

Committee: Development Committee	Date: 23 November 2016	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development & Renewal		Title: Planning Application for Decision	
Case Officer: Kamlesh Harris		Ref No: PA/15/03561	
		Ward: St Katharine's and Wapping	

1.0 APPLICATION DETAILS

Location: Site at 14 to 16 Clegg Street, 13 to 15 Cinnamon Street and 125 to 129 Wapping High Street, London E1W

Existing Use: Partly vacant, one car repair workshop and one residential unit

Proposal: Partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C, the 4 town houses.

Drawing Numbers:

(01)-E-001 PL00, (02)-E-001 PL05, (03)-E-001 PL00, (03)-E-002 PL01, (03)-E-A-001 PL01, (03)-E-A-002 PL00, (03)-E-A-003 PL00, (03)-E-B-001 PL00, (03)-E-C-001 PL02;

(01)-P-0G0 PL00, (01)-P-001 PL00, (01)-P-002 PL00, (02)-P-001 PL04, (02)-P-002 PL00, (03)-P-0G0 PL05, (03)-P-001 PL05, (03)-P-002 PL03, (03)-P-003 PL00, (03)-P-004 PL00, (03)-P-005 PL00, (03)-P-A-B-000 PL00, (03)-P-A-000 PL00, (03)-P-A-001 PL00, (03)-P-A-002 PL00, (03)-P-A-003 PL00, (03)-P-A-004 PL00, (03)-P-A-005 PL00, (03)-P-B-000 PL01, (03)-P-B-001 PL00, (03)-P-C-000 PL05, (03)-P-C-001 PL00, (03)-P-D-01 PL00, (03)-P-D-02 PL00, (03)-P-D-03 PL00, (03)-P-D-04 PL00, (03)-P-D-05 PL00, (03)-P-D-06 PL00 and (03)-P-D-07 PL00;

(01)-S-000 PL00, (01)-S-001 PL00, (01)-S-A-005 PL00, (01)-S-A-006 PL00, (02)-S-A-005 PL00, (02)-S-A-006 PL00, (03)-S-A-001 PL00 and (03)-S-B-001 PL00.

Supporting Documents:

- Design and Access Statement
- Planning Statement
- Affordable Housing Statement
- Financial Viability Assessment
- Heritage and Townscape Assessment
- Archaeological Desk Based Assessment
- Air Quality Assessment
- Daylight and Sunlight Assessment
- Noise and Vibration Assessment
- Land Contamination Assessment

- Energy Statement
- Sustainability Statement
- Transport Statement
- Flood Risk Assessment
- Construction Environmental and Waste Management Plan
- Construction Management Plan
- Statement of Community Involvement
- Utilities Infrastructure
- SUDs Briefing Note
- Ecological Appraisal

Applicant: Rail for London and Wapping High Street Limited

Owner: The applicant

Historic listing: Not applicable

2. BACKGROUND

- 2.1 This application is for the partial demolition of the existing buildings and redevelopment of all three sites to create 41 residential units and a retail unit along Wapping High Street, together with associated hard and soft landscaping works and the provision of cycle parking across all three sites. Site A would contain the majority of the units, with 27 flats; Site B would contain 10 and Site C would contain the 4 town houses.
- 2.2 The application was reported to the Development Committee on 28th September 2016 where Members resolved to defer the application to carry out a site visit. This application was then considered at the Development Committee on 26th October 2016.
- 2.3 The Committee, on a vote of 6 in favour, 0 against and 0 abstentions, resolved not to accept the officer recommendation to grant planning permission, resolved that permission should be refused and indicated the following reasons for refusal:
- Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.
 - Impact of the development on the north east corner of the site.
 - Impact on heritage assets and the setting of the Conservation Area.
 - Impact on the highway network.
- 2.4 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

3. COMMITTEE REASONS FOR REFUSAL

Impact on the residential amenity of existing residents particularly in terms of loss of sunlight and daylight to Ross House.

- 3.1 Committee member's raised concerns regarding the impact on the amenity of residents living in the neighbouring Ross House. The property is five storeys tall and is abutted by a blank wall currently forming part of Site B and is opposite Site A. Forty-one out of fifty-five windows assessed would meet BRE guidance for the

Vertical Sky Component (VSC) test. Six windows on ground floor level would suffer a loss of light greater than the BRE guidance i.e. they are below 27% VSC and would experience a loss of daylight of between 20-30%. Furthermore, three windows on the first, two on the second and one on the third floors are similarly affected. For most of these windows, the loss of light is only marginally outside the guidelines and three of these windows already have low VSC due to the balcony above them. These rooms' loss in daylight amenity would be considered to be minor.

- 3.2 In reaching final conclusions in relation to daylight and sunlight impacts, officers have given weight to the nature of buildings and street patterns, the current levels of daylight and sunlight enjoyed by existing residential occupiers that may fall below the absolute targets set out in the BRE Guidelines and the planning policy requirement to optimise the development of brownfield sites, whilst acknowledging local context.
- 3.3 Officers remain satisfied that the daylight and sunlight impacts associated with the proposed development would be acceptable, but recognise that the Committee came to a different view.

Impact of the development on the north east corner of the site.

- 3.4 This reason is understood to relate to the impact caused by the block fronting Clave Street within site A. The main impact of this block is on the properties located opposite in Clave Street, namely 10 & 12 Clave Street which are terrace properties opposite Site A and in the case of 12 Clave Street, opposite Site C as well. These properties are both dual aspect and, on balance, Officers do not consider that the amenity of existing occupiers would be harmed sufficiently to justify refusing planning permission.
- 3.5 In the case of 10 Clave Street, this dwelling is approximately 11m away from Site A. Eleven windows serve seven rooms facing Site A. All windows would be within the BRE guidelines compliant in terms of VSC but there would be a noticeable effect on the daylight distribution (NSL) on three rooms; however, these rooms are served by 3 windows in total and the overall impact would be described as minor adverse.
- 3.6 12 Clave Street sits on the corner with Clave and Cinnamon Street. All windows within six rooms of this property have been tested and two of the rooms have two windows. Three of the six rooms would be fully BRE compliant in terms of VSC and NSL. The two ground floor rooms would experience VSC levels of over 21% against a BRE recommended value of 27%. As such, this is also considered as being minor adverse.
- 3.7 It is also noted that the ground floor windows are already shadowed by a fence surrounding the corner of the site. Loss of sunlight for the whole terrace would be within the BRE guidelines for all main windows. A first floor room would experience an alteration in NSL that would be a noticeable loss of daylight for the occupants; however, its VSC would remain at 26% compared with the BRE recommendation of 27%. Therefore, this room's loss in daylight amenity would be considered to be minor.

Impact on local highway network

- 3.8 The officer's view as set out in the original report is that this is a relatively small scale proposal and the addition of no more than 2 additional vehicle movements associated with the development per day is unlikely to have a significant impact on the local highway network. Any stopping of vehicles such as grocery delivery vans, or refuse vehicles would be unlikely to have a delay time of more than 5-10 minutes. Removal trucks are anticipated to be infrequent but would result in longer delay times. Moreover, if the current permitted land uses were fully occupied rather than vacant this could be

expected to result in more than two additional vehicle movements per day compared to the existing situation. As such, subject to a condition to secure a Delivery and Servicing Management Plan, it is considered by Officer's that the proposed servicing arrangements would not result in any significant adverse impacts on the safety and free flow of traffic or the capacity of the road network. It is however acknowledged that the local roads are very narrow in nature and the opportunity to pass waiting vehicles is limited without the provision of a lay-by particularly as parking stress levels are high meaning parking bays are likely to be occupied.

Impact on heritage assets and the setting of the Conservation Area.

- 3.9 The building is located in a prominent position within the Wapping Wall Street Conservation Area, as such the local planning authority is required to give special consideration to the impact of the development on the character and appearance of the Conservation Area, the development should preserve or enhance the character and appearance of this conservation area.
- 3.10 Officer's considered that the proposed buildings have been sensitively designed within the context of the historic built form and public realm and would preserve and enhance the character and appearance of the Wapping Wall Conservation Area. In arriving at a decision regarding this application, Members are reminded of the obligations established by the National Planning Policy Framework 2012 (NPPF) to consider the irreplaceable nature of the historic environment, and to require clear and convincing justification for any harm caused to its significance (NPPF paragraph 132).
- 3.11 Where less than substantial harm arises, this harm should be weighed against the public benefits of a proposal, including its retention in its optimum viable use (paragraph 134). The conclusion reached by a 2014 Court of Appeal case, Barnwell Manor, noted that 'considerable weight and importance' should be given to any harm to listed buildings and their settings, and correspondingly to any harm to the character and appearance of conservation areas through Sections 66(1) and 72(1) of the 1990 Act. Accordingly, careful consideration should first be given to assessing whether the proposal causes harm to the listed buildings and conservation areas and their settings and the desirability of avoiding that harm before undertaking the balancing exercise that is required by paragraph 132 to 135 of the NPPF. Considerable weight and importance should be given to the desirability of preserving (causing no harm to) the listed buildings and conservation areas and their settings when carrying out that balancing exercise.
- 3.12 It is understood that the Committee considers that the demolition of the existing buildings on site and their proposed replacement blocks would cause harm to a designated heritage asset, namely the Wapping Wall Conservation Area by virtue of the loss of the existing buildings and the design of the proposed replacement buildings.
- 3.13 The NPPF describes harm to heritage assets as being either substantial or less than substantial. Substantial harm should only result in situations where the significance of the whole heritage asset is diminished. Officer's therefore recommend that any harm that could result from the proposed development would be classified as 'less than substantial' given the state of disrepair of the existing buildings Officer's and the architectural value of the existing buildings. Pursuant of the 'public benefits' test as set out above, Officers consider the main public benefits of the scheme to be the delivery of 41 new homes pursuant of the Council's housing delivery targets including additional affordable homes, and the redevelopment of a brownfield site, with a form and design that would enhance the character and appearance of the conservation area and would be sensitive to local context.

- 3.14 The Committee's justification for the harm caused to the significance (NPPF paragraph 132) of the Wapping Wall Conservation Area is understood to relate to:
- a. The loss of the existing building on site B;
 - b. the excessive height of the proposed block, specifically the top storey set back of the proposed block fronting Clave Street within site A;
 - c. the excessive height and massing of proposed block C, and its blank façade when viewed in Cinnamon Street; and
 - d. a loss of openness, and sense of enclosure created by the proposed buildings fronting Clegg Street and Cinnamon Street.

4. IMPLICATIONS OF REFUSING PLANNING PERMISSION

- 4.1 The officer recommendation has been to grant planning permission but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so.
- 4.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.
- If planning permission is refused, there are a number of routes that the applicant could pursue:
 - Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
 - To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning application.
- 4.3 In this case the applicant has not indicated what course of action they might pursue if any.

Financial implications - award of costs

- 4.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- 4.5 Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural – relating to the process; or
 - Substantive – relating to the issues arising from the merits of the appeal.
- 4.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

5. RECOMMENDATION

- 5.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission remains unchanged.
- 5.2 However, if members are minded to **REFUSE** planning permission, the following reasons are recommended:

Impact of highway network

1. The existing narrow streets and lack of dedicated drop-off provision will result in a detrimental impact upon the safety and free-flow of traffic in the surrounding street network due to the servicing requirements and vehicle movements generated by the proposal, contrary to policies SP09 of the Core Strategy 2010 and DM20 of the Managing Development Document 2013 which seeks to ensure that new development does not have an adverse impact upon the safety and capacity of the road network.

Impact of neighbour's amenity

2. The proposed development will have unacceptable adverse impact on the amenity of occupiers of nearby properties due to a detrimental reduction in daylighting and sunlighting conditions of neighbouring residential properties located within Ross House and 10-12 Clave Street. The proposals are therefore contrary to Policy SP10(4) of the Council's adopted Core Strategy (2010) and Policy DM25 of the Council's adopted Managing Development Document (2013) require development to protect, and where possible improve, the amenity of existing and future residents and buildings occupants, together with the amenity of the surrounding public realm.

Impact of heritage assets

3. The proposed development, by way of the design, scale, height, and profile, compared to the buildings to be demolished, would appear as a visually incongruous to the local area and fails to respect the scale, proportions and architecture of the former buildings. As a result, the development would cause less than substantial harm to the character and appearance of the Wapping Wall Conservation Area and would fail to preserve the character of this heritage asset. The harm identified to the designated heritage asset is not outweighed by the public benefits of the scheme.

As a result the proposal is not considered to be sustainable development, contrary to paragraph 14 of the National Planning Policy Framework (2012), and fails to meet the requirements of Policy SP10 of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Council's adopted Managing Development Document (2013) and government guidance set out in Section 12 of the National Planning Policy Framework (2012) as well as the Wapping Wall Conservation Area Appraisal and Management Guidelines (2009).