

Committee: Development Committee	Date: 6 th April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Beth Eite	Ref No: PA/15/02489
	Ward: Spitalfields and Banglatown

1. **APPLICATION DETAILS**

Location: Duke of Wellington, 12-14 Toynbee Street, London, E1 7NE

Existing Use: Public House (use class A4) on ground and basement floors with ancillary residential accommodation above.

Proposal: Change of use from public house (A4) to a mixed public house / hotel use (sui generis). Erection of two storey extension at second floor and roof level and installation of dormer windows to allow the conversion of the first, second and third floor to accommodate 11 hotel rooms.

Drawing and documents: Design and Access Statement rev B; Refuse Strategy; Heritage Statement; 187_EE_00; 187_EE_01; 187_EE_02; 187_EE_03; 187_ES_00; 187_ES_01; 187_EX_-01; 187_EX_00; 187_EX_01; 187_EX_02; 187_EX_03; 187_GA_-01; 187_GA_00; 187_GA_01 rev A; 187_GA_02; 187_GA_03; 187_GA_04; 187_GE_00; 187_GE_01; 187_GE_02; 187_GE_03; 187_GS_00; 187_GS_01; 187_S_00

Applicant: Mendoza Ltd

Ownership: Mendoza Ltd

Historic Building: N/A

Conservation Area: Wentworth Street

2. EXECUTIVE SUMMARY

- 2.1. This report considers the application for the extension to the upper floors of the public house, installation of dormer windows and conversion of the ancillary accommodation to an 11 bedroom (hotel) use. As the hotel is connected to the public house this would be a mixed use, Classes C1 and A4 use (sui generis)
- 2.2. A total of 191 representations were received in objection to this proposal. The objections can be summarised as concerns over: the perceived loss of the A4 (drinking establishments) use; the lack of justification for the need for a hotel (use class C1); the lack of provision of wheelchair accessible hotel rooms; the potential for adverse highways and amenity implications from a hotel; and harm caused to the Conservation Area through the alterations to the building.
- 2.3. Officers believe that the proposal is acceptable for the following reasons:
 - The pub and pub garden would be retained and secured through condition.
 - The operation of a hotel above the pub is not considered to adversely impact the future viability of the pub.
 - The use, size and location of the hotel are appropriate within the Central Activities Zone.
 - The proposed external alterations are small in scale and the proposed materials and design details and elements are sensitive to the historic character of the existing building and Conservation Area.

3. RECOMMENDATION

- 3.1. That the Committee resolve to **GRANT** planning permission subject to conditions.
- 3.2. That the Corporate Director of Development and Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:
- 3.3. **Conditions**
 1. Three year time limit
 2. Development to be built in accordance with approved plans
 3. Requirement to maintain a public house use at ground floor and basement levels.
 4. Submission of details of proposed materials
 5. Details of external plant in accordance with a BS 4142:2014 noise report provided prior to commencement
 6. Details of internal noise insulation measures in accordance with a BS 8233:2014 noise report to be submitted prior to commencement and to include post completion testing.
 7. Servicing and Deliveries Strategy
 8. Details of 2 cycle spaces to be located within the public house garden

4. PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1. The application site is a public house located on the southern corner of the junction between Toynbee Street and Brune Street. The site comprises a three storey 19th Century building and a paved yard located to the south (with access from Toynbee Street). The ground floor of the building, including the open yard operates as a public house (use class A4) and has done since the 1800s. The basement and upper floors of the building are used as ancillary accommodation.
- 4.2. The application site falls within the London Plan Central Activities Zone (CAZ) and the immediately surrounding area on Toynbee and Brune Streets comprises a mixture of residential dwellings and commercial buildings of a variety of uses (mostly retail on Toynbee Street and office on Brune Street). The buildings on these streets vary greatly in age, design and scale, and the building does not form part of any architectural cluster. No part of the site contains statutorily or locally listed buildings but the site is located in the Wentworth Street Conservation Area and the pub has been registered as an Asset of Community Value.

Proposal

- 4.3. The proposal involves the following:
 - 3.4m deep side extension at second and third floors.
 - The installation of dormer windows and internal alterations to allow the conversion of the existing loft space into accommodation (no change in roof ridge height).
 - The conversion of the ancillary residential accommodation together with the new accommodation to create 11 hotel rooms.
 - No changes are proposed to the use, structure or volume of the ground and basement floors or the pub garden.
 - Access to the hotel accommodation would be via Toynbee Street , with key collection and reception facilities via the public house.

5. RELEVANT PLANNING HISTORY

5.1. PA/14/03376

The previous proposal for the redevelopment of the pub was determined at Development Committee on 8th July 2015. The committee unanimously resolved to refuse planning permission for:

Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.

Reasons for refusal:

1. The proposed development would cause harm to the Wentworth Street Conservation Area. The design and appearance of the proposed modern extension would be out of character with the local area and would cause harm to the character and appearance of the Wentworth Street Conservation area

and combined with the loss of the pub garden would harm the setting of other local heritage assets, including the Duke of Wellington Public House itself. This harm is not outweighed by the public benefits of the scheme and therefore the proposed development fails to comply with policies DM24 and DM27 of the Managing Development Document (2013), SP10 of the Core Strategy (201), policies 7.4 and 7.8 of the London Plan (Consolidated with Alterations since 2011) (2015), the National Planning Policy Guidance.

2. The proposed development would result in the loss of existing outdoor space that would undermine the future viability and vitality of the existing Duke of Wellington Pub (12-14 Toynbee Street) and thereby fail to protect its function as community infrastructure. As such, the proposal would be contrary to policy SP01 of the Core Strategy (2010), and policies DM2 and DM8 of the Managing Development Document (2013), Policy 3.1(b) of the London Plan 2015, National Planning Policy Framework (2010) and the National Planning Policy Guidance.
3. The proposed development would be detrimental to the amenity of new residents of the proposed development due to the potential for fumes and noise resulting from the close proximity of the proposed residential accommodation and the proposed smoking area and public house use and would result in increased noise and disturbance to the occupiers of existing residential properties. Therefore the proposal would be contrary to policy DM25 of the Managing Development Document (2013), the London Plan (2015), National Planning Policy Framework (2012) and the National Planning Policy Guidance.

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)

2.10: Central Activities Zone – Strategic Priorities
2.11: Central Activities Zone – Strategic Functions
3.16: Protection and Enhancement of Social Infrastructure
4.5: London’s Visitor Infrastructure
6.9: Cycling
6.13: Parking
7.4: Local Character
7.8: Heritage Assets and Archaeology

6.4. Site Designations

Central Activities Zone
Wentworth Street Conservation Area

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

SP01: Refocusing on our Town Centres

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 with the Town Centre Hierarchy
DM3: Delivering Homes
DM7: Short Stay Accommodation
DM8: Community Infrastructure
DM14: Waste
DM22: Parking
DM24: Local Character
DM25: Amenity
DM27: Heritage and the Historic Environment

6.7. **Other Relevant Documents**

Wentworth Street Conservation Area Character Appraisal and Management Guidelines

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. Over-sail License

The applicant should confirm if they hold an over-sail licence for the two areas of the existing structure that over-sail the highway.

7.4. Servicing.

The applicant has not provided any specific details regarding a parking location for servicing vehicles and taxi drop offs, as well as the frequency of these activities. It is expected that the implementation of a hotel, albeit with 11 rooms, could still have a significant increase in net person trips. However, there is no mention as to the frequency of daily taxi pick-up/drop-offs and whether this will be done in such a way that it circumvents potential risks to safety and causing inconvenience to the local public. There are no loading bays near the site and there are a limited number of business and permit bays within the province of the subject site. Additionally, the width of the service gates of the yard, as mentioned in the Deliveries/Servicing and Access statement, is not wide enough to accommodate vehicles. Therefore, the applicant has failed to demonstrate how the hotel use will be able to operate efficiently in this regard.

7.5. Cycle parking.

Although the nature and class use type of the proposal does not meet the threshold for the minimum cycle parking, as per the London Plan, Highways still expects the provision of at least two cycle parking spaces, within the site. This requirement is in accordance with the Tower Hamlets Development management.

Officers Comment: These issues are discussed in the Transport and Highways section of this report

7.6. **Environmental Health (Noise and vibration, Smell and Pollution,)**

This application requires further details to be provided before it can be supported. No noise report supplied; no plans have been supplied showing the route of the ductwork & the filtration system (for odour control); and no vibration information provided.

In line with BS 4142* a rating level of 10 dB below the background noise level at sensitive facades at times required to operate will always be the primary consideration. It is also a requirement that no noise nuisance shall be caused from the installation of plant or equipment including air handling and/or air conditioning at the nearest noise sensitive facades.

The applicant must always take into account the possibility of vibration or low frequency noise transfer through a building structure so it is essential that the plant is isolated away from walls and ceilings and the duct (were relevant) is insulated with high density Rockwool lagging or “mufti-lagging” where appropriate.

Full details of anti-vibration mountings for all plant and flexible duct connectors where necessary to prevent vibration transmission through the building (or ductwork) must also be provided.

All bedroom facades must be designed to meet to the daytime and night time standards in BS8233: 2014;

Development shall not begin until a sound insulation scheme for protecting the proposed development from road traffic noise, has been submitted, to, and approved by the Local Planning Authority. The sound insulation scheme shall meet the of 30dB LAeqT internally in all bedrooms and of 35dB LAeqT internally in all living rooms;

(Officer response: Officer's consider it acceptable to deal with these matters via conditions.)

External Consultees

7.7. **Spitalfields Community Association**

No comments received.

7.8. **Spitalfields Joint Planning Group**

No comments received.

7.9. **Spitalfields Society**

The proposed use as described by the applicant and illustrated on the plans does not comply with LBTH Council policy D8 that seeks to protect community facilities, particularly those such as the public house at the Duke of Wellington that are formally listed as an asset of Community Value (ACV).

The standard of hotel accommodation that is proposed is very poor with too many rooms being crowded into too small a floor area. Access is extremely tight and completely impossible for the disabled, the infirm and the elderly. The applicant provides misleading information on the proposed room sizes, claiming for example that room 2 on the 1st floor has a floor area of 15 square metres when in fact it has a floor area of only about 9 square metres.

The proposal clearly does not seek to retain the present A4 use or to provide the equivalent use elsewhere, as required by Council policy DM8, and the applicant does not even try to demonstrate that there is no need for the facility, again as required by policy DM8.

A recent proposal for residential use above the pub was refused consent by the Council on the grounds that it would “undermine the future viability and vitality of the existing Duke of Wellington pub”. These current proposals would do exactly the same and should therefore be refused for the same reason.

The applicant has demonstrated no need for additional hotel rooms in the area, particularly of the very small and substandard budget type proposed here. Indeed, the Society is aware of literally thousands of new hotel rooms and short stay apartments currently being constructed or recently approved in the immediate area and is concerned that this influx of budget accommodation and the resultant transient population will compromise the amenity of what has become a well-established and settled residential area.

The Duke of Wellington is a typical corner site public house and as such is a very key component of the Wentworth Street Conservation Area. It is therefore a key heritage asset. Its proposed conversion from a genuine independent A4 pub use into C1 hotel use would greatly harm the Conservation Area. Much is changing very fast in this area and the sense of continuity and community that such a pub provides is becoming ever more important.

We note that the Council states in their report that the applicant has failed to demonstrate that the hotel use will be able to operate efficiently in terms of servicing, deliveries, collections and drop-off, especially given the proposed intensification of use of the site. We reiterate this issue as a further valid reason for objection to these poorly designed and ill-conceived proposals.

(Officer response: These issues are addressed in the material planning considerations section of the report)

7.10. **Spitalfields Historic Buildings Trust**

No comments received.

7.11. Historic England

“We do not consider that it is necessary for this application to be notified to Historic England”

7.12. Greater London Archaeological Advisory Service

Recommended no archaeological requirement

Public Representations

- 7.13. A total of 347 planning notification letters were sent to nearby properties and persons who had made representations on the previous proposal. The application proposal was also publicised by way of a site notice and press notice. Following an amended description to the scheme and additional information being received a second round of neighbour notification letters were sent. A total of 191 letters of representation were received in objection to this proposal.

Summary of the objections received

- 7.14. Loss of the pub (use class A4):

Objectors have speculated that the pub will be subsequently changed from A4 (drinking establishment) to A3 (café/restaurant) based on examples of the ‘Z Hotel Group’. Objectors also believed that the concurrent operation of the hotel and pub (with guests picking up keys behind the bar) would undermine the nature of the drinking establishment and that the pub would be subservient to the hotel due to the hotel possessing a greater floorspace. Objectors also believed that there was no separate access for the hotel and therefore the pub would be used as a reception. Objectors noted that the pub is a registered Asset of Community Value and its loss should be resisted in accordance with local, regional and national policy. A further comment has been provided in the second round of consultation relating to a lease agreement between the owner and the occupier, regarding rent levels and restricted use of the garden area and how this would undermine the viability of the pub. This however, is not a material consideration.

- 7.15. Inclusion of a hotel element:

Objectors noted that there will be an intensification of the number of people at the building, which would result in *“greatly increased pedestrian and road traffic”* and raised concerns over the impact on nearby on-street parking and the use of taxis creating noise nuisance to neighbouring residents. Objectors believed that the hotel would compromise the supply of housing through the loss of the 2 bedroom ancillary flat. Objectors noted that the applicant had not justified the need for the hotel, and believe that the area is sufficiently well-served in hotel accommodation, quoting the Annual Monitoring Report of the Council, in saying that the borough already has a 30-year supply of hotel rooms under construction and consented and that if approved, this additional hotel would result in an over-concentration of that use.

Officer comment: There is no upper limit provided within the Local Plan for hotel rooms and no identification of a 30-year supply of hotel rooms. Appendix 3 of the Core Strategy identifies a target of 100 hotel rooms per year. This is a minimum target, rather than a maximum. The 2012/13 AMR records that no hotel rooms were completed within this year and 943 were approved.

7.16. Accessibility:

Objectors noted the lack of wheelchair accessible hotel rooms.

7.17. Harm to Conservation Area:

Objectors believed the perceived loss of the public house use (A4) would be harmful to the building's character and the Conservation Area. Objectors noted that no structural assessment of the building has been supplied or construction method statement and raised concerns that the lowering of floors would cause harm to the building. Objectors also believed that the dormer windows would be out of character for the area and would be visually intrusive due to their size and colour.

8. MATERIAL PLANNING CONSIDERATIONS

Land Use

- 8.1. The application proposal seeks to change the use of the ancillary residential accommodation on the first and second floors to a hotel. It is proposed to retain the pub on the ground and basement floors in its entirety with no change in usable floorspace. As this is a mixed use (the hotel being reliant on the pub for checking guests in and out) the land use is sui generis.

Retention of the public house (use class A4)

- 8.2. Policy DM8 of the Managing Development Document (2013) seeks to protect social and community facilities where they meet an identified local need and the buildings are considered suitable for their use, in accordance with the aims of policy 3.16 of the London Plan (2015).
- 8.3. To expand on the summary of objections in relation to the potential operators of the business: objectors believed that the business would be operated by 'Z Hotel Group' in the future, which were noted by objectors as having a number of boutique hotels with café space on the ground floor and hotel rooms above. The Z Hotel Brand was referenced on page 29 of the Design and Access Statement, but it was noted that the upper floors "... will be used as a small Boutique Hotel, *similar to Z Hotel Brand which 21st directors designed*" [emphasis added]. Officers consider this reference to be given in example of the potential interior design of the hotel and an example of the quality of the design standards of the applicant's Architects. It is not considered that this is a reference to the owners or leaseholders of the building, nor that any reference to the owners should prejudice a planning decision. If permission were to be granted it would run with the land and would not be personal to any particular operator or owner. Therefore Officers do not consider that objections in relation to the operation of Z Hotels or any speculation about potential future changes base on their other buildings can be materially considered.
- 8.4. In addition objectors believed the concurrent operation of the hotel and pub would undermine the viability of the pub. Firstly it should be noted that a number of objections are on the basis that the hotel and pub have only shared access. The proposed ground floor plan (Dwg. No. 187_GA_00) shows a separate access for hotel guests from Toynbee Street (labelled 'hotel access') and therefore guests would not be required to enter the pub other than in checking in and checking out. Objectors raised concerns over the proposed use of the bar as a 'reception' for the hotel. Whilst the Deliveries/Servicing and Access Statement proposes that the bar staff would check in guests. Due to the small volume of rooms (11) it is not considered that this

would undermine the principle use of the space as a drinking establishment. This arrangement is common across the UK in public houses which rent rooms on a short-term basis and indeed historically public houses were run as inns with rooms to let on the upper floors. In addition Officers do not consider that the relative quantities of floorspace for the two uses would result in the pub becoming subservient as this application only proposes an additional 56sqm of hotel floorspace. For these reasons, the operation of a public house and a hotel from the same site are not mutual exclusive and there are no reasons in planning terms to conclude that this proposal would undermine the viability of the pub as a drinking establishment. It should be noted that the applicant has stated both in the Design and Access Statement and on the plans that there will be no change the operation of the existing pub. The Campaign for Real Ale (CAMRA) publishes a viability test for public houses which advocates consideration of multiple use including bed and breakfast / hotel accommodation.

- 8.5. In the previous application it was considered by members (and subsequently stated on the Decision Notice) that "*the loss of the existing outdoor space would undermine the viability of the existing Duke of Wellington pub... and thereby fail to protect its function as a community asset*". In response to this decision by the Development Committee this application now proposes no change to the size, location or layout of the outdoor space, which would continue to be used in connection with the public house and therefore it is considered by Officers that the proposal would not undermine the viability of the pub as a community asset.
- 8.6. The Duke of Wellington has been listed as an Asset of Community Value (ACV) since 17th July 2015. The ability to designate an ACV came into force under the Localism Act 2011 and gives the opportunity for local groups to put a bid together to purchase the land or asset if it is put up for sale. There is no established case law on how much weight LPA's should give to an ACV when determining planning applications that could affect them. Planning applications should be determined in accordance with development plan policies and other material considerations. The fact that the building has been listed as an ACV is a material consideration and as the proposal seeks to retain the public house it would accord with the status as an ACV.
- 8.7. In addition, to preserving the pub use, officers are recommending an additional step to further protect this community asset. Buildings with A4 use (drinking establishments) benefit from permitted development rights for the change of use to A1 (coffee shop) and A3 (restaurant/café) under Classes A and B (respectively) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The building is listed as an ACV and as such the permitted development rights to change the use of the building have been removed, however if the ACV listing is removed / lifted then the permitted development rights would be available to the owner again.
- 8.8. Officers recommend the inclusion of a condition which restricts use of the ground floor and basement to a public house only. As this would be a sui generis use it is possible to secure this as a distinct element of the proposal. As a result of this condition, any future change of use of the ground and basement floors would require full planning permission, and it should be noted that current planning policy resists the loss of this use. This solution was also recommended under the previous application (PA/14/03376) and the applicant stated that they were happy to accept this condition. This condition allows a similar level of protection for the pub as currently exists with the ACV status and would also offer a greater protection for its preservation were the AVC status to be removed or the legislation amended.

Loss of residential accommodation (use class C3)

- 8.9. Policy DM3(5) seeks to resist the development that would result in a net loss in residential floorspace, residential units or any family housing.
- 8.10. The upper floors of the existing pub do not have the benefit of planning permission to be used as a single residential dwelling (use class C3) and therefore this accommodation is classed as 'ancillary' to the drinking establishment (use class A4). Whilst ancillary accommodation can be used (wholly or in part) as living accommodation for the manager or staff, the uses are of the primary and ancillary spaces are linked and this accommodation could also be used as office or storage space etc. Therefore it is not considered that this proposal would result in the loss of general needs residential (C3) accommodation.
- 8.11. Many objectors noted that some of the rooms above the pub on the first floor are currently operating as short-term letting rooms. Were this lawful, or established by reason of time which would preclude enforcement action, this proposal would not constitute a change in use. However, the letting of short stay accommodation in this building does not have the benefit of planning permission or a Certificate of Lawful Use and is therefore considered to be unlawful. Thus, for clarity, Officers have assessed the scheme based on its lawful use (ancillary residential) and the change of use to a sui generis hotel / public house use.

Provision of Hotel

- 8.12. Policy SP06 of the Adopted Core Strategy (2010) directs hotels towards the Central Activities Zone (CAZ), Activity Areas and major and District Centres, in accordance with policy 4.5 of the London Plan (2015).
- 8.13. 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 or cause harm to residential amenity; and there is adequate road access for vehicles undertaking setting down and picking up movements.
- 8.14. The application site is located within the CAZ and therefore is an appropriate location, in principle, for a hotel (use class C1) in accordance with policy DM7 and policy SP06, which seeks to concentrate hotels in the CAZ in order to promote tourism in the Borough.
- 8.15. The applicant has not demonstrated that there is a need for a hotel in this location, however policy 4.5 of the London plan seeks the delivery of 40,000 net additional hotel rooms by 2036. The addition of 11 rooms on this site would make a small but significant contribution to this target. This policy also supports small scale provision in locations on the fringe of the CAZ and this proposal is considered appropriate in this context. Policy DM7 does not specify what an overconcentration of hotels would be, however the closest two hotels (Brick Lane Hotel and Ibis London City on Commercial Street) are over 200m away (as the crow flies), it is not considered that 11 additional hotel rooms in this location would result in an overconcentration of this use in the area.
- 8.16. The previously refused scheme (under PA/14/03376) included a residential element which would have provided five apartments. However the reasons for refusal noted

the operation of the pub and pub garden as creating adverse amenity impacts on both existing neighbouring residents and future residents of the building. In respect of this it is considered that residential accommodation would be unacceptable in principle on this site whilst the pub operates. Therefore the provision of a hotel in this location would not compromise the supply of land for new homes.

- 8.17. Toynbee Street is not particularly narrow (accommodating on-street parking on both sides of the street and one way traffic) and although Brune Street is narrower (on-street parking on one side only), it is considered that both of these streets could accommodate taxi pickups and drop offs for this small number of hotel rooms.

Design

- 8.18. Statutory tests for the assessment of planning applications affecting listed buildings or conservation areas are found in Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. Section 66(1) relates to applications that affect a listed building or its setting. It requires the decision maker to: *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*. Section 72(1) relates to applications affecting a conservation area. It states that *“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.
- 8.19. The implementation of this legislation has been addressed in recent Court of Appeal and High Court Judgements concerning the proper approach for assessing impacts on listed buildings and conservation areas. These are considered in more detail below however, the emphasis for decision makers is that in balancing benefits and impacts of a proposal, the preservation of the heritage assets should be given *“special regard / attention” and therefore considerable weight and importance*.
- 8.20. The NPPF is the key policy document at national level, relevant to the formation of local plans and to the assessment of individual planning applications. The parts of this document relevant to ‘Heritage, Design and Appearance’ are Chapter 7 ‘*Requiring good design*’ and Chapter 12 ‘*Conserving and Enhancing the Historic Environment.*’
- 8.21. Chapter 7 explains that the Government attaches great importance to the design of the built environment. It advises that it is important to plan for high quality and inclusive design, including individual buildings, public and private spaces and wider area development schemes. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness.
- 8.22. Chapter 12 relates to the implications of a development for the historic environment and provides assessment principles. It also identifies the way in which any impacts should be considered, and how they should be balanced with the benefits of a scheme.
- 8.23. Paragraph 126 of the NPPF states that in developing a positive strategy for the conservation and enjoyment of the historic environment local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;

- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment made by the historic environment to the character of a place.

- 8.24. Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.
- 8.25. In this case the relevant designated heritage asset is the Wentworth Street Conservation Area. The subject building is not listed or referred to specifically within the conservation area character appraisal. It is however considered to positively contribute to the conservation area both in terms of its architectural style and its use.
- 8.26. 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).
- 8.27. Policy DM27 of the Managing Development Document (2013) seeks the preservation and enhancement of the Borough's heritage assets, including Listed Buildings and Conservation Areas, in accordance with policy SP10 of the Adopted Core Strategy (2010) and policy 7.8 of the London Plan (2015). It specifies that development within a heritage asset will only be approved where it does not have an adverse impact on the character, fabric or identity of the heritage asset, and requires development to be appropriate in terms of design, details and materials in the local context.
- 8.28. The previous application was refused due to the design of the modern appearance of the extension being harmful to the character and appearance of the Wentworth Street Conservation Area. This element has been removed in the current scheme and the only current proposed changes to the appearance of the building are the small side extension (on the Brune Street elevation) and the installation of dormer windows.
- 8.29. It should be noted that these alterations were proposed in the previous applications and Members raised no objections to their appearance or effect on the Conservation Area. Officer's therefore believe that the design proposed under this application would be appropriate within the Conservation Area since the extension would be modest in scale and the proposed materials and design details strongly reflect the existing style of this non-designated heritage asset. Objections received raised concern that the proposed dormers would be out of character with the Conservation Area and visually intrusive due to their size and colour. It should be noted that there is an existing former window with the roof currently, so it is not considered that these would cause any harm to the character of the building and would preserve the appearance of the Conservation Area. In addition the proposed use of white painted timber frames is considered to be sensitive to the character of both the Conservation Area (in its use of traditional materials) and the host building (reflecting the existing white painted timber windows).
- 8.30. Objectors noted that no structural assessment of the building has been supplied and raised concerns that the lowering of floors would cause harm to the building. Where buildings are not statutorily listed, the preservation of the internal layouts and materials cannot be given weight when considering matters of conservation. In accordance with this the Local Planning Authority does not require structural assessments on proposals which would not affect a statutorily listed building (either

the site itself or a nearby building or structure). The only effects on a designated heritage asset (the Wentworth Street Conservation Area) under this application arise from the external alterations from the building. In this instance neither Historic England, the borough conservation officer raised any objections to the proposed scheme.

Amenity

- 8.31. Policy DM25 of the Managing Development Document (2013) seeks to protect the amenity of neighbouring residents and building occupiers from the impacts of new development in accordance with policy SP10 of the Adopted Core Strategy (2010). These policies require development to not result in an unacceptable loss of daylight, sunlight, outlook or privacy in addition to not resulting in unacceptable levels of noise during the construction and life of the development.
- 8.32. Since there is no proposed change in the ridge height of the roof it is not considered that the proposal would result in a material loss of daylight or sunlight at neighbouring properties. In addition since the existing building is offset from the east façade of the neighbouring building on Brune Street (Carter House), it is not considered that the proposed extension would result in a loss of outlook or privacy at those dwellings either. In addition there are no residential windows facing the north façade of the building, and therefore the installation of dormer windows is also not considered to result in a loss of privacy for neighbours.
- 8.33. Objectors raised concerns that the hotel use would create noise disturbance for neighbouring residents through the slamming of taxi doors. It is not considered that the use of taxis would cause any significant material increase in noise or disturbance than the use of the pub garden until 10pm on weekdays and until midnight on Saturdays. Residents of Carter House had previously sent a letter of representation in support of the previously proposed reduction in size of the pub garden as they believed that this would reduce noise levels and improve their amenity. In light of this Officers are of the opinion that there are currently high levels of noise in this area at night and that the small increase in persons arriving and leaving the building would not materially worsen the existing situation, since the hotel users would likely remain inside once arrived.
- 8.34 The environmental health team have highlighted that hotel rooms require a similar level of insulation as residential units. In order to ensure this is the case and reduce the likelihood of complaints from occupants of the hotel rooms about the operation of the public house element. A condition requesting further details of this insulation and results of post-completion testing of the noise insulation prior to the occupation of the hotel use has been added to the recommendation.
- 8.35 There is no new kitchen proposed for the public house and the existing kitchen already has a ventilation system. This information was provided to the environmental health officer who verbally confirmed that if this was the case there would be no need for details of the ductwork or filtration system to be provided.
- 8.36 In terms of the noise reports, the British Standards require similar levels of noise insulation for hotel rooms as residential properties. The development will need to meet BS 4142:2014 which applies if any additional plant or equipment is installed to be at least 10dB below background noise levels and BS8233:2014 provides guidance on the levels of sound insulation required internally to protect the visitors from noise from the ground floor.

- 8.37. The details of external plant and the BS 4142:2014 noise report would be requested prior to commencement of the development and the BS 8233:2014 report will also be requested prior to commencement of the development, with a subsequent requirement for 'post-completion testing' after the hotel rooms have been installed to ensure a suitable level of noise insulation has been achieved
- 8.38. If there is additional mechanical plant required for this proposal a condition will also ensure that this is at least 10dB below background noise levels to ensure there is no detrimental impact upon neighbouring residents, as recommended by the Environmental Health Team.

Accessibility

- 8.39. Policy 4.5 of the London Plan (2015) seeks the provision of 10% of hotel rooms as wheelchair accessible. For this proposal to comply with this, it should provide at least one of the proposed hotel rooms as wheelchair accessible. Objections received raised concerns over the lack of provision of wheelchair accessible hotel rooms in the scheme. It is considered that in order to achieve this, the layout of the ground floor would have to be revised to accommodate a lift. This would reduce the usable floorspace for the public house and could undermine the future viability of the drinking establishment which has been of fundamental importance in the refusal of the previous application and has been of concern to objectors on this new application. On balance, the lack of provision of one wheelchair accessible hotel room is considered to be acceptable in this instance.

Transport and Highways

Servicing and Delivery

- 8.40. Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network. Concerns have been raised that this proposal would result in an increase in road traffic due to taxi pickups and set downs. However the site has excellent accessibility to public transport (PTAL 6b) and it is considered that many of the users of the hotel would travel to and from the site via public transport; particularly with the potential opening of the night tube and the future Crossrail services from Liverpool Street. In addition due to the small size of the hotel it is not considered that the volume of those who might use taxis would result in a significant impact on the capacity of Toynbee Street or Brune Street.
- 8.41. The Borough's Highways Officer raised concern that the applicant had not provided sufficient detail of the servicing and delivery arrangements for the proposed hotel. They noted that the surrounding street network has no loading bays and limited business and permit bays. In addition they noted that the width of the gates of the yard (mentioned in the Deliveries/servicing and Access Statement) is too narrow to accommodate vehicles. It is noted that the pub garden has been located in what would historically have been the service yard, there is therefore no intention to use the yard for delivery vehicles.
- 8.42. A condition requiring details of servicing and deliveries would be requested prior to the commencement of the use, this would include details of the frequency of the collections and information on whether linen and towels etc. are stored on site and collected in order to reduce the number of trips per week. There are double yellow lines outside the premises on both Brune Street and Toynbee Street, which allow loading and unloading. These spaces are currently used for the deliveries to the pub.

It is unlikely that the small number of hotel rooms would generate a significant degree of servicing as it would be mainly the delivery and collection of linen.

Car & Cycle Parking

- 8.43. 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.
- 8.44. The Parking Addendum to chapter 6 of the London Plan (2015) states that there is no vehicle parking requirement for hotels, but that in areas with good access to public transport (PTAL 4-6) on-site provision of vehicle parking should be limited to operational needs. The proposal does not include any on site vehicle parking, however since the site has an excellent Public Transport Accessibility Rating (PTAL 6a), this is considered appropriate.
- 8.45. The Parking Addendum to chapter 6 of the London Plan (2015) also sets minimum cycle parking provision standards. For C1 (hotel) use 1 cycle space per 20 bedrooms should be provided. The Borough's Highways Officer noted the lack of cycle parking provision and stated that they would expect a minimum of two spaces to be provided. The installation of one Sheffield stand within the yard would meet this required and this would be required by condition. The installation of one cycle space in the yard would not significantly undermine the usability of the yard for the public house.

Refuse and Recyclables Storage

- 8.46. 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.
- 8.47. The applicant proposes to store waste in the bins currently located in the yard and states in their Delivery/Servicing and Access Statement that they do not believe that the operation of a hotel would result in a significant increase in waste. Officers note however that the bins are often located on the street rather than in the yard and any increase in number of containers would reduce facility of movement on the pavement and be unattractive to the street. However it is acknowledged that many properties on Toynbee Street are serviced using on-street sack collection, and that this small increase in waste and the potential for an additional container is not sufficiently undesirable as to warrant the refusal of this application.

9. HUMAN RIGHTS CONSIDERATIONS

- 9.37. 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:-
- 9.38. 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 relevant including:

- 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;
- 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
- 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"

9.39. 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.

9.40. 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.

9.41. 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.

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

9.43. 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.

9.44. 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

10.37. 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-

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

10.38. 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.

10.39. The London Plan (2015) requires 10% of hotel rooms to be wheelchair accessible. This application does not proposed any wheelchair accessible rooms (the provision of 1 room would be policy compliant), however it is considered that in order to do so floorspace from the pub would have to be sacrificed, which may undermine the future viability of the pub (which was previously considered reason for refusal).

11. FINANCIAL CONSIDERATIONS

11.37. 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.

11.38. Section 70(4) defines "local finance consideration" as:

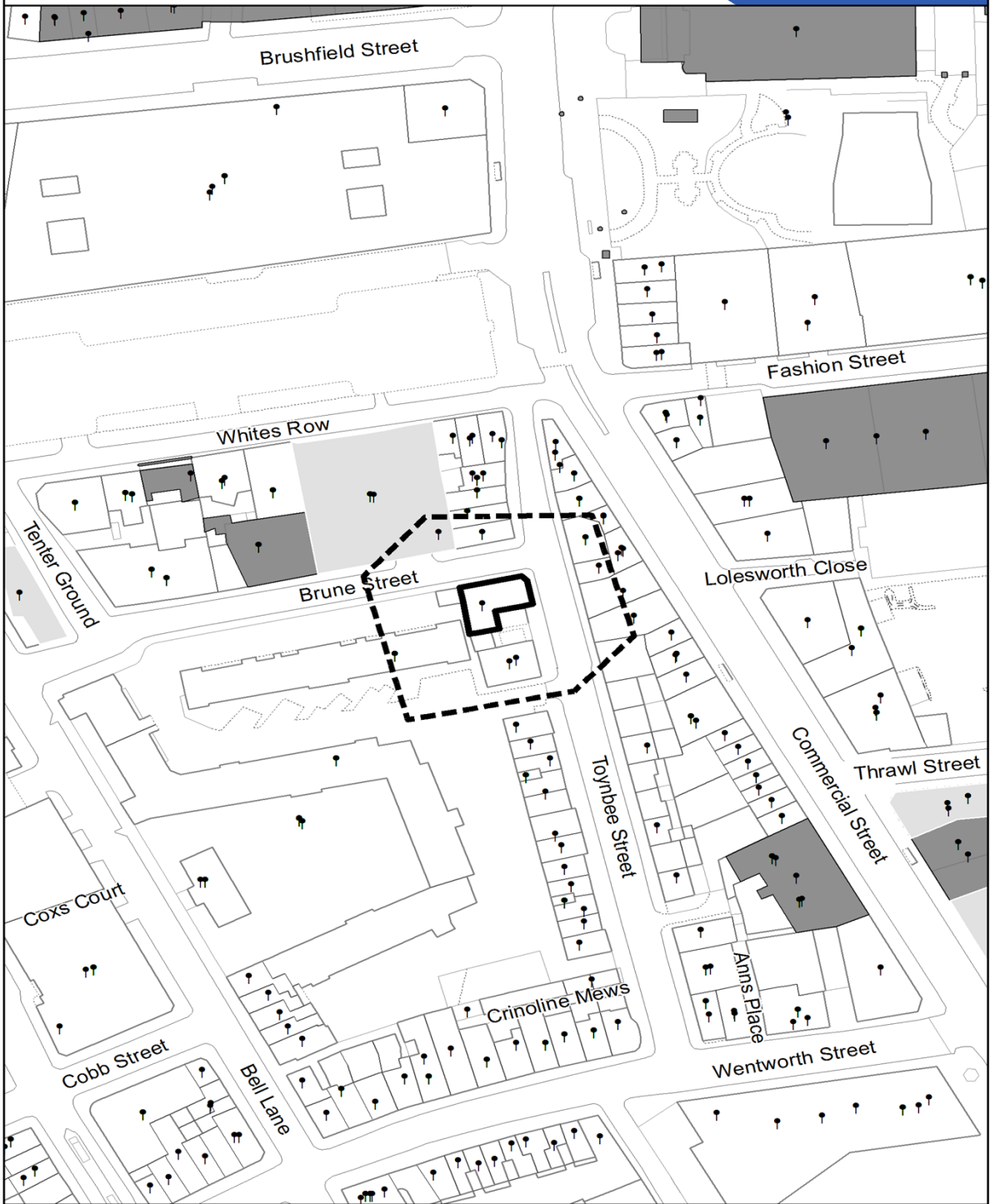
- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.







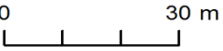
11.39. Members are reminded that that the London Mayoral CIL became operational from 1 April 2012 and that Borough's Community Infrastructure Levy came into on 1st April 2015. Both of which are payable (subject to certain exceptions) on floorspace created by development. This proposal does not meet the threshold for LBTH CIL as it is only proposed to create 56sqm of additional floorspace.

12. CONCLUSION

12.37. 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/15/02489



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

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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