

## PLANNING APPLICATIONS COMMITTEE

Tuesday 16 August 2016 at 7.00 pm

### MINUTES

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

#### **1. DECLARATION OF PECUNIARY INTERESTS**

In relation to application 16/01089/FUL (10 Albert Embankment), Councillor Joanne Simpson declared that she would take leave from the Committee for the duration of the item as she was registered to speak against the application.

With regard to application 16/01927/FUL (The Spinney, Windmill Drive), Councillor Nigel Haselden declared that he would absent himself from the meeting and move to another room for the duration of the item as he was the Chair of Governors at the applying school.

Councillor Ben Kind stated that while application 16/01089/FUL (10 Albert Embankment) was located in his ward, he had no interest to declare.

In relation to application 16/01927/FUL (The Spinney, Windmill Drive), Councillor Bernard Gentry explained that the application was in his ward and that he was a member of two of the groups of objectors, CCMAC and the Friends of Clapham Common. He had not, however, had any discussion about the application with those groups. The Legal Officer advised that while this did not amount to a pecuniary interest, membership of a group that had made an objection could give the appearance that the Councillor was not impartial. If he was confident that he had an open mind about the application then he could participate despite membership of the groups. It would be a matter for him to decide whether to participate in an item on the agenda or to stand down.

#### **2. MINUTES**

The minutes of the meeting of 2 August 2016 would be presented for approval at the next meeting of the Committee.

**RESOLVED:** That the minutes of the previous meeting held on 2 August 2016 be agreed at the next meeting of the committee.

Guillotine arrangements

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

**3. ST THOMAS' HOSPITAL, 249 WESTMINSTER BRIDGE ROAD (BISHOPS) 16/02387/FUL & 16/02477/LB**

The Chair informed the Committee that officers were recommending that this item be deferred to enable further details to be obtained in respect of the proposed servicing and delivery arrangements, including for construction. The Chair suggested that the deferral should also provide an opportunity for the applicant to provide more information on the proposed uses of the new and refurbished buildings including the public benefit, which was of particular importance due to the objection from Historic England.

It was **MOVED** by Councillor Morris, **SECONDED** by Councillor Haselden and

**RESOLVED** unanimously

To **DEFER** consideration of applications 16/02387/FUL and 16/02477/LB to provide officers further time to obtain information on servicing and delivery arrangements and on the proposed uses of the new and refurbished buildings.

**4. 10 ALBERT EMBANKMENT (PRINCES) 16/01089/FUL**

*[Councillor Simpson vacated the committee for the duration of the item].*

Case no. 16/01089/FUL (agenda item three, page one of the agenda pack, page one of the addendum and page one of the second addendum)

The Planning Officer gave a presentation which included the information included in the agenda pack and subsequent addenda which had been published on Friday 12 August and on the day of the meeting. Members were advised of the material planning issues for consideration which included the change to the wall height, the use as a bar and the impact of noise on nearby residential and hotel sites. Condition 13 had been amended in the second addendum to subject the application to a three-month review.

Following the officer's report, objectors made the following points:

- The Park Plaza Hotel was approximately eight metres from the proposed open air bar area and as such there were concerns of the impact of noise on hotel guests.
- An amendment to the hour after which the panels should

remain closed was requested, from 22.00 to 21.00.

- Objectors felt that the applicant was hiding information on the application and that information was regularly changing. They wanted protection through conditions.
- 110 objection letters had been sent from residents at 9 Albert Embankment, which at their closest point was 10 metres from the site.
- Residents requested that the roof be closed from 21.00 from Monday to Saturday, and all day on Sundays.
- The lack of clear noise limits led to a lack of future protection.
- The background noise limit was higher than guidelines for residential areas. The noise assessment was based on 35 people talking normally, which was not representative of the proposed use.
- NR25 was not suitable for this scheme as it was not suitable for variable noise.
- NR25 broke the British Standard for sleeping, which was 30dB. It would be more appropriate to measure the noise from outside the residential units.

The applicant and advisers spoke in support of the application, stating that:

- The proposal was compliant with policy and the applicant had worked with officers over a number of months for a mutually beneficial scheme. There had been two public consultations, the feedback from which had been acknowledged.
- It was expected that an additional 26 jobs would be created through the scheme.
- The condition of closing the panels at 22.00 every night had been accepted.
- The terrace would be for hotel guests and a small number of members.
- While air conditioning would provide sufficient ventilation, the applicants wanted to encourage natural ventilation.

Councillor Jo Simpson, speaking on behalf of local residents against the application, gave the following points:

- The proposal was for a bar that would serve up to 70 people at a time every evening. There was the issue of the cumulative impact of a number of premises in the vicinity.
- The opening panel overlooking the River Thames would encourage vertical drinking as people would want to congregate by the open panels.
- Closing the panels at 21.00 would not affect the opening hours or the overall effect of the scheme, but would help residents.
- She requested that residents be consulted on conditions 6, 7 and 8 before their discharge.
- Vehicles for works and deliveries should be prevented from using Newport Street, Black Prince Road, Old Paradise Street, Tyers Street and Vauxhall Street.

In response to questions from the Committee, officers and the Council's noise advisor stated that:

- Air conditioning would work when the panels were closed and the noise from it would be minimal above the existing plant noise.
- There would be no bar on the terrace, preventing vertical drinking.
- The only access would be through the main entrance to the hotel on Albert Embankment. Visitors to the terrace would access it via a panoramic lift. Only having access through the hotel entrance also allowed the screening of visitors.
- The roof would be formed of triangular sections that could fold out to allow ventilation
- While the conditions would not prevent private hire, any bookings would have to be included in the management plan.
- Condition 13 required noise to meet the NR25 standard. This condition had been used on other high-risk projects.
- When the noise was tested, the panels would be open at the terrace, but it had not yet been agreed if windows would be open at the point of measurement. Better protection would be offered if the measurement was taken from the façade and condition 13 could be amended to require this.
- The background noise measurement had been taken from 9 Albert Embankment as it was the closest noise sensitive receptor.
- Condition 11 would cover the closing time of both the roof panels and the panels overlooking the Thames.
- 22.00 had been considered a reasonable hour to close the panels and the terrace had been considered to be like a beer garden of a pub.
- There would be an emergency staircase as required by law, but this would not be used in normal circumstances.
- The terrace would be eight metres from the Park Plaza Hotel and hotel rooms facing had windows that opened.

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

- There were still some issues that had not yet been addressed, such as the impact on Park Plaza, the suitability of NR25 and conditions 6, 7 and 8.
- Having to rely on enforcement to achieve a desirable outcome was not an ideal situation.
- One option to protect the amenity of local residents would be to restrict the opening hours of the panels.
- The roof and side panels should not be differentiated in the conditions and an earlier closing hour would be preferable.

The Legal Advisor provided the following advice on potential amendments to conditions:

- Condition 4 should be amended to 'restrict', rather than 'enable' the use of the terrace to remove ambiguity.
- The reference to a variation in operating hours should be removed, as a new application would be required in such cases.
- An applicant could not be required to have discussions with residents, and it was for the Council to carry out public consultations. This would have to be requested through an informative as the Council could not be required to act through a condition.

It was PROPOSED by Councillor Morris, seconded by Councillor Haselden and

#### RESOLVED

To GRANT planning permission subject to the conditions as outlined in the officer's report and published addenda and the following:

- i. Condition 3 to be amended to 'encourage consultation by the applicant'.
- ii. Condition 4 to be amended to read 'restricts the use' instead of 'enables the use'. The words "Any other use must be agreed in advance in writing by the Local Planning Authority" shall be deleted.
- iii. Condition 5 to be amended to remove the reference to a variation in the hours of operation.
- iv. Conditions 3, 6, 7 and 8 to be consulted on by the Council before discharge.
- v. Condition 11 to be amended to read 'the roof structure shall be closed at 9.00 pm and the western façade closed at 9.00 pm each evening' and to specify that it shall remain closed until 10.00 am the following day.
- vi. Condition 13 to be amended to include the new part (d) included in the addendum to ensure that there are post-commencement checks and LPA seeking more details if there are complaints.
- vii. Condition 13 (a) to be amended to read 'external' measurements rather than internal with an informative that measurements should be taken for open windows at either end
- viii. An additional informative to require the construction plan to identify alternative routes to Newport Street, Black Prince Road, Old Paradise Street, Tyers Street and Vauxhall Street for delivery and service vehicles.

#### **5. THE SPINNEY, WINDMILL DRIVE (CLAPHAM COMMON) 16/01927/FUL**

*[Councillor Haselden vacated the Committee and absented himself from the meeting room for the duration of this item. Following advice from the Legal Officer, Councillor Gentry vacated the Committee, as despite not having a pecuniary interest, he felt it would be beneficial to absent himself. Councillor Gentry withdrew from the remainder of*

*the meeting at 9.05 pm due to illness.]*

Case No 16/01927/FUL (agenda item five, page 65 of the agenda pack, page nine of the addendum, page three of the second addendum).

The Planning Officer gave a presentation which included a summary of the report and subsequent addenda which had been published on Friday 12 August and on the day of the meeting. Members were advised of the key material planning issues for consideration. Members were informed that the assessment of the impact on Metropolitan Open Land (MOL) had changed since the publication of the agenda. Within the officer report the application site had been treated as 'previously developed land', but this was incorrect as parks could not be designated as such by virtue of guidance within the National Planning Policy Framework (NPPF). The proposal therefore represented 'inappropriate development' and was, by definition, harmful to the MOL. It would be for Members to ascertain the level of harm using their planning judgement and whether any other considerations, such as benefits deriving from the development proposal, outweighed that harm. The officer stressed that Members should give substantial weight to the harm to the MOL in their assessment of the development proposal

Following the officer's presentation, objectors raised the following points:

- The development proposal would require the Secretary of State's approval due to the protection afforded to Clapham Common by the Metropolitan Commons Act. The objector advised members that no referral had been made to date;
- The current use of the building had taken over part of the Common for use as a playground and high fencing had been erected without permission from the Secretary of State;
- The Common should be accessible to all users, not limited to children attending the nursery;
- While the nursery was an important local service, it did not need to be located on MOL land;
- The increased footprint of the application would obstruct views across the Common;
- The proposed building was functional, rather than ornamental, and had no coherent stylistic relationship to other existing buildings such as the adjoining toilet block;
- The existing building could be refurbished, rather than replaced. Having a larger building was based on plans to increase revenue;
- Granting the application would set a dangerous precedent to allow MOL for private use.

Supporters then spoke in favour of the application, stating that:

- The nursery had been rated 'outstanding' by Ofsted. Considerable work had been done in conjunction with Save

the Children on closing the academic gap between boys and girls and the outdoor play space helped boys to learn;

- The Natural Thinkers programme at The Spinney was established by the Council to widen opportunities in the community and to encourage social cohesion;
- The nursery specialised in provision for children with disabilities and Special Educational Needs (SEN) and the current building was not fit for purpose;
- The outdoor play area provided a safe space for children to engage with nature and for parents and carers to interact with children;
- The weekly Little Diggers sessions were very popular, with over 100 children attending. Many local families did not have gardens so the sessions provided children with valuable outdoor play;
- Outdoor play often helped children with behavioural issues;
- Hiring out the hall helped to fund free events, such as Little Diggers. The hall would be hired out for events that would be common in church or village halls, rather than large events.

At this point Members and officers viewed the model of the proposal and samples of the proposed finishing materials. Following questions from Members, officers stated that:

- The Council's policy was to discourage timber cladding as it was not considered robust and there were issues of longer term maintenance. There had also been issues of timber-clad buildings being lost to arson in Brockwell Park and elsewhere.
- The bin stores would be in a secure and enclosed area between the new building and the existing toilet block.
- The only planning history of the site was a 1980 application for the demolition and rebuilding of the one o'clock club building. There was no mention of the railings. However, by their appearance as noted during an officer site visit, Members were advised that they were very likely to have been in place for over 10 years and therefore exempt from enforcement. It was unclear when the bamboo screening was erected, but planning permission would be required as the screening was over one metre in height. The erection of a boundary treatment up to one metre in height would be permitted development and would not require planning permission.
- Members would need to consider whether the height and appearance of the proposed verdant (willow) planting, which would replace the existing bamboo fencing, is appropriate. Officers were of the opinion that it was the right height as it would be used to restrict views into the children's play space and the screening was in keeping with its surroundings.
- The Council's GIS mapping system indicated that other buildings on the Common, such as the church and the bandstand retained their designation as MOL even though they comprised of permanent structures on the Common.

Officers were not aware of any requests to return land currently built on back to Common land.

- If planning permission were granted, the land would still be designated as MOL.
- The proposed permitted use for Class D1 purposes would allow events such as the one o'clock club and birthday parties. It would be possible to restrict the type of D1 uses through a planning condition.
- While there was a small difference in the current and proposed highest points, the nature of the pitch of the proposed roof reduced the bulk and massing.
- The proposed cladding material was robust and should not weather.
- It was possible to require the applicants to submit an operational management plan, which would cover day-to-day activities as well as events.

The architect for the application was invited to answer questions from Members, informing them that:

- He had met with officers from the pre-application stage onwards. The original proposal had been to have timber cladding, but this had been advised against on policy and maintenance grounds. A subsequent proposal for perforated metal cladding had also been investigated before arriving at the proposed fibre cement cladding panel finish.
- The ridged finish had been decided on to reflect the moving nature of the nearby trees.
- Two colour options had been considered. The lighter shade appeared too bright in natural daylight and would show staining and dirt more than the darker shade. The cladding did not soak up water so would not darken in the rain.
- The option of having a green roof had been considered on sustainability grounds. The architect considered green roofs to be more beneficial in non-park areas. A green roof would also require significant additional depth to the roof structure, which would impact on the proposed height. As the roof was not visible from most aspects it was felt that it would not be of visual benefit and it would have the disadvantage of increasing the depth of the roof.
- The 35m<sup>2</sup> extension of the building footprint would encroach partly on recycled rubber playing material and partly on digging areas. Approximately 2-3m<sup>2</sup> of green area would be lost.

*[At 22:00 the Committee elected to proceed with the meeting for a further 45 minutes in order to conclude the remaining matters of business.]*

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

- While Members appreciated objectors' concerns, the level of harm would be minimal and the public benefit of providing services for SEN children outweighed any damage.
- The restricted use of a small area of MOL was well-established. Allowing development on the site would not set a precedent for new development elsewhere on the Common.
- Having an operational management plan was good practice and would be added as a condition.
- An informative would be included to provide the applicant with guidance on the type of events that would be appropriate for the development. The Chair suggested that the uses should focus on children's activities and that events such as weddings would go over and above what is acceptable.

It was **MOVED** by Councillor Morris, **SECONDED** by Councillor Simpson and

**RESOLVED**, unanimously

To **APPROVE** planning permission subject to the conditions outlined in the officers report and the following:

- i. A condition requiring an Operational Management Plan and associated informative. The OMP should include a hiring out strategy, the proposed uses and an overview of the day to day activity.
- ii. The informative would state that hiring out of the venue should be restricted to children's events.

## **6. 70 KINGSMEAD ROAD (STREATHAM HILL) 15/06299/FUL**

Case No 15/06299/FUL (agenda item four, page 31 of the agenda pack, page six of the addendum).

The Planning Officer gave a presentation which covered the information included in the agenda report and the information in the addendum. Conditions had been added in the addendum to restrict the use to the storage of motorcycles. Officers now considered that the previous proposal to make the permission personal would be inappropriate. Members were advised of the key material planning considerations.

Following the officer's presentation, objectors raised the following points:

- Over 50 individual objections had been sent, and over 60 residents had signed a letter of objection.
- The applicant did not own the access road or the five garages opposite. The owners of the access road and the other garages had objected to the application.
- The applicant did not live locally and local residents would suffer a loss of amenity of their gardens.
- There was the possibility that the applicant would use the

building for business purposes.

- The proposed increased roof height would make the building more noticeable than the existing garages.
- The application went against the Local Plan.
- Fire engines would not be able to drive down the narrow access roads. Storing 12 motorcycles, as well as having a diesel generator, presented a fire risk.
- The environmental survey did not give a comprehensive history and did not mention the risk of flooding, despite one nearby basement being currently flooded.
- The proposed change of use from C3 residential to B8 commercial was not necessary.

The applicant then provided the following information in support of the application:

- He had purchased the garages a couple of years ago in a dilapidated state. They had been unused for decade and were full of rubbish.
- He did not see how the proposal would detract from the aesthetic of the area.
- There would be no additional traffic or noise impact.

Councillor Rezina Choudhury spoke as a Ward Councillor against the application, stating the following points:

- The proposal was of significant concern locally.
- There were unanswered questions as to what the building would be used for and further clarification and restrictions were needed.
- If the building would be only used for storage, there was no need to have a four metre high roof.
- Local residents had a right to privacy and to be able to enjoy their homes and gardens.

The Legal Officer advised the Committee to ignore speculation of potential future uses as this was prejudicial to the applicant. Members should consider the application before them, not what may or may not happen in the future.

In response to questions from Members, officers explained that:

- A pitched roof was common in a suburban environment so was deemed suitable.
- The gardens which faced the garages were quite long, between 28 and 34 metres, and the roof would be relatively small. The site was currently overgrown.
- The access road was 3.2 metres at its narrowest. The construction plan would be expected to minimise disruption.
- C3 usage was general residential use and garages were ancillary C3 use. However, as the applicant did not live near the site, the use could not be classed as domestic.
- B8 use was for storage. Allowing commercial use was not

appropriate so the class was being restricted to storage only.

The Chair stated that the issues surrounding construction could not be left to a condition, as moving a condition that could not be fulfilled would essentially be a refusal. She proposed that the decision be deferred to require the applicant to submit a construction management plan before the Committee make the decision.

It was MOVED by Councillor Morris, SECONDED by Councillor Simpson, and

RESOLVED

To DEFER consideration of application 15/06299/FUL until a construction management plan has been submitted.

**7. PLANNING APPEAL AND ENFORCEMENT APPEAL DECISIONS  
APRIL 2016**

Members acknowledged the planning appeal and enforcement decisions during April 2016 and thanked officers for their work. The high number of successful defences of appeals was a credit to officers.

CLOSE OF MEETING

The meeting ended at 10.45 pm

CHAIR  
PLANNING APPLICATIONS COMMITTEE  
Tuesday 6 September 2016

Date of Despatch: Friday 26 August 2016

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