

Committee: Development	Date: 26 th October 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Jennifer Chivers	Ref No: PA/16/01628
	Ward: Spitalfields and Banglatown

1.0 APPLICATION DETAILS

Location: Holland Estate, Commercial Street, London

Existing Use: Residential

Proposal: PA/16/01628

Application for variation of Condition 29 (approved plans) of planning permission reference PA/08/02347, dated 1st April 2010, for a proposed minor material amendment to the approved development comprising the introduction of a new security gate between No.16 and No.36 Goulston Street, the removal of the existing security gates to the courtyards of Herbert House and Jacobson House, and the omission of the approved pedestrian access route between Herbert House and Jacobson House.

Drawings and documents: Drawing Numbers

2195-0500 P01, 2195-0501 P01, 2195-0502 P01,
2195-0503 P01, 2195-0504 P01, 2195-0505 P01,
2195-0506 P01, 2195-0507 P01, 2195-0508 P01,
2195-0509 P01, 2195-0510 P01, 2195-0511 P01,
2195-0512 P01, 2195-0513 P01, 2195-0514 P01,
2195-0515 P01, 2195-0516 P01, 2195-0517 P01,
2195-0600 P01, 2195-0601 P01, 2195-0602 P01,
2195-0603 P01, 2195-0604 P01, 2195-0605 P01,
2195-0606 P01, 2195-0607 P01, 2195-0700 P01,
2195-0702 P01, 2195-0703 P01, 2195-0800 P02,
2195-0801 P02, 2195-0803 P01, 2195-0804 P01,
2195-0806 P01, 2195-0807 P01, 2195-0809 P01,
2195-0815 P01, PL_L02 Rev A,
13-161 A (90) 04 Rev P1; P463 PL-L01 Rev B

Supporting documents

Design and Access Statement (including June 2016 annex)

Planning, Impact, Design & Access Statement dated 17 June 2016

Planning and Regeneration Statement – October 2008

Phase I Desk Top Study Report – May 2008
Arboricultural Impact Assessment – 3 October 2008
Stage D Proposals, Landscape Strategy – October 2008
Statement of Community Involvement – October 2008
Project Management Plan – 16 October 2008
Flood Risk Assessment ref. 5788001704 – August 2008
Flood Risk Assessment ref. 5788001704 – October 2008
Site Waste Management Plan – 22 June 2008
Wind Microclimate Study – 3 October 2008
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Noise Assessment – October 2008
Air Quality Assessment – October 2008
Archaeological Assessment – June 2008
Site Utilities Desk Study – December 2008
Energy Strategy – September 2008
Transport Assessment – October 2008

Applicant: Leaside Planning Limited
Ownership: East End Homes
Historic Building: None
Conservation Area: Adjacent to Wentworth Town Conservation Area

2.0 EXECUTIVE SUMMARY

- 2.1 The Local Planning Authority has considered this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2011) in addition to the London Plan (2011) and its subsequent Minor Alterations (MALP 2016) as well as the National Planning Policy Framework and all other material considerations.
- 2.2 The applicant seeks to vary the original planning permission (PA/08/02347) which involved the refurbishment of the wider Holland Estate, construction of 209 residential units, community centre, East End Homes local office and retail units. As part of this application a new pedestrian link between Jacobson House and Herbert House was proposed. This link would connect Goulston Street in the west through the new public open space towards Commercial Street in the east. The applicant seeks to remove this pedestrian link as part of the proposed development retaining the existing fence and to erect a vehicular and pedestrian entrance gate at the main vehicular entrance along Goulston Street.
- 2.3 The main material planning considerations for Members to consider are; whether the proposed entrance gate would restrict the movement of people into and around the site and reducing permeability to the wider area leading to the creation of a gated community; and whether the proposal would be an unsightly addition to the public realm and detract from the character and setting of the development.

- 2.4 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels within the surrounding area near Jacobson House and Herbert House; however, it is considered that it would be more appropriate for problems to be addressed by the managing agent and local police service, as opposed to erecting a gate which is contrary to the Council's objectives of building inclusive and welcoming communities.
- 2.5 In conclusion, officers consider that the erection of a security gate and loss of pedestrian through route is not acceptable for the reasons set out below, primarily because it would create a gated community; and restrict pedestrian and cycle access in the area which is contrary to national, regional and local planning policies.

3.0 RECOMMENDATION

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

- a) The proposal would restrict full public access and inclusive access resulting in an unacceptable form of development that would fail to create a permeable environment, by reason of creating a physical barrier and result in the loss of a publically accessible route. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 7.2 and 7.27 of the London Plan (2011), policy and SP10 of the Core Strategy (2010), and policy DM23 of the Managing Development Document (2013).
- b) The proposed gates and fixed means of enclosure would appear visually intrusive within the streetscene and would result in an inappropriate form of development that would create a 'gated' community and would therefore fail to achieve an inclusive environment and create an unacceptable level of segregation. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 3.9, 7.1-7.5 and 7.27 of the London Plan (2011), policies SP04, SP09, SP10 and SP12 of the Core Strategy (2010), and policies DM12 and DM23 of the Managing Development Document (2013). These policies require development to promote the principles of inclusive communities, improve permeability and ensure development is accessible and well connected.

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The applicant seeks to vary the original planning permission (PA/08/02347) under S73 of the Town and Country Planning Act for a minor material amendment to Planning Permission PA/08/02347 dated 1 April 2010 by way of varying condition 29 (as added by NMA PA/11/00899). The original planning permission involved the refurbishment of the wider Holland Estate, construction of 209 residential units, community centre, East End Homes local office and retail units. As part of this application a new pedestrian link between Jacobson House and Herbert House was proposed. This link would connect Goulston Street in the west through the new public open space towards Commercial Street in the east. The applicant seeks to remove this pedestrian link as part of the proposed development retaining the existing fence and to erect a vehicular and pedestrian entrance gate at the main vehicular entrance along Goulston Street (see Figure 1 and 2 below).

- 4.2 The proposed gates are to be installed within the western edge of the subject site, between 16 (London Metropolitan University) and 36 (Café East) Goulston Street. The site boundary along Old Castle Street is encompassed by a high black rail fence which runs the entire length of the site along this boundary. This fence would remain as part of the proposal.
- 4.3 The proposed entrance gate measures 6.2m in width and 2.3m in height. The gate will be set back 6 metres from the highway.
- 4.4 Vehicular access will be through a double gate opening inwards and pedestrian access will be through the single gate on the left side of the vehicular gate.



Figure 1 (above): New pedestrian link between Jacobson House and Herbert House as originally proposed



Figure 2: (above): Reduced pedestrian link now proposed.

Site and Surroundings

- 4.5 Holland Estate is located within the Spitalfields/Banglatown Ward of the London Borough of Tower Hamlets, near the Tower Hamlets boundary with the city of London. The site lies within a mixed commercial and residential area. The Holland Estate comprises a collection of sites within distinct areas containing a total of 2.4 hectares.
- 4.6 The area of the proposed changes is located between Goulston Street and Old Castle Street and contains Herbert House and Jacobson House Estate buildings. Each block was constructed in the late 1960's and are approximately 5 storeys in height.
- 4.7 The site is located within the Central Activity Zone and the Tech City Boundary. The application site is not located in close proximity to any Listed Buildings; however, the site does lie to the south of the Wentworth Street Conservation Area.

Planning History

- 4.9 PA/08/02347 - Refurbishment of the retained existing dwellings on Holland Estate, the replacement of 43 dwellings, (13 x one bed flats, 9 x two bed flats, 18 x three bed flats and 3 x four bed flats) totalling 143 habitable rooms within Ladbroke House, Bradbury House, Evershed House and Denning point; the erection of 209 new residential units containing studio, 1, 2, 3, 4 and 5 bedrooms, provision of a new community centre (use class D1) of 644sq.m. and a new Eastend Homes local housing office and head office of 1,078sq.m. (use class B1) and 6 new retail units providing some 1,490sq.m. comprising use classes A1, A2 and A3 and the introduction of an Estate wide landscaping scheme.

- 4.10 PA/11/00899 - Application for non material amendment to Planning Permission dated 1st April 2010 Ref: PA/08/02347. Amendment is for addition of a Condition to the Planning Permission to include the approved plans and drawings.
- 4.11 PA/16/00254 - Erection of a 2.3 metre high metal security gate on a private estate road between nos. 16 and 36 Goulston Street at the entrance to Herbert House and Jacobson House. Refused 24/3/16. Appeal Lodged

5.0 POLICY FRAMEWORK

5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the development plan unless material considerations indicate otherwise.

5.3 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

5.4 Government Planning Policy

National Planning Policy Framework 2012

5.5 London Plan MALP 2016

- 2.18 - Green infrastructure: the network of open and green spaces
- 2.9 - Inner London
- 3.9 - Mixed and balanced communities
- 6.3 - Assessing effects of development on transport capacity
- 6.10 - Walking
- 7.1 - Building London’s neighbourhoods and communities
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.4 - Local character
- 7.5 - Public realm
- 7.6 - Architecture
- 7.8 - Heritage assets
- 7.14 - Improving air quality

5.6 Tower Hamlets Core Strategy 2010

- SP04 - Creating a green and blue grid
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating Distinct and Durable Places
- SP12 - Delivering placemaking

5.7 Managing Development Document 2013

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

5.8 **Supplementary Planning Documents**

Wentworth Conservation Area Character Appraisal

6.0 **CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

LBTH Transportation & Highways

6.3 The proposal appears to be different from what was approved as part of the previous planning application (ref: PA/08/02347). The existing proposal provides a better public access through the site. With this in mind Highways would prefer the exiting proposal is implemented. However, Highways have no major objection to the current proposal.

Officer comment: noted

LBTH Conservation and Design Officer

6.4 The Council's Design officer raised no comment on the application.

Transport for London

6.5 No objection

Greater London Authority

6.6 Not of strategic importance

Met Police - Crime Prevention Officer

6.7 Supports the proposal.

7.0 **LOCAL REPRESENTATION**

7.1 A total of 612 neighbours letters were sent to neighbours and interested parties. Due to the site lying adjacent to the Conservation Area, a site notice was displayed outside the application site on Goulston Street and further site notice on Old Castle Street and the application was advertised in local press.

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

No of individual responses:	letters: 2 letters of representation (1 in support and 1 objecting) Petition: 73 signatures in support
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7.3 The following comments were raised in support of the proposal:

- There has been an increase in anti-social behaviour since the removal of the temporary gate on old castle street and we would recommend that this application be approved to remedy this.
- The causes of the ASB include a food court and street market within the immediate vicinity operating 5/6 days a week that does not provide appropriate facilities, which leads the public to utilise the common areas of Herbert and Jacobson House.
- Traders often dump commercial refuse.
- There is often drug dealers and users utilising the area.
- If the application is approved this will go a long way toward improving the quality of life and well-being of residents.

7.4 The following comments were raised against the proposal:

- I support a public access route between these two buildings, and I object to a fenced off private route that the public cannot use. This planned route would greatly improve public access and enjoyment of the area as a pedestrian and cyclist and residents like me.
- There is currently no link between Old Castle and Goulston Streets between Whitechapel High Street and Wentworth Street and this makes for a very long and inaccessible block. As a cyclist the routes along Whitechapel High Street and Wentworth Street are very difficult to use, there is no right turn onto Whitechapel High Street from old Castle and at the other end is Petticoat Lane market which has a high pedestrian count and stalls.
- As a pedestrian it would be beneficial to be able to directly access Goulston Street by walking West from the new Resolution Plaza and between Jacobsen house and Herbert house with the lines of site of the city in the background.
- As a local resident who arrives home and to the area late at night I have never noted any antisocial behaviour in my time living here. I also don't believe the new public pedestrian route would attract antisocial behaviour as there are clear lines of sight from Resolution Plaza and there are a great many residents new and old in the area.

8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 In accordance with the National Planning Practice Guidance, minor material amendments to extant planning permissions can be secured via a Section 73 application provided there is a suitably worded condition on the original permission which refers to the development being carried out in accordance with the approved plans. Condition 29 of the extant permission PA/08/02347 (as amended by by NMA PA/11/00899) is such a condition, stating:

“The development hereby permitted shall be carried out in accordance with the following approved plans and documents

Drawing numbers: 2195-0500 P01, 2195-0501 P01, 2195-0502 P01, 2195-0503 P01, 2195-0504 P01, 2195-0505 P01, 2195-0506 P01, 2195-0507 P01, 2195-0508 P01, 2195-0509 P01, 2195-0510 P01, 2195-0511 P01, 2195-0512 P01, 2195-0513 P01, 2195-0514 P01, 2195-0515 P01, 2195-0516 P01, 2195-0517 P01, 2195-0600 P01, 2195-0601 P01, 2195-0602 P01, 2195-0603 P01, 2195-0604 P01, 2195-0605 P01, 2195-0606 P01, 2195-0607 P01, 2195-0700 P01, 2195-0702 P01, 2195-0703 P01, 2195-0800 P01, 2195-0801 P01, 2195-0803 P01, 2195-0804 P01, 2195-0806 P01, 2195-0807 P01, 2195-0809 P01, 2195-0815 P01, PL_L02 Rev A,

Design and Access Statement

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Noise Assessment – October 2008

Air Quality Assessment – October 2008

Archaeological Assessment – June 2008

Site Utilities Desk Study – December 2008

Energy Strategy – September 2008

Transport Assessment – October 2008

Reason: for the avoidance of doubt and in the interests of proper planning.”

- 8.2 The application proposes no change of use at the site and therefore raises no land use implications. The substitution of plans 2195-0800 P01; and 2195-0801 P01 to be replaced with 2195-0800 P02; 2195-0801 P02; 13-161 A (90) 04 Rev P1; and P463 PL-L01 Rev B (as per the schedule listed on the first page of this report) to vary the original permission raises the following material considerations and has been assessed against all relevant policies under the following report headings:

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

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

Crime

- 8.4 The application proposes to retain the existing fence along old Castle Street and an entrance gate at the main vehicular access on Goulston Street. The application has

been submitted to seek to address concerns raised by residents that unrestricted access will cause further anti-social behaviour and incidents of crime at the application site. Full details of the levels of crime are detailed below.

- 8.5 According to paragraph 69 of the NPPF the planning system should encourage safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.
- 8.6 Policy 7.3 of the London Plan (MALP 2016) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime does not undermine the quality of life or cohesion. This policy also highlights that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.
- 8.7 The Council's Core Strategy policy SP09 (2C) states that gated communities will not be supported. The supporting text for policy SP09 highlights evidence from the Urban Design Compendium 2 dated 2007 which states that a high quality urban environment and layout can help deliver social benefits, including civic pride, increased connectivity, social cohesion, reduced fears of crime and improved health and well-being. The supporting text goes on to state that a poor quality public realm can have severe negative effects on communities.
- 8.8 The Council's Managing Development Document DM23 (3) states that development will be required to improve safety and security without compromising good design and inclusive environments. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.9 The principle of erecting entry gates to create a gated community is not supported by the National Planning Policy Framework (2012), the London Plan (MALP 2016) or Tower Hamlets planning policies. It is considered that only in exceptional circumstances should the Council make an exception to the policy position.
- 8.10 Whilst the comments received from the Metropolitan Police's Crime prevention Officer are in support of the proposal, it should be considered that the Crime Prevention Officer's role is purely that of crime prevention, and officers recommendation to refuse the application takes into account a much broader set of considerations including national, London-wide and local planning policies.
- 8.11 A crime log was submitted by the applicant as part of the evidence in support of the application (see appendix.2). This log details 34 call outs to Jacobson and Herbert house over a period of 3 years. Given the inner city location, and the high numbers of visitors to the area and the high number of residents in and around the area this number is not considered to be particularly high.
- 8.12 Crime statistics obtained from the police website (www.police.uk) over a period which overlaps with the applicants time frames have been collated (January 2013-December 2013) for the area between Wentworth Street, Goulston Street, Whitechapel High Street and Commercial Street (See figure 2 below). The total crimes reported during this period was 126 incidents, with the majority being anti-social behaviour. The total number of residents within this area is unknown, however this block contains a large mix of uses including a large hotel, a university, a market, small scale retail stores and large highly dense housing estates.

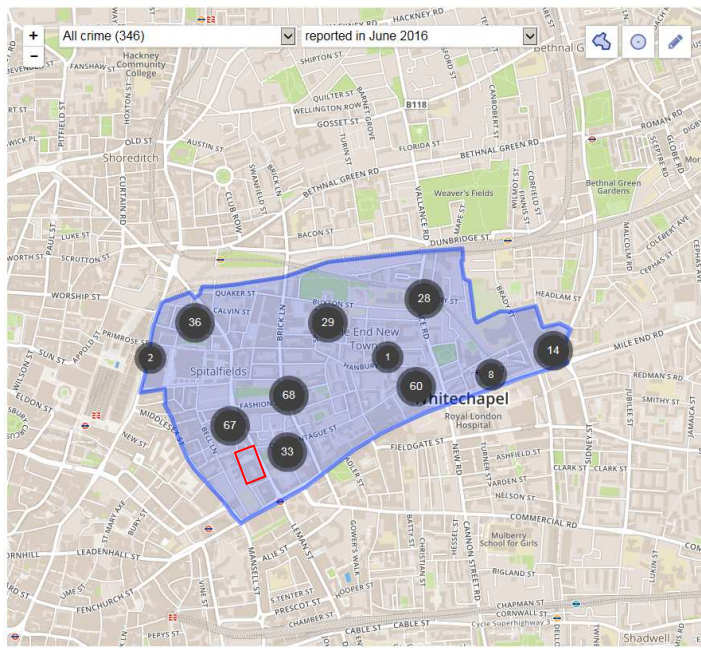


Figure 1: The most recent reported incidents in the wider spitalfields/Banglatown area (June 2016) (taken from www.police.uk)

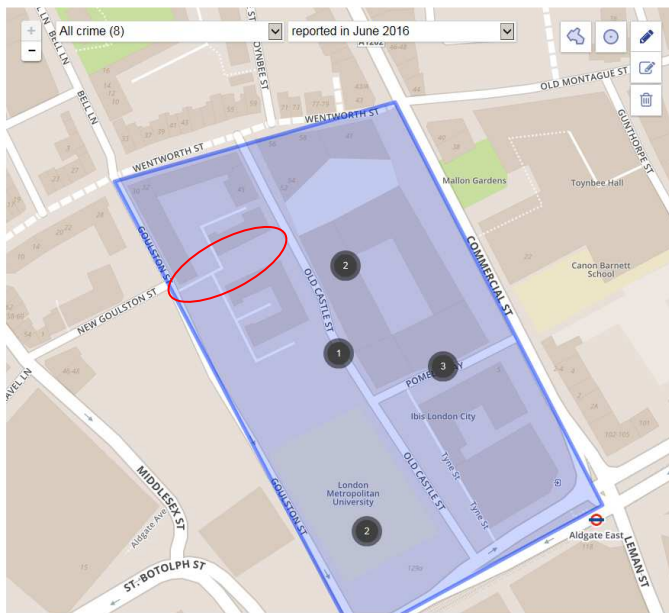


Figure.2 – Crime map including Denning Point and Jacobson and Herbert House (taken from www.police.uk)

- 8.13 Whilst officers do observe that there is evidence of a level of criminal activity recorded in and around the host properties, in light of the above evidence it cannot be considered that the crime rate experienced specifically within Herbert House and Jacobson House is exceptional given its context, and therefore officers consider it would not be appropriate for the Council to make an exception to the policy position in this instance.
- 8.14 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, there is insufficient evidence to suggest that crime and anti-social behaviour levels are such that greater weight should be given to this argument

in planning terms. In addition it should also be considered that the applicant has not demonstrated or outlined any steps that have been taken by management or in association with the police to address the current issues with anti-social behaviour in the first instance without resorting to the gating of the estate. In light of the above, it is considered on balance that the negative implications of the proposal by virtue of its potential to contribute to the segregation of communities far outweigh the perceived benefits of providing a gated entrance.

Accessibility/Permeability

- 8.15 According to paragraph 69 of the NPPF the planning system can play an important role in facilitating social interaction and inclusive communities. Paragraph 73 states that access to high quality open spaces and the opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. In paragraph 75 it is stated that all opportunities for the protection and enhancement of public rights of way and access should be taken in both the formation of planning policy and in planning decisions.
- 8.16 Policy 3.9 of the London Plan states that development should foster social diversity, repress social exclusion and strengthen communities' sense of responsibility for, and identity with, their neighbours. Policies 7.1 – 7.5 set out that development should interface appropriately with its surroundings, improve access to the blue ribbon network and open space, be inclusive and welcoming with no disabling barriers and be designed so that everyone can use them without undue separation.
- 8.17 The Council's Core Strategy policy SP09 (2C) states that the Council will not support developments that create gated communities which restrict pedestrian movement. Policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.18 The Council's Managing Development Document policy DM23 (1A, 1E & 1F) seeks to ensure that development should be well connected with the surrounding area and should be easily accessible for all people by; improving permeability and legibility, particularly to public transport, town centres, open spaces and social and community facilities; incorporating the principles of inclusive design; and ensuring development and the public realm are comfortable and useable. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.19 The retention of the existing fence on Old Castle Street and erection of an entrance gate on Goulston Street will restrict access, interaction and movement with the wider surrounding sites including the Denning Point development to the east and the central city area to the West which would be contrary to planning policies at a number of levels (see NPPF paragraph 75, London Plan 7.2, Core Strategy SP12 and Managing Development Document DM23). This proposal would result in a dead end to the public open space adjacent to the Denning point development with no clear demarcation of where to proceed from this point. The retention of the gates would be intended to be a barrier to movement, and will subsequently restrict the movement of non-residents. The erection of a gate will not contribute towards the Council's objectives of creating a more well-connected Borough.

- 8.20 The approved walkway between Jacobson House and Herbert House functions as an important pedestrian linkage within a wider network of public space given its location adjoining the area of public open space at Denning Point. The maintenance and enhancement of the pedestrian network within the Aldgate Central Activity Zone is an important planning consideration as it positively contributes towards the permeability and legibility of the wider area.
- 8.21 As part of the initial design concepts for the redevelopment and enhancement of the wider Holland estate it was argued that the new public open space between the new development (Denning Point) and the community centre would allow permeability between Goulston Street (and the city to the west and Commercial Street (and Brick Lane) to the East.

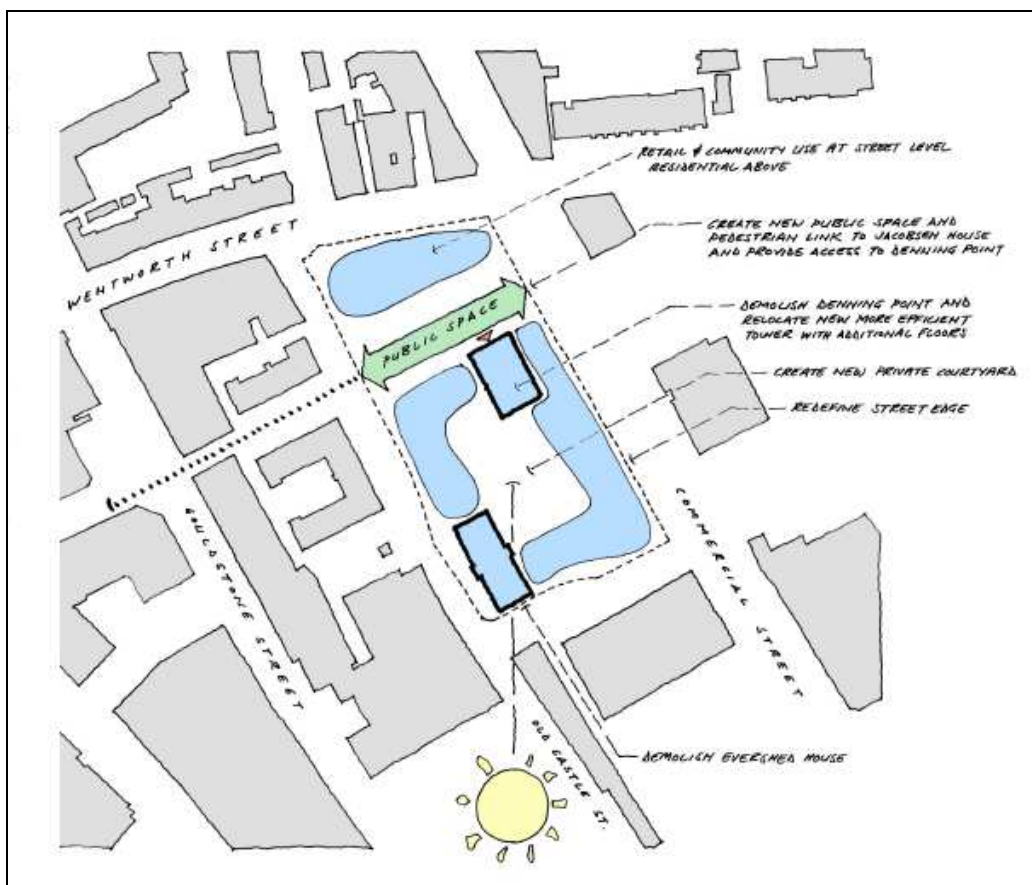


Figure 3. Diagram taken from page 14 of Design and access statement prepared by Jestico and Whiles.

- 8.22 This increased permeability and greater accessibility to the development site (Denning point) allowed for a considerable increase in density for the existing site. The proposed changes would hinder the permeability of both sites and movement of people, both residents and the wider public.
- 8.23 Both national and local planning policies place a strong emphasis on creating mixed and inclusive communities where social interaction between all members of society is encouraged (see NPPF paragraph 69, London Plan 3.9, Core Strategy SP09 and Managing Development Document DM23). This Council has made a clear stance in its planning policies that it is against the creation of gated communities, and any proposals to segregate communities will be strongly resisted.
- 8.24 The proposed gates would create a gated community and segregate both Jacobson House and Herbert House. This is contrary to the council's policies, in particular

policies DM23 of the Managing Development Document (2013) and SP09 of the Core Strategy (2010).

- 8.25 Considering the above, the proposal would also create a 'gated' community which would be impermeable for non-residents which is against the general planning principle of inclusive communities.

Design

- 8.26 According to paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.27 Policy 7.1 and 7.4 of the London Plan states that development should promote a good quality environment, provide a character that is easy to understand and relate to and have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Development should also improve an areas visual or physical connection with natural features.
- 8.28 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.29 The Council's Managing Development Document policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.
- 8.30 The proposed entrance gate measures 6.3m in width and 2.3m in height. Due to the set back from the Goulston street frontage it will not represent an overly dominant addition within the streetscape and the scale, design, and materiality of the proposed gate is consistent with the amenity of the nearby conservation area.
- 8.31 The Council's planning policies seek to ensure that development is sensitive to and enhances the local character of an area (see Core Strategy SP10 and Managing Development Document DM24). The retention of the existing fence along Old Castle Street maintains the status quo. However it would not enhance the character and setting of the adjacent Wentworth Conservation Area.
- 8.32 In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention shall also be paid to the desirability of preserving or enhancing the character and appearance of the designated conservation area. As a statutory requirement the desirability of preserving or enhancing the character and appearance of a conservation area is a consideration to which a decision maker should give considerable weight.

Amenity

- 8.33 According to paragraph 17 of the NPPF local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

- 8.34 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that development protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight); and uses design and construction techniques to reduce the impact of noise and air pollution.
- 8.35 The Council's Managing Development Document policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of enclosure or create unacceptable levels of noise, odour or fumes during the life of the development.
- 8.36 The Council's policies (see Core Strategy SP10 and Managing Development Document DM25) seek to protect, and where possible improve the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm.
- 8.37 Given the set back of the proposed gates, it is unlikely that they will have any impact on neighbouring amenity.

Highways and Transportation

- 8.38 According to paragraphs 32 and 35 of the NPPF local planning authorities should take account of whether safe and suitable access to the site can be achieved for all people; and whether development creates safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, and avoid street clutter.
- 8.39 Policy 6.3 of the London Plan states that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed. Development should not adversely affect safety on the transport network.
- 8.40 The Council's Core Strategy policy SP09 (3) states that the Council will not support development which has an adverse impact on the safety and capacity of the road network.
- 8.41 The Council's Managing Development Document policy DM20 (2) states that development will need to demonstrate it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network or on any planned improvements and/or amendments to the transport network.
- 8.42 The proposed gate is sited on private land within the host property which is set back from the boundary with the public highway. LBTH Highways and Transportation department have not objected to the proposal as there is sufficient set back from the boundary with the public highway so that vehicles can wait within the boundary of the private road before entering the estate. It is considered that the proposal accords with policy on both safety and capacity grounds and does not form a reason for refusal of the application.

Conclusion

- 8.43 Whilst officers acknowledge the existing anti-social behaviour issues on site that cause harm to some residents of Herbert and Jacobson House and have led to the applicant submitting this application (and other related applications) it cannot be overlooked that such a proposal discords with planning policy at all levels. In principle, Officers cannot consider the proposal to be acceptable in the context and

the proposal goes against the core principles of creating inclusive communities which is integral to the success of the Borough.

- 8.44 In light of the above, it is considered that the proposal would be contrary to national, regional and local planning policy as it restricts movement, creates a gated community, restricts access, does not incorporate the principles of inclusive design and is not sensitive to nor enhances the local character of the area.

9.0 HUMAN RIGHTS CONSIDERATIONS

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:

- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

- 9.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

- 9.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.

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

- 9.6 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

- 9.7 Officers have considered the rights of residents to live free of crime and disorder and the fear of crime and weighed this against the desirability of maintaining permeability

for pedestrians and cyclists and the policy which discourages the creation of gated communities.

10.0 EQUALITIES ACT CONSIDERATIONS

10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:

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

10.2 The 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.

10.3 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation it is considered that the perception of crime might be felt more readily by some people who feel more vulnerable than others, however this is not considered to justify a decision which would be against the principles of the development plan in this instance.

11.0 CONCLUSION

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

12.0 SITE MAP

Planning Application Site Map
PA/16/01628



Planning Application Site Boundary	Locally Listed Buildings	Land Parcel Address	
Consultation Area	Statutory Listed Buildings	0 40 m	

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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Appendix 2 – Calls to New Goulston Street

Calls to New Goulston Street until June 2014			
Date	CAD	Location	Classification of call
12/04/2014	4570	Herbert House	ASB
14/06/2013	10006	Herbert House	Street Drinking / ASB
02/05/2013	4225	Herbert House	Drugs / ASB
14/06/2013	10117	Herbert House	Street Drinking / ASB
14/06/2013	10589	Herbert House	ASB
06/03/2014	10329	Jacobson House	Street Drinking / ASB
13/02/2014	8210	Jacobson House	ASB
10/01/2014	8139	Jacobson House	Drugs / ASB
12/12/2013	6490	Jacobson House	ASB
11/10/2013	800	Jacobson House	Prostitution / ASB
05/10/2013	378	Jacobson House	ASB
15/07/2013	1187	Jacobson House	Drugs / ASB
28/06/2013	210	Jacobson House	Prostitution / ASB
11/06/2013	372	Jacobson House	Prostitution / ASB
21/02/2013	3606	Jacobson House	Drugs / ASB
23/11/2012	1833	Jacobson House	Vagrancy / ASB
12/10/2012	121	Jacobson House	ASB
17/06/2012	586	Jacobson House	ASB
22/05/2012	72	Jacobson House	Prostitution / ASB
14/04/2012	7435	Jacobson House	ASB
30/03/2012	185	Jacobson House	Prostitution / ASB
08/02/2012	9465	Jacobson House	ASB
21/02/2012	559	Jacobson House	Drugs / ASB
21/02/2012	417	Jacobson House	Trespass / Drugs / ASB
04/01/2012	9290	Jacobson House	Drugs / ASB
28/11/2011	442	Jacobson House	Alcohol / ASB
21/08/2011	1437	Jacobson House	Prostitution / ASB
04/01/2011	511	Jacobson House	Prostitution / ASB
21/03/2013	404	Jacobson House	Drugs / ASB
27/02/2013	10132	Jacobson House	Drugs / ASB
22/12/2012	1472	Jacobson House	ASB
08/08/2012	698	Jacobson House	Prostitution / ASB
16/06/2012	2278	Jacobson House	ASB
20/02/2012	110	Jacobson House	Prostitution / ASB
11/02/2011	811	Jacobson House	Prostitution / ASB