

Planning Committee - 9 February 2021

Minutes of the Zoom meeting of the Planning Committee held on 9 February 2021 @ 7.30 pm.

Present: **Councillors:** Klute (Chair), Kay (Vice-Chair), Picknell (Vice-Chair),
Chowdhury, Convery, Ismail, Khondoker, Poyser and
Woolf
Also **Councillors:** Heather and Shaikh
Present:

Councillor Martin Klute in the Chair

- 211** **INTRODUCTIONS (Item A1)**
Councillor Klute welcomed everyone to the meeting. Members of the Committee and officers introduced themselves.
- 212** **APOLOGIES FOR ABSENCE (Item A2)**
Apologies were received from Councillor Clarke.
- 213** **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
There were no declarations of substitute members.
- 214** **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 215** **ORDER OF BUSINESS (Item A5)**
The order of business would be as per the agenda.
- 216** **MINUTES OF PREVIOUS MEETING (Item A6)**
- RESOLVED:**
That the minutes of the meeting held on 5 November 2020 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 217** **NAGS HEAD COVERED MARKET, 22 SEVEN SISTERS ROAD, N7 6AG (Item B1)**
Proposed use of mezzanine floor for food and drink uses in association with the retention of Ground Floor Market use (Sui Generis), with associated first floor access door and staircase (emergency escape) to south elevation, and creation of covered first floor terrace to the west elevation, together with the retention of first floor central glazing and built up brickwork to south elevation, retention of north flank first floor central glazing and brick wall enclosure and retention of alterations to rear extractor/plant equipment, louveredhed screen and associated works.
(Planning application number: P2020/0079/FUL)

In the discussion the following points were made:

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- The Planning Officer advised that the meeting that a further representation was received after the agenda was published, however the issues raised had already been addressed in the report.
- Meeting was informed that officers would like to amend recommendation in condition 3 of the report, to read – ‘The ground floor of the market use hereby approved shall only be laid out and operated in accordance with the approved Use Class Plan – 21/01/21 ref: NHM2001. No less than 60% of the total ground floor units shall be in retail use at any one time. With the exception of a change to a non-retail use to a retail use, the units identified on the approved Use Class Plan – 21/01/21 ref: NHM2001 shall remain in the approved use only, unless otherwise agreed in writing by the Local Planning Authority.
- Site is not listed nor is it located within a conservation area, however it is sited within the Nag’s Head Town Centre and with a Primary Retail Frontage.
- The proposal seeks to regularise the use of the ground floor space which given the mix of retail, café/restaurant and hot food takeaway units together with the mezzanine uses would comprise a Sui Generis use.
- The Planning Officer acknowledged that there are currently 45 units in total at ground floor level with a number of formerly separate units being amalgamated, it has a potential of increasing up to 65 units.
- Members were informed that the mezzanine on the first floor is subject to a certificate of lawful development for the physical structure. The proposed use of the mezzanine although laid out and fitted out is not operational.
- The planning officer reminded the meeting that a previous Certificate of Lawful Use application to demonstrate the existing lawful use of the site was for Sui Generis at the site had been refused on the basis that insufficient evidence was submitted with the application.
- Main issues for consideration are land use, it’s design, the impact of the scheme on the amenity of neighbouring residents, delivery and servicing, and highway and transport impacts.
- Members were advised that although the entire use of the site is considered unauthorised at the moment it is operating as a Sui Generis use. The proposed mix of uses ensures that no less than 60% of the total ground floor units shall be in retail use at any time and any change to a non-retail use will require permission from the local planning authority. It is considered that the mix of uses being proposed across the site is acceptable and supports the town centre function.
- In terms of management and operation of the site a Operational Management Plan and Night Time plan were submitted with the application, and they includes customers leaving the site after 8pm through Seven Sisters Road, restrictions of bottling out times, operating hours and the use of smoking terrace and bar use which is ancillary to food hall
- In terms of land use and function the meeting was advised that officers consider the proposal appropriate, that a food hall of this scale and kind, together with the retained ground floor market use is appropriate in respect of Nag’s Head and its position in the retail hierarchy of the Borough.
- With regards to the ancillary bar which is located to the south of the mezzanine, the Planning Officer advised that the applicant has submitted an

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Operational Management Plan which details that vendors will serve drinks only to customers who have bought food and are seated to ensure that this use remains ancillary to the primary function of the market.

- In addition to the above, a condition is recommended requiring the operation of the mezzanine floor in accordance with the submitted Late Night Operations Plan and further details to be submitted
- Members were informed that there is an expectation that each café/restaurant unit may have ancillary takeaway services.
- In protecting the amenity of residents, the proposal includes an Operational Management Plan, detailing a number of operational measures that would be in place to mitigate noise, disturbance and anti-social behaviour occurring from the venue.
- In response to delivery and servicing concerns, the meeting was advised that a detailed Servicing and Delivery Plan was required to be submitted by condition and that this would address points such as riders and mopeds operating within the designated area for the collection of hot food takeaway.
- In addition to the above, the planning officer advised that to address residents concerns about noise from delivery vehicles and odours, pollution and adverse air quality, any collections by delivery drivers taking place after 20.00 hours will be required to be carried out by non-motorised vehicles which is secured by a condition.
- On concerns that the facility will attract additional users to the site and result in increase in the numbers of people visiting, the Planning Officer reminded members that the site is in an accessible location, with sustainable modes of transport.
- The Planning Officer informed the meeting that although not a planning consideration, a Fire Brigade Prohibition Notice is still in place number of users of the mezzanine floor. Meeting was advised that both the Fire Brigade and the Council's Building Control Team were consulted with regards to Fire Safety and no objections were raised.
- In terms of concerns regarding the serving of alcohol, the Planning Officer reminded members that although the operational management plan states that this would be restricted to only those seated and having a meal in the Upper Place of the mezzanine, the operators will be required to apply for a separate licensing application before it can commence.
- An objector was concerned that despite the application been refused previously by both the Planning Committee and the Licensing Sub Committee due to concerns about the storage containers and the location of the flues it is being put forward once again for consideration by the Committee, that this was an unlawful development on a large scale and furthermore an attempt to change the use of the market from retail to food halls. He was concerned with the owners behaviour in kitting out the mezzanine area prior to the owners seeking permission and that the local planning authority should put a stop to it.
- Members were reminded of planning violations by the developer over the years and that despite the Nags Head area being designated as a cumulative impact area with all its subsequent anti social activities, this development was still being considered.

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- A Ward Councillor was concerned that the scheme is not in line with the Council's Inclusive economy agenda, that the scheme being proposed would result in market traders being moved out when unaffordable rents are introduced by the owners in the future with the result, that this was some form of gentrification. Members were reminded that Nags Head is a very unique market and it's loss would have a big impact on the local community and users. Ward Councillor advised of owners behaviour especially around works being carried out without permission and was concerned with fire safety especially from the mezzanine use.
- A resident was concerned that prior to the purchasing her family home her searches did not reveal anything about Nags Head Market possibly due to retrospective application. It was reiterated that another drinking outlet was not what the area required especially as Islington Council has designated the area as a Cumulative Impact Area. Other issues raised were noise pollution due to delivery and articulated vehicles serving different supermarket throughout the day, which will have an adverse impact on residents well-being and amenity. Members were reminded that Nags Head Market was originally built to be open air market, and not to become a place for 16 kitchens made from wood and iron serving food in a tight area and a potential fire risk. Resident was concerned about the health and hygiene implications that will arise from pollution and left over food. Members were reminded that considering the area is predominantly residential, this proposed scheme is not welcome as there are other empty spaces nearby with development potential for such schemes.
- A resident was concerned that considering application was refused in 2019, there was no reference to this in the officer's presentation. Resident noted the fabric of the market, that it was in a state that demonstrated lack of care by the owners with its slippery floors and broken tiles. With regards to the proposed units in the mezzanine, resident had concerns that this was a potential fire hazard highlighting operations from the 16 hot kitchens, its partitions and the tin roof above these units.
- A resident was concerned about the negative impact of the scheme on residents especially as it would result in an increase in the level of vehicular movement and road safety concerns. Resident had doubts about the submitted Operational Management Plan and its enforcement especially as the current owners have a history of abiding by guidelines or planning policy. Resident reiterated that noise disturbance is bound to increase especially in light of recent Covid guidelines which encourages vehicular movement with the result that it will have an impact on the air quality in the neighbourhood.
- A Ward Councillor was concerned about the Fire Brigade's Prohibition Notice as there were still issues and potential risk to people, restricting the number of people using the mezzanine. There were also concerns about the combustible materials used in the rear of the servicing area and its close proximity to the smoking terrace. Also concerns about the Management plan, describing it as inadequate because it fails to address the amenity concerns of neighbouring residents especially with opening hours, waste collections and bottling till 11pm, amplified music, serving alcohol in the cumulative impact area and parking in local streets.

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- Members were reminded that if Committee were minded to grant planning permission, it was able to introduce alternative measures to protect the amenity of the residents. It was also suggested that the application be deferred for further negotiations with the applicant on issues such as the mezzanine capacity and opening times.
- In response to objectors concerns, the planning agent noted the two elements to the mezzanine floor, the physical existence and secondly its use. In terms of its actual presence, structural and associated works supporting the mezzanine floor, the meeting was advised that it is lawful as a result of a 2018 lawful development certificate granted by the Council. The agent acknowledged that the issue of its use is why the application is before the committee.
- With regard to the ground floor use, the agent informed the meeting that having a greater mix of uses with food hall and retail is a reflection of society expectation, a place not only where shopping occurs but a place for family and friends to meet and socially interact and therefore promoting a more inclusive economy.
- On the issue of enforcement, the agent acknowledged the mistakes of the past, that owners are aware of formal proceedings being instigated in relation to the use of the ground floor, it's impact on the future and existence of the Nags Head market locally.
- The agent informed members that TFL supports both the Service yard details and arrangements submitted with the application and in particular welcoming the scheme as it is a car free development, reminding members of a condition in the report that further details are to be agreed on the access, servicing and refuse collection .
- The agent acknowledged that although Licensing had not been secured, the applicant is aware that the facility is within a cumulative impact area. In addition, the agent advised that although no objections was received from the Council's Licensing Officer, there will be a nominated person on the premises licence who will be an experienced person under the management of the Nags Head Market and the Upper Place.
- In terms of the smoking terrace, the agent advised that it is not visible from public vantage point, and that there will be control of its use.
- With regards to fire concerns, the agent advised that this due to a result of a visit by the London Fire Brigade, that the prohibition notices was issued simply as a result of uncompleted works on Hertslet Road with the assurance that this will be lifted when completed. Meeting was informed that LFB have indicated that if planning permission is granted this notice will be lifted.
- The agent reassuring Members that the scheme is not a night club or a drinking venue with 300 people but a class establishment with an upper area that will be offering high quality specialist food from around the world. Members were reminded that experience from other similar establishments around London demonstrates that it is a place where family meet, children friendly, where you choose your food and drink.
- In terms of noise concerns, the agent informed the meeting that it will be of a quiet atmosphere with some light background music and no loud music.

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Research shows that patrons to such establishment tend to be there between an hour and an hour and half at the most.

- Meeting was informed that as part of it encouraging family friendly activities, there are plans to invite schools to partake in cooking classes
- In response to concerns that it will now be predominantly non-retail use rather than retail use, the agent advised that the food upstairs is a different venue with different management considerations. Members were advised that although the ground floor is a market and owners intend it to remain a market, it is important to recognise the challenges being experienced by retail as the trend is towards online shopping, however the proposal aims to retain 60% of the ground floor as retail with a mix of food.
- In response to concerns about the management of the operations in particular of Upper Place, the meeting was advised that 4-5 persons in place during the week while on busy days and weekends there will be 6-7 persons exclusive of door staff. In terms of takeaway collection concerns, meeting was advised that although details are to be sorted out prior to opening, if not possible there are plans by the owners to set up its own delivery team within a mile radius of the facility. Members were assured that there will be no collection from the Hertslet Road entrance.
- In response to a question on whether there was any evidence that the Fire Prohibition notice will be lifted if and when planning permission is granted, the Planning Officer advised that from a planning point of view the Council has no control of what LFB's operations, however it is important to note that no objections were received in relation to the Fire Safety Strategy.
- In response to a question on the size of the dining area, Members were advised that as stated in paragraph of 4.2 of the report, the mezzanine has a total area of 606sqm, with the seating area comprising approximately a third of the floor space area.
- On the question of if any discussions had taken place with delivery firms, the agent advised that none had taken place yet but options are being considered, and failure to secure any vendor motorised bikes or cargo bikes will be used. Members were reminded that the facility is not a delivery facility but more of people visiting and seating down to enjoy the venue.
- In response to an enquiry of its engagement with schools, the agent advised that in the last 6 months funding of a breakfast club had occurred and there are plans to engage with other neighbouring schools on different initiative and will be looking to working with relevant council services in the future.
- On the issue of deliveries and how it will work, the agent informed the meeting that suppliers to the site will enter the gate from Hertslet Road, parking in the designated bay and delivering the goods using the main market.
- To protect amenity and other road users, delivery drivers will not be allowed to congregate on Hertslet Road or any residential street in the vicinity of the site and that the Delivery and Servicing Plan ensures that the management team will not allow delivery drivers at Hertslet Road and collection within the servicing yard only.
- In response to a question, the agent acknowledged that the mezzanine proposes to be operational serving 16 food and drink vendors and that the

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seating located to the centre of the Upper Place would accommodate approximately 240 covers

- The agent reiterated that the mezzanine floor is intended for those who are eating and not for 'vertical drinking', that the scheme is intended to be a family oriented facility which welcomes family and their children.
- The agent acknowledged noise concerns especially from the activities and operations from the mezzanine floor. The agent advised members that in considering whether the increase in noise levels would be detrimental to residents it should consider it in conjunction with factors such as the site location, character and function of the area. Members were reminded that in situations like this conditions would address any impact of the scheme on the amenity of neighbouring residents.
- In response to a question about whether the committee can consider to address the maximum number of users in the Mezzanine, the Planning Officer advised that although not part of the proposal, the committee if minded are welcome to consider it.
- During deliberation, the Chair reminded members that traffic and crime safety concerns had been addressed by both TFL and the Police, reminding members to focus on the main planning considerations, noting his concerns about the operating hours but also acknowledging that this should be considered in conjunction with the operation and management plans provided by the applicant.
- A Member acknowledged that applications should not be determined on trust, committee is invited to take a decision on details of an operational and management plan. Member was concerned with the build now and seek permission later approach. Additional concerns include the high risk of vehicle use which could not be controlled; noise pollution, the intensification of food services as the whole building will now comprise of units which will either be café/restaurant, hot food and takeaway causing a significant imbalance to the primary use of the market and therefore was in favour of a refusal.
- A suggestion on operating shorter hours and tweaking details in the management and operational plans could in some ways mitigate short comings about the scheme
- Member acknowledged that although he had reservations about the impact of the scheme on residential amenity but was ambivalent about an outright refusal to the scheme as there is insufficient grounds to refuse planning permission. A suggestion that restricting hours could mitigate concerns about residential amenity.
- A member did not agree with the vision of the scheme, that it is in conflict with the aims of the Nags Head Town Centre especially with its shift towards food halls and evening gatherings area instead of it being a family oriented gathering area. Another suggestion was that if permission is to be granted, conditions should be included to manage capacity, deliveries in and around the facility.
- A member suggested item to be deferred due to concerns regarding capacity in and around the mezzanine, fire safety need to be addressed. A suggestion on the possibility of ensuring that 70% of the ground floor use be retained

for retail use and operating hours of the mezzanine be amended to close at 8pm.

- A member was concerned about the loss of retail units and its change to food halls especially as it will alter the character of the area and would welcome a refusal.
- A member questioned the delivery arrangements as suggested by the applicant as there is insufficient information provided with the application.
- A suggestion on putting a constraint of 130 covers on the occupancy in the mezzanine area and reduced hours for the mezzanine floor to 8pm on weekdays and 8pm on the weekends was welcomed.
- With regards to a question about amending the percentage of ground floor space from the proposed 60% to 70%, the Planning Officer advised that condition 3 could be amended to include such a measure.
- In response to a suggestion on inserting clauses to protect any future loss of retail units on the ground floor and it not being used for another use, the Planning Officer advised that amended condition 3 requires permission to be sought before any change away from retail can occur and any change will have to be fully assessed.
- On the suggestion of the possibility of retaining 70% of the ground floor for retail use, the planning officer reminded the meeting that Council policy only applies to the ground floor. Member enquired if any future closure of a food use on the ground floor could be returned as a retail unit.
- It was agreed by the committee to delegate the wording of the amended conditions to require 70% of the ground floor to be in retail use, in addition to a maximum capacity of 130 covers to the mezzanine floor and the opening hours of the mezzanine floor to 8pm to the Planning Officer in conjunction with the Chair of the Committee.

Councillor Klute proposed a motion to grant planning permission subject to amending conditions to require 70% of the ground floor to be in retail use, a maximum number of covers to the mezzanine floor being 130 and that the mezzanine use should cease at 8pm daily as stated above to address capacity in the mezzanine, opening hours in the mezzanine and amending the percentage of retail use at ground floor level. This was seconded by Councillor Poyser and carried.

RESOLVED:

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee, submitted representations and objections provided verbally at this meeting, planning permission be granted subject to the conditions, and informatives set out in Appendix 1 of the officer report and amended conditions as stated above

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NAGS HEAD COVERED MARKET, 22 SEVEN SISTERS ROAD, N7 6AG (Item B2)

Part retrospective application for the retention of storage containers, meter access door, and a ventilation flue to the south east elevation of the existing building, plus cladding of the containers and ventilation flue.

(Planning application number: P2020/0584/FUL)

In the discussion the following points were made:

- The Chair reminded members that the application relates to the physical works and not to the uses on the site which is the case with item B1 and it should be dealt with independently.
- Site is not listed and the property is not located within a Conservation Area and situated within the Nag's Head Town Centre and Nags Head Primary Retail Frontage
- The Planning Officer advised that the key issues for consideration relate to its design appearance and impact on the amenity of neighbouring residents.
- Members were advised that the application addresses the reasons for the previous refusal and officers are now of the view that this is now considered an acceptable form of development.
- The Planning Officer advised that the ventilation flue as amended, projects upwards at first floor level above the storage container. Members were advised that the flue as proposed would terminate at the eaves of the existing roof and would be reduced in height compared with the flue installed at the site.
- Members were informed that the differences between the application and the refused application is the removal of the first floor container, a reduction in scale of the flue and the cladding of the containers.
- To address concerns about the visual appearance, the Planning Officer advised that the proposal will now include the cladding of the containers with painted brick slips to be painted green to match the colour of the consented proposal for the renovation of the North and West entrances.
- With regard to the impact of the proposal on the amenity of residents, meeting was advised that conditions have been included to address noise and odour concerns from the ventilation flue.
- With regards to the location of the flue and its impact on neighbouring residents, the Planning Officer acknowledged that a noise assessment report was submitted with the application reviewed by the Council's Environmental Team, that condition 4 in the report recommends noise levels ,while conditions 5 and 6 ensures that issues such as odour and air quality are addressed.
- Reasons for refusal of a previous application for works as installed were its incongruous design and unsympathetic appearance of the containers and the scale and location of the storage containers. The decision was appealed and subsequently dismissed by the Inspector.
- With regard to the external alterations and development to be retained, members were advised that the proposal is considered acceptable in design and this would not harm the character and appearance of the area. terms a
- In response to concerns about the ventilation flue on the well being of residents, the agent informed the meeting that it is located at the south elevation and in close proximity to Hertslet Road and is 22metres further from neighbouring residents

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- An objector was concerned with the location of the flue as it should be at the back of the building, that storage containers have been put in place without planning permission objection and it should not be allowed.
- An objector reiterated his concern that the agent has demonstrated once again that he can put a 100sqm container and 8m flue without planning permission, no building control on the building has been considered so the applicant continues to flout the law
- A Ward Councillor objected to the number of storage and if it actually serves the food halls. He also raised concerns about the flue's location, that it should be moved further to the rear of the site.
- In response, the agent acknowledged that the storage units supports the day to day operations of the existing ground floor units and not related to the upstairs use, that the use is acceptable in principle. Members acknowledged that there have been a number of changes since the refused application, the reduction in height and an improvement in the visual appearance. The agent noted that although the containers have been in place for over 5 years, no complaint was ever lodged and as officers have noted it will not generate noise or be visually obtrusive.
- With regards to the location of the flue and the reasons, the Planning Officer advised that from a planning view point the assessment is based on the proposal, which is considered to be acceptable.

RESOLVED:

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee, submitted representations and objections provided verbally at this meeting, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

The meeting ended at 10.15 pm

CHAIR