

<b>Committee:</b> Development Committee	<b>Date:</b> 9 <sup>th</sup> March 2016	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Application for Planning Permission
<b>Case Officer:</b> Brett McAllister	<b>Ref No:</b> PA/15/02164
	<b>Ward:</b> Shadwell

## 1. APPLICATION DETAILS

**Location:** 27-29 and 33 Caroline Street, London, E1 0JG

**Existing Use:** Storage Warehouses (Use Class B8)

**Proposal:** Demolition of existing buildings at 27-29 and 33 Caroline Street and erection of two buildings up to 9 storeys in height to provide 56 residential units and landscaped amenity space, cycle parking and associated works.

## 2. BACKGROUND

2.1 This application for planning permission was considered by the Development Committee on 13<sup>th</sup> January 2016. A copy of the original report is appended.

2.2 Members were minded to **REFUSE** planning permission on the following grounds:

- Insufficient provision of affordable housing
- High residential density in excess of London Plan
- Height and Scale of the development
- Quality of child play space and communal amenity space

2.3 In accordance with Development Procedural Rules, the application was **DEFERRED** to the next committee to enable officers to prepare a deferral report to provide wording for reasons for refusal and providing commentary on the detailed reasons for refusal on the application.

2.4 Officers have since discussed these matters with the applicant and further information and amendments have been submitted to address the concerns raised by members. The amendments seek to increase the affordable housing and amend the tenure split.

2.5 Further evidence and justification has been provided by the applicant to address the other three reasons put forward by the committee. These will also be discussed within this report.

### **3. ASSESSMENT OF THE COMMITTEE'S REASONS FOR REFUSAL**

#### **Affordable Housing**

- 3.1 At committee, members raised concerns regarding the level of affordable housing within the scheme, both in terms of the overall quantity and, of the affordable housing that was being proposed, the ratio between affordable rented units and intermediate units.
- 3.2 The proposed development originally committed to providing 28% affordable housing on site, plus a payment of £173,000. This was found to be the maximum amount that could be viably provided and was supported by officers based on London Plan and Local Plan policies, which states that affordable housing should be maximised subject to viability.
- 3.3 Prior to the January Development Committee meeting, the affordable housing offer was amended to provide 30% on site affordable housing with no commuted sum. This was achieved by converting a private sale unit into an additional intermediate unit. As a result of this change the tenure split between the affordable rented and intermediate housing changed from the originally proposed 66/34 in favour of rented to 61/39. The revised tenure split which whilst still in favour of rented moved further away from the Councils preferred mix of 70/30, but was in line with the London Plan policies.
- 3.4 The Committee indicated that the 30% offer and the adjusted tenure split that resulted from the increase to the on-site affordable housing was not acceptable, given the high density of the scheme and the fact that the tenure split departed from the Councils Local Plan tenure split.
- 3.5 Following committee, the applicant has revisited the scheme and has introduced further amendments in order to increase the on-site affordable housing quantum. It is now proposed that the development would include 16 affordable units (52 habitable rooms); equating to 34.2% affordable housing based on habitable rooms and with a 67 : 33 tenure split between rented and intermediate accommodation.
- 3.6 The proposed level would be closer to the Council's strategic target (35-50%) and preferred tenure split (70% affordable rented and 30% intermediate).
- 3.7 Although this level of affordable housing and tenure split is not supported by the normal assumptions of the viability analyses undertaken on behalf of the applicant and reviewed by the Council, the applicant believes that the increased offer is deliverable at this level.
- 3.8 The applicant has advised the intention is for the site to be built out by themselves and to be retained as investment and operate the market housing as a Private Rented Scheme (PRS). On this basis, the developer is prepared to take a view on a lower level of short term development profit in favour of its long term strategy.
- 3.9 The increased affordable housing offer is also driven by confidence in future rental values within the Limehouse area.
- 3.10 As such, whilst the affordable housing offer exceeds the level considered viable within the viability assessment, the applicant has demonstrated particular special circumstances that would allow the scheme to still be deliverable, and on that basis the revised offer is being put forward.

3.11 For the avoidance of doubt, the following is the revised housing mix:

	Market		Intermediate		Rented		Total	
Unit Types	Units	Hab Rm	Units	Hab Rm	Units	Hab Rm	Units	Hab Rm
Studio	6	6	0	0	0	0	6	6
1	11	22	1	2	0	0	12	24
2	20	60	5	15	5	15	30	90
3	3	12	0	0	5	20	8	32
4	0	0	0	0	0	0	0	0
<b>Total</b>	<b>40</b>	<b>100</b>	<b>6</b>	<b>17</b>	<b>10</b>	<b>35</b>	<b>56</b>	<b>152</b>

3.12 As such, given this is the maximum affordable housing that the scheme can provide, a refusal reason based upon the low proportion of affordable housing within the scheme would be difficult to defend on appeal.

### Residential Density

3.13 Members raised concerns about the residential density of the development, which at 1,652hrh exceeded the London Plan density matrix guidance of between 200 and 700 habitable rooms per hectare.

3.14 It was suggested by Members at the committee that 'exceptional circumstances' should be demonstrated for a development's density to exceed the London Plan guidance.

3.15 Policy 3.4 of the London Plan promotes the efficient use of urban land and the optimisation of housing potential in new development to help meet the strategic challenges of population growth and the need for new homes. Policy 3.4 states:

*"Taking into account local context and character, design principles and public transport capacity, development should optimise housing output for different types of location within the relevant density range shown in Table 3.2 [the 'density matrix']."*

3.16 The accompanying text then states:

*It is not appropriate to apply Table 3.2 [the density matrix] mechanistically. Its density ranges for particular types of location are broad, enabling account to be taken of other factors relevant to optimising potential – local context, design and transport capacity are particularly important..."*

3.17 It can be seen that it is the intention of the London Plan for the density guidance to be interpreted with flexibility rather than applied rigidly.

3.18 The accompanying text to this policy also states that more general guidance can be found within the London Housing SPG including exceptional circumstances where densities above the relevant density range may be justified.

3.19 The Housing SPG is clear that sites should be optimise housing output rather than simply maximise output. Optimisation being defined as developing land to the

fullest amount consistent with all relevant planning objectives. Therefore it is rather the various impacts of a development's density than the density per se that must be considered. It states that where proposals are made for developments above the relevant design range they must be tested rigorously, with regards to a range of environmental, social, physical infrastructure; other local amenities; public transport capacity, reasonably sized homes; adequate private open space, the affordability of homes and massing, scale, character and design in relation to nearby uses.

3.20 Officers consider that all of these policy areas have been fully and rigorously considered and that the scheme is of exemplary design quality.

3.21 In this instance, it is considered that the development's density is a result of the design of the scheme which is responsive to the existing and emerging townscape context. The development's height, scale and density are also comparable to recently approved neighbouring developments, which are listed below:

1) PA/14/01671 - 1-9 Ratcliffe Cross Street

Density - Site A: 1198.4hrh

Site B: 1710hrh

Approved: 30.03.2015

2) PA/13/00697 – 6 Boulcott Street

Density – 1296hrh

Approved: 26.11.2014

3) PA/11/01818 - Site at NE Junction of Cable Street and Ratcliffe Cross Street

Density - 856hrh

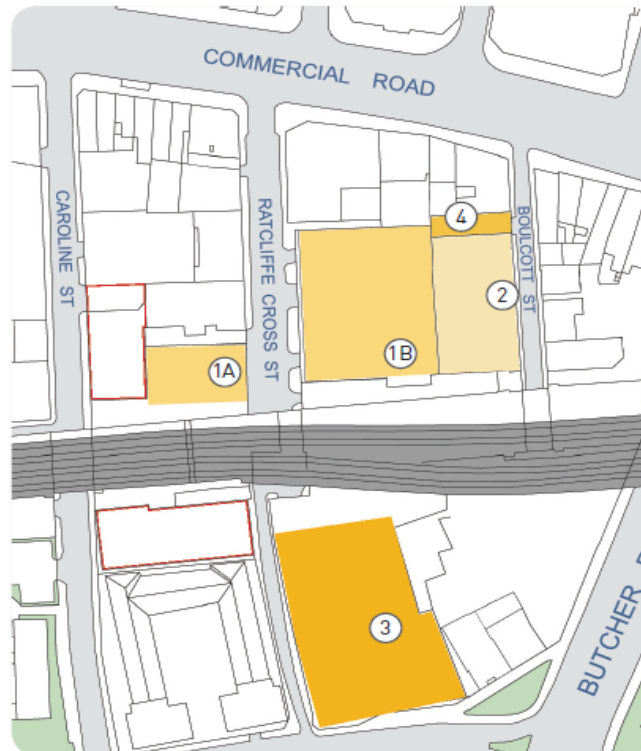
Approved 05.07.2013

4) PA/09/00010 - 2-4 Boulcot Street

Density – 1030hrh

Approved 26.02.2009

3.22 The above sites are all within close proximity to the application site as shown in the map below:



Map 1: showing application sites in red with adjoining consented signs.

3.23 It is important to note that the appropriateness of density should be assessed on the basis of its resulting impacts. It is considered that the development does not give rise to any of the typical concerns that can be symptomatic of overdevelopment. It provides a good mix of residential units; achieves relevant floorspace standards and does not cause any unacceptable amenity concerns, on neighbouring sites.

3.24 As discussed in the following section, officers consider the design approach including height to also be an acceptable response to the local emerging context.

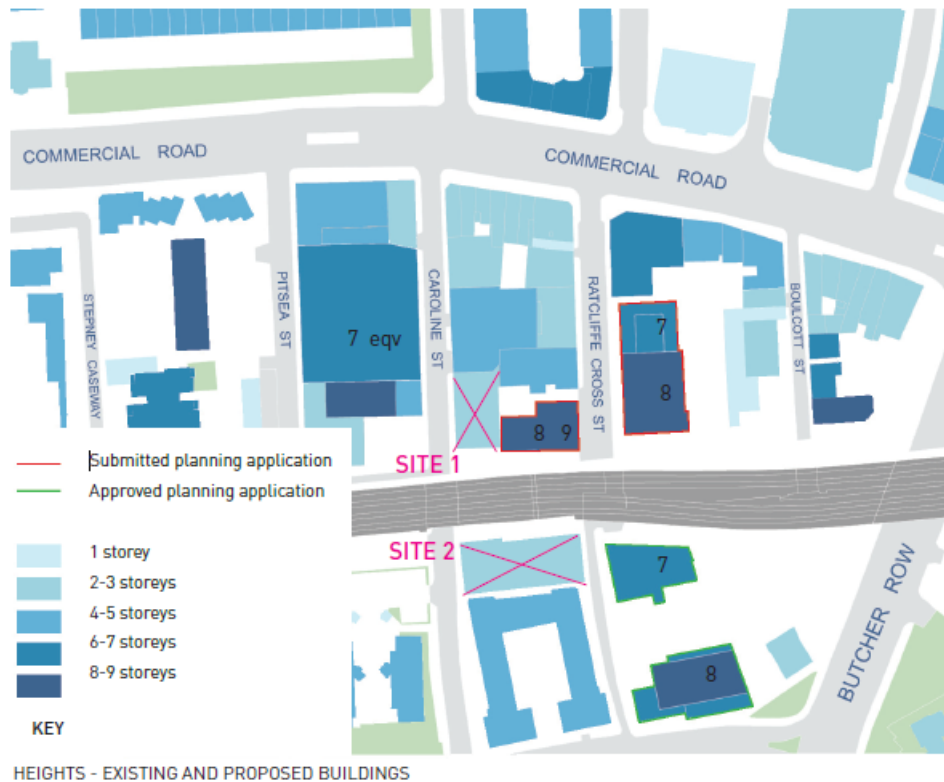
3.25 It should also be noted that the development will be subject to Community Infrastructure Levy charging which will contribute to the infrastructure needs of the development.

### **Height and Scale**

3.26 At committee members advised that they were also not minded to support the officer recommendation due to concerns over the height and scale of the proposed development.

3.27 The relevant policy and guidance states that buildings should relate to the height, scale and form of development in the surrounding area. In this case there is a strong emerging character comprised of high density residential schemes that have been approved around the site (listed in the above section and shown on map 1 above) It is considered that the development appropriately responds to the schemes at Ratcliffe Cross Street, Cable Street and Boulcott Street, which all rise to between eight and nine storeys.

- 3.28 Site 1 is 9 storeys at its southern end nearest to the railway to 5 storeys at its north end to provide a transition to the three storey warehouse north of the site and the lower scale of the York Square Conservation Area. The scale of development reflects the consented 8/9 storey 1-9 Ratcliff Cross Street Development.
- 3.29 Similarly, whilst the proposal at site 2 would rise above the 4 storey north elevation of Reservoir Studios by 3 stories at the boundary of this site, it is inline with the height consented at the adjacent site to the east. As shown in the map below:

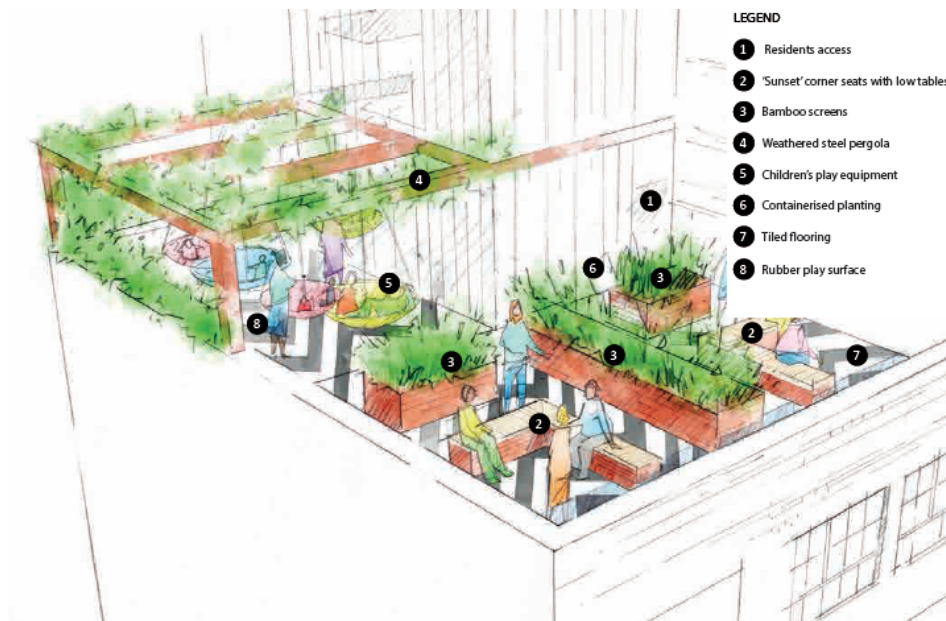


- 3.30 Overall, the height, massing and scale of both buildings is considered to have been well thought through by maximising the development potential whilst respecting the surrounding context. As such, officers consider the design approach to be acceptable.

### Child Play Space/Amenity Space Provision

- 3.31 Although it was noted by Members that the level of communal amenity space exceeded policy targets, members were concerned that the level of dedicated child play space provision falling short of policy requirements.
- 3.32 For ease of reference the scheme as presented to members proposed, 146sqm of amenity space against a policy requirement of 96sqm and 93sqm of child play space against a target of 110sqm. When combined the proposal exceeded the overall amenity and playspace that was required by 33sqm, however the excess was primarily due to the over provision of communal amenity space within the development.
- 3.33 Following the changes to the tenure mix, the child yield of the development has increased from 11 to 17. Consequentially the level of child play space required within the development has also increased from 110 to 170sqm.

- 3.34 The combined policy requirement for outdoor space, across the two sites has increased to 306sqm overall.
- 3.35 The applicant has amended the landscaping strategy to distribute the child play space and outdoor amenity space taking account of the likely child yield arising from the housing mix in each site, the design of the proposed buildings and their external constraints.
- 3.36 The strategy increases the child play space to 110sqm all of which would be “door step” and be located at roof level. The communal amenity space has also been increased by improving the quality of landscaping in the ground floor courtyard of Site 2.
- 3.37 Site1 is proposed to have 95sqm of amenity space and 25sqm of door step play, located at roof level. This is illustrated below:



- 3.38 Site 2 has 50 sqm of open space at ground floor, but by virtue of its enclosed nature has been discounted as an appropriate location for child play space.

3.39 In addition to the ground floor space, site 2 also has at 7th floor amenity roof terrace which includes 145sqm amenity space, of which 85sqm would be dedicated child play space. A sketch plan of the site 2 roof terrace is illustrated below:



3.40 When considering the overall provision, the scheme would deliver 298sqm of combined child play space and communal amenity space against a target of 306sqm. This is 8sqm below the combined policy requirement.

3.41 Whilst there was a slight shortfall in play space, it should be noted that the children within the development would have access to the amenity space that exceeds the policy requirement. There is likely to be a degree of overlap between the two types of spaces. Conditions are recommended to secure the detail and the child play space.

3.42 The applicant has informed that the private amenity space for the development exceeds policy requirements by 78sqm. Overall, officers consider this indicates the overall level of amenity space when considering the combined policy requirements is sufficient for the level of development proposed.

3.43 The design approach is comparable to the adjacent site at 1-9 Ratcliff Cross Street, which has a similar characteristics as this site has also adopted the approach of having dedicated Child Play Space at roof top level.

3.44 In addition, the "Schoolhouse Kickabout Area" is situated within 300 metres of both sites (west along Cable Street) and has outdoor play space provision for older children and teenagers.

3.45 Overall, officers consider the approach to child play space, its allocation within the different age groups and it's location to be an acceptable design solution in this instance taking into account the spatial constraints of the site.

#### **4. IMPLICATIONS ARISING FROM A DECISION TO REFUSE PERMISSION**

4.1 In the event that the Committee resolves to refuse the application, the following options could be exercised by the applicant.

4.2 The applicant could approach the Council for further pre-application advice on an amended proposal and thereafter submit new applications.



4.3 The applicant could exercise their right to appeal to the Secretary of State against the Council's decisions. The appeals would be determined by an independent inspector appointed by the Secretary of State.

4.4 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”

4.5 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). Whilst officers consider that the obligations sought do meet those tests, the decision will ultimately fall to the Inspector and so there is the possibility at least that he/she may form a different view.

4.6 If the Committee do resolve that the application should be refused on grounds relating to affordable housing quantum, excessive residential density, height and scale and child play space provision officers will seek to defend the Council's position.

## 5. RECOMMENDATION

5.1 Officers' original recommendation as set out in the officers' report for Development Committee on 13th January 2016 to **GRANT** planning permission for the proposal remains unchanged. However, this has been amended to secure the additional affordable housing proposed following January's Development Committee.

5.2 If the Committee is minded to refuse planning permission for this scheme, then the following detailed reasons for refusal are recommended:

- 1. The proposed development, by way of the design, scale and bulk would appear as a visually incongruous building within the surrounding streetscene, would harm the visual amenity of the local area. As such the development would be contrary to policies DM24 of the Managing Development Document (2013), SP10 of the Core Strategy (2010) and policies 7.1, 7.4, 7.6 and 7.8 of the London Plan (2015).*
- 2. The proposed development by reason of its excessive density results in the overdevelopment of the site and this leads to an inappropriate provision and location of the child play space and communal amenity space. This would lead to an unsatisfactory form of development which is contrary to policies DM4 and DM5 of the Managing Development (2013), SP02 of the Core Strategy (2015) and policies 3.1, 3.4 and 3.5 of the London Plan (2015)*

3. 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 policy SP02 (3) which requires housing development to provide 35%-50% affordable housing on all sites providing 10 or more residential units.
4. *In the absence of a legal agreement to secure Affordable Housing and financial and non-financial contributions including for Employment, Skills, Training and Enterprise and Energy, the development fails to maximise the delivery of affordable housing and fails to mitigate its impact on local services, amenities and infrastructure. This would be contrary to the requirements of Policies SP02 and SP13 of the LBTH Core Strategy, Policy DM3 of the LBTH Managing Development Document and Policies 3.11, 3.12 and 8.2 of the London Plan and the Planning Obligations SPD.*

#### **Absence of legal agreement**

- 5.3 Whilst the fourth reason above was not requested by members, it is recommended to safeguard the Council's position, to secure the requested s106 planning obligations, including affordable housing, should the applicant choose to appeal the decision.