

PLANNING APPLICATIONS COMMITTEE

Tuesday 7 February 2017 at 7.00 pm

MINUTES

PRESENT: Councillor Malcolm Clark, Councillor Bernard Gentry, Councillor Nigel Haselden, Councillor Diana Morris (Deputy Chair), Councillor Mohammed Seedat, Councillor Joanne Simpson and Councillor Clair Wilcox (Chair)

APOLOGIES:

ALSO PRESENT: Councillor Jim Dickson

1. DECLARATION OF PECUNIARY INTERESTS

There were none.

2. MINUTES

RESOLVED: That the minutes of the previous meeting held on 20 December 2016 be approved and signed by the Chair as a correct record of the proceedings.

The Chair announced a provisional timetable for the meeting in accordance with Standing Order 9.9.1.

3. PLANNING APPEAL AND ENFORCEMENT DECISIONS SEPTEMBER 2016

Members noted the results and thanked officers for their work in defending Council policies.

4. CARNEGIE LIBRARY, HERNE HILL ROAD (HERNE HILL) 16/06270/FUL & 16/06271/LB

Case nos. 16/06270/FUL and 16/06271/LB (page nine of the agenda pack, page one of the addendum and page one of the second addendum).

The Planning Officer gave a presentation which included a summary of the report and subsequent addenda that had been published on Friday 3 February and on the day of the meeting. Members had attended a site visit on Saturday 4 February. The officer confirmed that the merits of the proposal were not discussed at the site visit. There were two applications for consideration: a full planning application and a listed

building consent. Members were advised of the material planning considerations which included the principle of the proposed land uses, neighbour amenity, landscaping/trees, transport and highways impacts and design and heritage matters relating to both external and internal works. The Planning Officer stated that there was a typographical error on page four of the second addendum and should read 'shall meet' instead of 'shall not meet'. The first addendum included a summary of the objections received and an officer's response to them. The second addendum contained details of further objections and amended conditions as recommended by the Conservation Officer and the Environmental Health Officer.

The building was Grade II listed and was listed as an Asset of Community Value. It was owned by the London Borough of Lambeth and had last been in use as a library (Class D1) until March 2016. The Planning Officer advised that there were four residential units on the site which did not form part of the application submission. The proposal would result in a loss of 654m² of D1 use and introduce D2 use in the form of a gym at basement level. The amount of useable floor space in the basement would increase through excavation works. The lawful Class D1 use at ground floor, including the retention of a library function, would be protected through planning conditions were the proposal to be agreed. Currently the use could change between the full range of D1 uses without planning permission being required.

The proposed plans showed that there would be a mixed neighbourhood library and flexible community space, with the possibility of a community café on the ground floor. The rear garden would be reduced in size to accommodate the new plant enclosures. Access to the basement would be through a new entrance from Ferndene Road, which would be accessible for wheelchair and pushchair users. A new disabled toilet would be provided. The new single storey extension to house the new entrance was designed to be subordinate to the existing building, with materials to be secured by conditions.

The Committee had to pay special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

An independent noise report had been undertaken and had been independently assessed by the Council's Environmental Health Officer. As a result a number of conditions had been added in the addendum. Three ash trees in the rear garden were to be removed.

Officers had concluded that the proposal was in accordance with the development plan and that there were no material considerations to indicate otherwise.

Following the Planning Officer's presentation, objectors raised the following points:

- The proposal breached policy Q20 (Statutory Listed Buildings) and the viability of the proposed use had not been adequately considered.
- The proposal would harm the listed building.
- The Victorian Society should have been a statutory consultee but had not been consulted
- While the proposal stated that gym use would be restricted to the basement, GLL planned to have exercise classes on the ground floor, disrupting library users.
- There would only be a token library use if the proposal were to be approved.
- The rear garden had previously been well used, but would be reduced to a narrow strip.
- The library was well-loved by local people of all ages.
- There had been insufficient consultation and consideration of traffic, parking and noise. There would likely be an increase in traffic and parking stress, impacting on residents' amenity. There were two accident blackspots nearby and it was likely that accidents would increase.
- There was no evidence of demand for a gym. Residents did not want to be left with an unused space.
- There would be unacceptable light pollution from the building for up to 15 hours per day, including on Sundays.
- 313 written objections to the proposal had been submitted to the Council.

The Council's Assistant Director: Neighbourhoods and Investment then spoke in favour of the scheme, stating that:

- The Culture 2020 programme had been agreed by Cabinet in October 2015, which committed to running a library service while making savings.
- The use of the building would be extended and a new host would run the building on a day-to-day basis.
- The Council wanted to have a range of community uses in the building. The gym use would be contained to the basement.
- The proposal would enable significant investment in a listed building.

The Ward Councillor for Herne Hill, Councillor Jim Dickson, addressed the Committee, raising the following points:

- He was speaking on behalf of the three Herne Hill councillors in support of the proposal.
- Approving the application would be a major step towards the reopening of the library.
- In response to cuts to government funding, the Council had to find alternative methods of funding services.

- The proposal conformed to Council policies and regulations.
- Ward Councillors had areas of concern that required assurance. Full noise suppression was required to enable both uses to run together without disturbance. Transport arrangements needed to be considered to enable visitors to arrive and leave without disturbing residents. It was vital that the applicant (GLL) worked with residents throughout and a commitment to liaising with community groups would be welcomed. It was key that the reopened library would be able to serve the community.

The Legal Advisor to the Committee informed Members that there were three unusual aspects to the application that needed to be considered:

- The building was listed as an Asset of Community Value (ACV) on 13 January 2016. This was likely to be a material planning consideration but the Committee must decide on the weight to be given to it. An ACV listing does not place any restriction on what an owner can do with its property so long as it remains in its ownership. The main purpose of an ACV listing is to give the community an opportunity to buy the property, not to prevent otherwise acceptable development. Recent planning appeals decisions suggest that limited weight should be given to a listing if an application was in accordance with policy. If the only reason for refusing an application is the listing it is very likely that the Secretary of State would grant permission on appeal.
- The terms of any transfer to a third party was not a material planning consideration.
- The Council must comply with its duties under the 2010 Equality Act when making any decision. In assessing the application and making a decision Members must have “due regard” (this means consciously consider or think about) to the following needs:
 - To eliminate unlawful discrimination, harassment and victimisation;
 - To advance equality of opportunity between people who share a protected characteristic and those people who don't share it;
 - and
 - To foster good relations between people who share a protected characteristic and those who don't.

The second and third requirements refer to protected characteristics. These are: age, disability, gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

The Council's public sector equality duty will be one of a number of material considerations that should be weighed by Members in making a decision.

Officers then provided the following information in response to questions from Members (officers invited the applicant and the applicant's representative to provide certain of the requested information to the Committee):

- While financial considerations could be a material planning consideration, this would only be when it covered grant funding to the Council, such as the New Homes Bonus. There was no grant funding in this case so cuts to funding of the library service should not be considered a material planning consideration.
- Officer advice regarding the ACV listing was that the listing had limited materiality. The community floor space would be maintained and both D1 and D2 uses were considered social infrastructure and community assets. The provision of these uses accorded with Policies S1 and S2 of the Lambeth Local Plan 2015.
- An ACV listing gave a community the right to bid for a property should it be offered for sale. The building and freehold would continue to be held by the Council.
- A condition was included in the officer recommendation to restrict the range of D1 uses to library and community functions, adding a degree of protection to the library and community use.
- The fact that the building was vacant was not material to the decision.
- The Cabinet decision in October 2015 had included two Equalities Impact Assessments regarding the mixed library and gym use and had been found to be robust. This was updated in July 2016. An assessment for this application was not required and officers were satisfied that the Public Sector Equality Duty had been met.
- 'Viability' as used in Policy Q20 did not cover financial viability, but considered the viability of the listed building for future use. Members needed to consider whether the change of use would preserve or enhance the listed building and its setting in accordance with legislative requirements, national policy and Local Plan Policy Q20.
- Disabled access was currently through Ferndene Road, with a lift within the entrance corridor. It was proposed to close this door and provide an accessible entrance from the entrance to the gym. Wheelchair and pushchair users would then have to go along a corridor to reach the lifts. While it was a slightly longer route, officers and GLL considered that it was preferable to have a secure entrance with staff and CCTV. Officers advised that members were required to consider the proposal before them for consideration, even if alternative access arrangements were possible.
- There was a condition requiring a community use management plan. The applicant would have to submit details to the planning authority for approval.
- There would be attenuation measures to address noise transmission through the building to meet noise rating NR20. Noise limiting devices could be used to address amplified music.
- The projected transport modes had been estimated from taking

existing information on similar uses from a database. Six gyms in similar locations that were already in operation had been considered. The worst case scenario had an estimated mode share of car based journeys at 15%, which was relatively low. As the gym was not yet operational, the projected modes had not been taken from the site.

- A parking stress survey had been undertaken on Tuesday 4 October 2016 between 17.00 and 22.00 and on Saturday 22 October 2016 between 10.00 and 18.00 and had covered roads within 500 metres walking distance of the library. At particular hours some roads had a parking stress level of 80%, but the average stress over the two days was between 50% and 60%. Overall there were approximately 1,300 parking spaces within the area.
- Building Control officers had been consulted on the structural integrity of the building and potential impact of the excavation of the basement, and had no in principle concerns subject to the submission of further information for consideration in respect of proposed construction methodology. Condition 3 required an excavation method statement, which would require a detailed methodology. Building Control would be consulted upon receipt of this additional information.
- There was no minimum planning requirement for floor to ceiling height for gyms. Sport England's guidance of 2.7 metres was only advisory. There was no basis for refusal in planning terms. The proposed height was 3 metres. If the operator needed additional floor to ceiling height, further listed building consent for additional excavation could be sought. The equipment that was due to be in the gym would not require additional height.
- A firm of structural engineers with experience of listed buildings had done detailed site investigations and manually excavated trial pits. Another site survey had investigated the soil conditions. Traditional underpinning methods would be used. The risk of damage to the building was considered to be low. The slope reflected the lay of the land.
- A tree survey had been done and the trees set for removal were category C, the second lowest category. This meant that they were of low amenity value and there was a justification in arboricultural terms to replace them with new species. There would be five replacement trees and their type could be secured by a condition.
- Having the plant at the top of the building would result in ducts between the plant and the gym at basement level, creating visual intrusion within the building fabric. It was common for listed buildings to have plant at ground level.
- There would be two pieces of equipment in the basement level plant compound: an air handling unit for the gym and condensers for the gym's air conditioning. The building's listed status limited options for placing the equipment on the roof.
- It was recommended that noise rating NR20 be used. This was the

level used for concert halls, churches and recording studios and was a higher standard than NR35. The second addendum included a condition requiring sound and vibration protection and a methodology to achieve NR20.

- There would be no risk of water from the gym's showers leaking into the foundations as a ceramic floor and tanking were to be installed.
- D2 use on the ground floor would not be permitted.
- The applicant had confirmed that baby changing facilities could be included in the ground floor disabled toilets.
- The second addendum included a condition requiring details of external lighting on the whole site and internal lighting within the single storey extension, which would be part glazed.
- The extension had been designed to be subservient to the existing building, showed a clear distinction between the old and new buildings
- The Victorian Society was a statutory consultee when an application involved partial or total demolition and Historic England was a statutory consultee in the event of demolition of a building or demolition of all or a substantial part of the interior. This scheme is an alteration which did not require consultation with the Victorian Society.
- Internal alterations to listed buildings were acceptable. A condition will require tile work to be removed by hand and replaced elsewhere in the building.
- Policy Q20 had been developed to prevent the destruction of listed buildings or encroachment to prevent usage. The floor area within the building would be increased, improving long term viability.
- The garden would be accessible through a repositioned stairwell. There was no minimum requirements for gardens ancillary to libraries and the garden was acceptable in functionality and landscaping.
- A travel plan had not been requested as it was anticipated that there would be limited numbers of people arriving by car. A condition requiring a travel plan could be added if Members felt it necessary.
- As the floor plan was currently indicative, it was not certain how much library space would be provided. The community café use would have to be ancillary to D1 use, preventing the introduction of a chain coffee shop. Permitted development rights currently allowed temporary change of use to A1 use for up to 150m² for a two year period but this would be removed, protecting the D1 use.
- It would not be reasonable to place obligations in perpetuity.

The Committee considered points raised by speakers and information provided by officers in conjunction with the report before making the following observations:

- Concerns around Policy Q20 and future viability had been

addressed through officer's responses.

- It was common to excavate basements and the methodology had provided reassurance.
- It was promising that D2 usage would not be permitted on the ground floor, although it would be better if this was secured in writing.
- It was important that there would be enough space for both D1 uses to operate successfully. The ancillary café use should not come from library space.
- The loss of garden space and trees was unnecessary and undesirable in a borough with air quality problems. Trees that were due to be removed were regularly categorised as unviable.
- The uncertainty of the floor plan was less than ideal.
- There were concerns that had not been addressed, particularly around equality issues. It was not clear how reducing the library service would help educational attainment.
- The proposal appeared to be a halfway-house between a gym and a library, and it was possible that neither use would be viable.
- The site visit and addenda had helped to address concerns around the impact on the heritage asset.
- The future of the building would be uncertain if the proposal were to be refused.
- Community liaison groups generally functioned well and should be involved.
- The fact that the building could currently convert to any D1 use without planning permission strengthened arguments for approving the scheme as library space would be protected.
- The creation of a gym would not detract from the library and the majority of gym space would come from areas that were currently unusable. A large amount of basement floor space was currently unusable and not publically accessible. This area of floor space currently provided no benefit to the community and bringing it into use was welcome.
- The five replacement trees should be of a similar maturity to the existing trees.
- An informative on the lighting of the extension should be added.
- A travel plan could be secured through a planning obligation and promotion of cycle and walking to the building should be encouraged. An informative should be added to note the Committee's preference for additional cycle parking.
- Baby changing facilities should be secured through a condition.
- Members noted the importance of the establishment of a community liaison group to ensure meaningful dialogue.
- Members asked for it to be minuted that they would like a community liaison group to be established to facilitate dialogue between the local community and future operator(s) of the premises.

It was MOVED by Councillor Wilcox, SECONDED by Councillor Clark, and
RESOLVED, by six votes to one

To grant planning permission for application 16/06270/FUL subject to conditions as outlined in the officer's report and published addenda and subject to the following:

- i. Amendment to Condition 10 to request more detail on access to safeguard access to the ground floor Class D1 uses through the basement level;
- ii. Informative to be added to request that existing accessible doors be kept to allow potential future reversion;
- iii. Informative to request that replacement trees be semi-mature;
- iv. Informative to ensure that the lighting of the glazed extension remains subordinate to host building at night;
- v. Planning obligation to secure a travel plan;
- vi. Informative to encourage cycling and to provide more cycle parking;
- vii. Informative to specify that ironwork for the reconfigured external staircase be sunk into the structure;
- viii. Amendment to Condition 17 to include amplified noise; and
- ix. Additional condition to secured baby changing facilities suggested by officers: 'the proposed accessible toilet on the ground floor shall be reconfigured to include baby changing facilities and retained for the duration of use of the building'.

It was then MOVED by Councillor Simpson, SECONDED by Councillor Haselden, and

RESOLVED, by six votes to one abstention

To grant Listed Building consent for application 16/06271/LB.

CLOSE OF MEETING

The meeting ended at 9.50 pm

CHAIR
PLANNING APPLICATIONS COMMITTEE
Tuesday 28 February 2017

Date of Despatch: Wednesday 15 February 2017

Contact for Enquiries: Maria Burton

Tel: 020 7926 8703

Fax: (020) 7926 2361

E-mail: MBurton2@lambeth.gov.uk

Web: www.lambeth.gov.uk

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