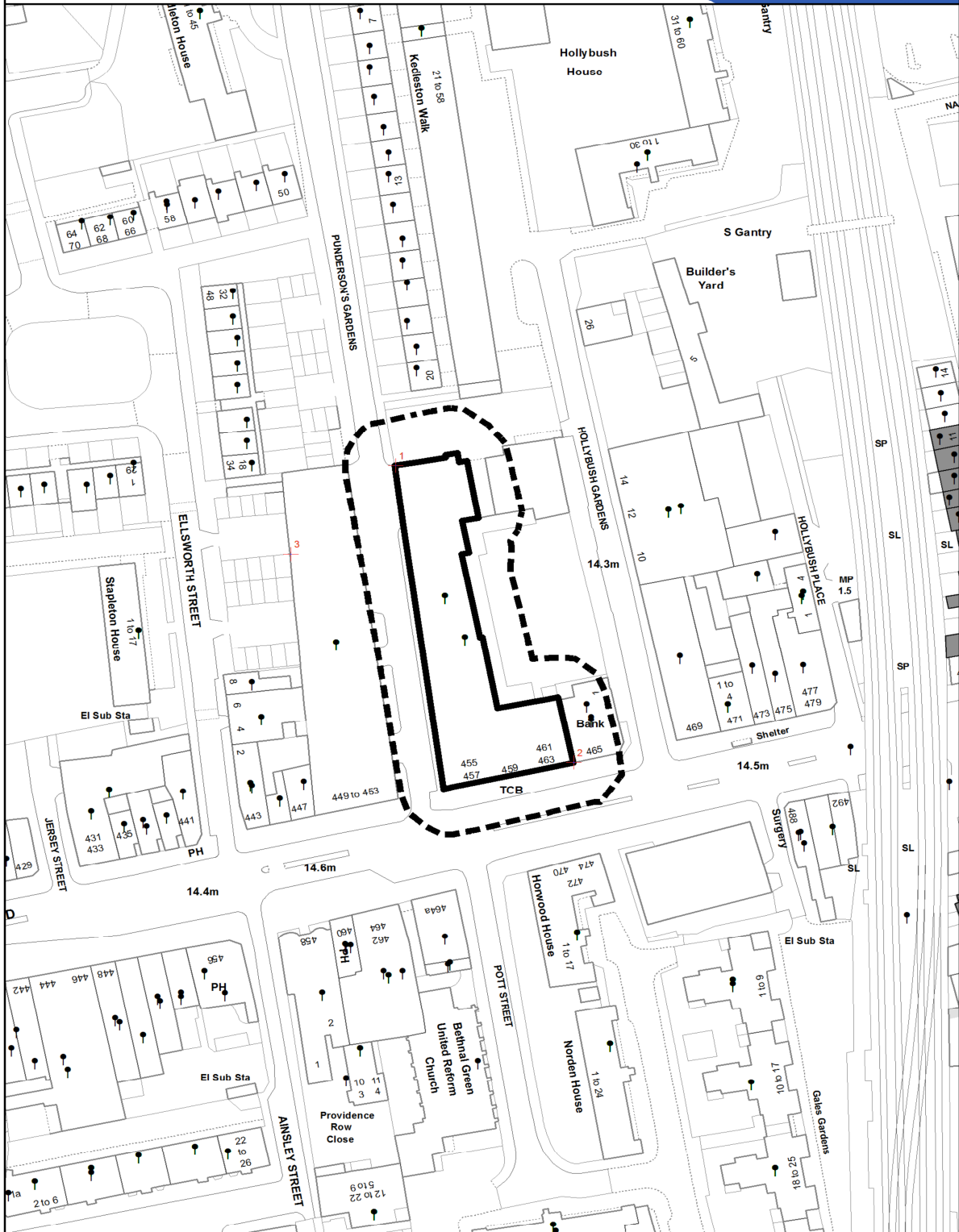
- 11.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that in determining planning applications, the authority shall have regard to (amongst other things) any local finance considerations, so far as material to the application.
- 11.2. Section 70(4) defines "local finance consideration" as:
 - (a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - (b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.







11.3. Members are reminded that that the London Mayoral CIL became operational from 1 April 2012s and that Borough's Community Infrastructure Levy came into on 1st April. Both of which are payable (subject to certain exceptions) on floorspace created by development. However, in this case no additional floor space is being provided and since the property is currently occupied and has been for a continuous period of six months during the previous 3 years, the entire existing floorspace of the property would be deducted for CIL purposes and the liability would be zero

12. CONCLUSION

12.1. All other relevant policies and considerations have been taken into account. Planning permission should be **approved** for the reasons set out in RECOMMENDATION section of this report.

Planning Application Site Map
PA/15/00756



 Planning Application Site Boundary	 Locally Listed Buildings	 Land Parcel Address	
 Consultation Area	 Statutory Listed Buildings	0 30 m	

1:1,250

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.
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