

**DEVELOPMENT COMMITTEE 6 SEPTEMBER 2022
UPDATE REPORT OF THE DIRECTOR OF PLANNING AND BUILDING CONTROL**

Agenda item no	Reference no	Location	Proposal / Title
5.1	PA/21/02513	60-70 & 100 The Highway and 110 Pennington Street, London E1W 2BX	Demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and nightclub/ photography and filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works

1. Additional drawings and documents recommended for approval not listed in the previous DC report

Schedule of documents

- Details of survey of noise from Tobacco Dock during the weekend of 27th and 28th August 2022 by Sharps Acoustics dated Ashbourne Beech Ltd dated 02/09/2022

2. Live noise testing

2.1 Para 7.201 of the committee report stated that live testing should take place in regard to large-scale music events which take place at Tobacco Dock. These events, in close proximity to the application site, tend to attract between 5,000 and 10,000 people, up to 15 times per year. Due to the historic nature of the Grade I listed Tobacco Dock roof, there is the potential of significant noise breakout to the surrounding area. Previous noise analysis submitted within the application was based on data from a noise report for neighbouring consented development (102-126 & 128 The Highway).

2.2 A large-scale music event took place on Saturday 27 and Sunday 28 August 2022 and live noise testing took place around the application site on both days with results and

analysis subsequently submitted to the Council. In summary, the results showed that the proposed development is likely to be exposed to noise levels comparable to nearby existing housing. Maximum levels are controlled by a condition on the Tobacco Dock Premises Licence to prevent public nuisance. The proposed development is in a noisier location due to road traffic noise and would have better noise insulation.

- 2.3 The noise levels measured during the bank holiday weekend were lower than those assumed in the application assessment so the proposed noise mitigation design would provide greater sound reduction than anticipated.

3 Planning conditions and obligations

- 3.1 Since the committee report has been published, details on noise mitigation conditions have progressed following discussions with LBTH Environmental Health (Noise) and the Council's appointed independent noise consultant. More detailed draft noise mitigation conditions have been provided below:

Opening hours condition

Control of opening hours of the nightclub is recommended to safeguard the amenity of residents in the vicinity and occupying the new housing within the development.

The recommended operating hours would be more stringent than the existing operation, allowing greater certainty and controls but still allowing the nightclub to maintain business viability. All night opening would be permitted for the first 12 months after which operating hours would become more restrictive. The nightclub operator could apply to maintain the initial opening hours period, at which time the proposal would be assessed on its merits, taking into account any complaints received during the first 12 months.

The proposed draft condition is set out below:

For a limited period expiring 12 months following the nightclub first opening for business, the premises shall be closed and cleared of all customers outside of the following operational hours:

Monday to Thursday, 1800 to 0000 (midnight);

Friday and Saturday, 1800 to 0730 the following day;

Sundays and Public Holidays (apart from New Years Day 1100 to 2300;
New Years Eve, 1800 to 1800 the following day
After this date the operational times shall revert to:

Monday to Thursday, 1800 to 0000

Friday and Saturday, 1800 to 0200 the following day

Sunday and Public Holidays (apart from New Years Day), 1100 to 2300

New Years Eve, 1800 to 1800 the following day

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Noise and Vibration Mitigation Scheme

Submission and approval of a structure borne noise and vibration mitigation scheme for including pre-construction, post construction and pre-occupation testing.

3.2 The proposed opening hours of the nightclub are more stringent than the existing operation, allowing greater certainty and controls but still allowing the nightclub to maintain business viability and be able to attract international headline acts and niche club nights. After 12 month initial opening hours period, the restrictions would automatically become more specific unless the nightclub operator applied to maintain the initial opening hours period, at which time the proposal would be assessed on its merits. The 12 month period allows the impacts of the nightclub to be reviewed again following a period of operation.

3.3 Maintaining the nightclub opening hours commensurate with the existing operation is considered to be vital in protecting the character, attractiveness and business viability of the cultural venue. This approach is in accordance with the Equality Impact Assessment (EqIA) which specifies that opening hours of the nightclub should remain as existing so that the proposed development would not adversely impact on protected characteristic groups of age, gender reassignment and sexual orientation, based on the nightclub being a hub for LGBTQ+, kink and sex-positive events in London.

4. Planning obligations

The following additional planning obligation is recommended which would be secured in a Section 106 legal agreement: Submission of and adherence to Nightclub Noise Management Plan which will include (amongst other things): establishment of a community liaison group with representation from local residents' groups, Wapping Safer

Neighbourhoods Panel the Council's Community Safety Team and Environmental Health (Noise) Team.

5. Recommendation

5.1 The officer recommendation to grant planning permission remains, subject to:

- Additional planning conditions to cover temporary opening hours, structure borne noise mitigation;
- Additional planning obligation requiring a nightclub management plan