

Committee: Strategic Development	Date: 27 th August 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission and Listed Building Consent.
Case Officer: Beth Eite	Ref No: PA/14/03548 (Full Planning Application) Ref No. PA/14/3618 (Listed Building Consent)
	Ward: Spitalfields and Banglatown

1. APPLICATION DETAILS

Location: Land bounded by Elder Street, Folgate Street, Blossom Street, Norton Folgate, Shoreditch High Street and Commercial Street, E1.

Existing Use: Retail (A1), Public House (A4), Office (B1), Storage and Distribution (B8) and Non-Residential Institutions (D1).

Proposal: Application for planning permission (PA/14/03548)

Redevelopment of the former Nicholls and Clarke urban block and adjoining former depot site, Loom Court, and land and buildings north of Fleur de Lis Passage and Fleur de Lis Street, including retention and refurbishment of buildings, for commercially led mixed-use purposes comprising buildings of between 4 and 13 storeys to provide B1 (Office), A1 (Retail), A3 (Restaurants and cafés), A4 (Public house) and 40 residential units; together with new public open spaces and landscaping, new pedestrian accesses, works to the public highway and public realm, the provision of off-street parking, and ancillary and enabling works, plant and equipment.

The application is accompanied by an Environmental Statement, Addendum and other environmental information. The Council shall not grant planning permission unless they have taken the environmental information into consideration.

Application for listed building consent (PA/14/03618)

Works to the public highway (Fleur de Lis Street) including repair and replacement, where necessary, of the carriageway and pavement, installation of cycle parking, hard landscaping and all necessary ancillary and enabling works, plant and equipment.

2. BACKGROUND

- 2.1 This application for planning permission was considered by the Strategic Development Committee on 21th July 2015. A copy of the original report is appended.
- 2.2 The application was recommended for approval, however members voted to refuse planning permission and listed building consent based on the loss of heritage and subsequent harm to the conservation area as well as the lack of housing within the scheme, combined with the lack of affordable housing as a proportion of the housing

3.0 PROPOSED REASONS FOR REFUSAL

FULL PLANNING PERMISSION

- 1) The development would result in the total and partial loss of, and unsympathetic alteration, to a significant number of heritage assets which make a positive contribution to the character and appearance of the conservation area. Their replacements, by reason of the scale, mass and design would be harmful to the character and appearance of the conservation area. As a result, the proposal would cause 'less than substantial' harm to the Elder Street Conservation Area and the Brick Lane and Fournier Street Conservation Area. The public benefits associated with the proposal, including but not limited to additional employment floorspace, additional housing and bringing back vacant buildings into active use would not overcome the identified harm to the conservation area.

As a result the proposal is not considered to be sustainable development in accordance with paragraph 14 of the NPPF and is contrary to Development Plan policies SP10 of the Core Strategy 2010 and DM24 and DM27 of the Managing Development Document 2013 as well as having regard to the Elder Street Conservation Area Character Appraisal and the Historic England: Good Practice Advice 3.

- 2) The proposal by reason of the low proportion of housing compared to employment floorspace within the scheme fails to adequately address the borough's housing needs in accordance with strategic objective 7 within the Core Strategy which requires the delivery of housing to meet the objectives set out in the London Plan. This, combined with the low percentage of affordable housing would fail to ensure the development contributes to the creation of socially balanced and inclusive communities.

As a result the proposal is contrary to paragraph 47 of the NPPF which requires housing supply to be boosted significantly, policy SP02 (1) of the Core Strategy 2010 and policy 3.3 of the London Plan 2015 which requires Tower Hamlets to deliver 3,931 new homes a year. The proposal is also contrary to policy SP02 (3) which requires housing development to provide 35%-50% affordable housing on all sites providing 10 or more residential units.

LISTED BUILDING CONSENT

- 1) The proposed works to the grade II listed carriageway on Fleur de Lis Street, without any associated planning permission for redevelopment represents an unwelcome and unnecessary intrusion into the historic fabric of the street, causing less than substantial harm to this heritage asset. With no redevelopment proposals in place this harm is not outweighed by any public benefits and is therefore contrary to Development Plan policies SP10 of the Core Strategy 2010 and DM24 and DM27 of the Managing Development Document 2013 as well as having regard to the Elder Street Conservation Area Character Appraisal and the Historic England: Good Practice Advice 3.

4.0 CONSIDERATION

- 4.1 It is the professional view of officers that the above reasons for refusal could be defended at appeal, however the likelihood of success may be limited, particularly with regard to the low proportion of housing within the scheme. The reasons for this are set out below:

4.2 General proportion of housing

Tower Hamlets Core Strategy and Managing Development Document identify that there is a need for both employment floorspace and new housing within the borough. Other than within employment areas such as Preferred Office Locations and Local Office Locations it does not identify which use should be promoted over another. Clearly Tower Hamlets has challenging housing targets but it also has a policy which supports the growth of employment floorspace.

- 4.3 Strategic Objective 7 within the Core Strategy identifies that within the plan period the Council will seek to “deliver housing growth to meet general and specialist housing demand in line with London Plan targets”. Equally Strategic objectives 15 and 16 seek to achieve successful employment hubs through “supporting the thriving and accessible global economic centres of canary Wharf and the City Fringe which benefit from the regional and local economies” and “to support the growth of existing and future business in accessible and appropriate locations.
- 4.4 The annual monitoring report for 2012-2013 states that 37,028sqm of office floorspace has been lost over this period, predominantly for replacement with residential uses.
- 4.5 In summary the Local Plan provides support for both employment and residential uses, as such there is no obligation for the developer to provide housing within this scheme. It is intentionally employment-led in order to meet the aspirations of the GLA and the emerging ‘tech-city’ sector.
- 4.6 Where the Local Plan places no emphasis on residential over employment floorspace the draft Opportunity Area Planning Framework identifies a need for between 288,000sqm and 385,000sqm additional employment floorspace up to 2033 with the strength of demand within the ‘inner core area’ of the OPAF boundary (which this site falls within). Within the inner core emphasis is placed on the importance of new office floorspace and ‘Strategy 3 – Striking the balance between employment and residential’ states the following: “New build employment floorspace will be encouraged and supported. Strong consideration should be given to developing employment-led schemes and to the opportunity to provide an overall uplift in

employment floorspace”

- 4.7 It should also be noted that there was no residential floorspace provided within the extant scheme.

4.8 **Affordable Housing**

Comments were also raised by members with regard to the lack of affordable housing within the scheme. Policy SP02 of the Core Strategy requires developments to provide 35-50% affordable housing, however this is subject to viability and whether the scheme can afford that percentage of affordable housing.

- 4.9 In this case the applicant initially submitted the scheme with 27% affordable housing, through negotiation and robust interrogation of their viability assessment it was found that an extra 3% could viably be provided, as a result the developer converted a 2-bed private unit into a 3 bed affordable rented unit which then means the scheme provides 30% affordable housing. This is the maximum affordable housing that the scheme can provide and as such a refusal reason based upon the low proportion of affordable housing within the scheme would be challenging to successfully argue on appeal.

5.0 **IMPLICATIONS OF THE DECISIONS**

- 5.1 Following the refusal of the applications the following options are open to the Applicant. These would include (though not be limited to):

1. The applicant could appeal the decisions and submit an award of costs application against the Council. Planning Inspectorate guidance on appeals sets out in paragraph B20 that:

“Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council”.

2. There are two financial implications arising from appeals against the Council’s decisions. Firstly, whilst parties to a planning appeal are normally expected to bear their own costs, the Planning Inspectorate may award costs against either party on grounds of “unreasonable behaviour”. Secondly, the Inspector will be entitled to consider whether proposed planning obligations meet the tests of CIL Regulations 2010 (Regulation 122)
3. A future “call in” by the London Mayor or a future appeal should it be successful, might result in the developers being able to provide affordable rented housing at up to 80% of market rents. Similarly, the developer may elect to either renegotiate planning obligations previously agreed or prepare a unilateral undertaking for a subsequent appeal which could potentially result in a lesser S.106 planning obligations package (both in terms of financial and non-financial obligations negotiated by your officers).

- 5.2 Whatever the outcome, your officers would seek to robustly defend any appeal.

6 RECOMMENDATION

- 6.1 Officers do not wish to change their original recommendation to **GRANT PLANNING PERMISSION and LISTED BUILDING CONSENT**, subject to conditions and the completion of a s106 legal agreement.