

## APPENDIX 6 – 9 January 2024 Planning Committee minutes

### 97 **CASTLE HOUSE, 37-45 PAUL STREET, FITZROY HOUSE - 13-17 EPWORTH STREET & 1-15 CLERE STREET LONDON (Item B1)**

Demolition of the existing buildings and construction of a part 5, part 6 and part 7 storey building with basement, comprising Class E(g)(i) Office floorspace, including the provision of affordable workspace, alongside Class E(a) Retail, Class E(b) Food and Drink and Class E(d) leisure uses at ground, lower ground, and basement levels. The proposals also comprise the delivery of a dedicated off-street servicing yard and the delivery of cycle parking alongside the provision of landscaped roof terraces and wider public realm works at grade, and all associated and ancillary works (Departure from Development Plan)

(Planning application number: P2022/2893/FUL)

In the discussion the following points were made:

- At the meeting of 18th July 2023, the Committee resolved to defer consideration of the application without hearing it, so as to provide both officers and applicants sufficient time to address concerns regarding the quality of affordable workspace, the whole life carbon assessment, and the impact to the protected characteristics of residents of Epworth Street, under the Equality Act. All of these issues had the potential to result in major redesigns of the scheme which would have made it difficult for the Committee to consider.
- The Planning Officer informed the meeting that since the Committee's deferral in considering the application, the applicant had worked closely with Council officers and the Greater London Authority (GLA) to revise the affordable workspace unit, whole life carbon assessments, and circular economy workspace statements.
- The meeting was also informed that the public sector equality duty concerning the protected characteristics of Epworth Street residents had been addressed in the addendum to the Committee Report at section five.
- Since the publication of the Committee report, there had been thirty-seven further objections made to the application, bringing the total to 170.
- The Planning Officer noted that Islington's Full Council adopted the new Local Plan on 28th September 2023. The application put forward to the Committee of 18th July 2023, had referred to policy that was current at that time. Officers have advised that the application had now been considered in light of the new Local Plan policies, which carry full weight, and have reached the same conclusions.
- The meeting was informed that the site was located within the Central Activities Zone, the City Fringe Opportunity Area the Bunhill and Clerkenwell Key Area, and an Employment Priority Area. It was presently an existing three to four storey building, in use as offices (Class E(g)), adjoining Epworth Street, Paul Street and Clere Street, which also bordered the London Borough of Hackney on two sides of the site.
- The meeting was informed that the key planning considerations included Land Use, Design and Appearance, Neighbouring Amenities, Transport and Highways, and Energy and Sustainability. The site had been designated Site Allocation BC48, highlighting the opportunity to intensify office use, provide level access and create an active frontage to the street.
- The Planning Officer also advised that there was to be a 13% uplift in affordable workspace, exceeding the 10% required in the Council's Local Plan. The affordable workspace unit was to be located at ground and basement level. This had been revised by way of an additional lightwell to the rear, and also relocating and expanding the lightwells to the front. Both the ground and basement level were accessible from Epworth Street and/or internally from the central atrium.
- The Planning Officer also noted that the proposed building was not located in an area designated suitable for tall buildings in the Local Plan, but that the building would have

maximum height of 34.85 metres to the centre of the building. The building therefore represented a departure from the Local Plan as the maximum height did exceed 30 metres. Officers have considered proposals in line with the London Plan, and the Council's Local Plan. Both officers of the Council and the Greater London Authority considered the visual impact and functional impact of the proposal (subject to mitigation from conditions) were acceptable and would not warrant a refusal.

- The site was not located within a conservation area and does not contain any statutory listed buildings/structures. The site was, however, located close to a neighbouring Conservation Area, being to the east and north of the Bunhill Fields and Finsbury Square Conservation Area. Heritage assets that may be affected by the proposal included the Grade I listed Church of St Michael, the Grade I-listed Wesley's Chapel, and the Grade I listed park and burial ground of Bunhill Fields.
- Members of the Committee asked whether the daylight reduction had been considered in the equalities impact assessments, to which the Committee were told that this had been undertaken as part of the Council's duty under the Equality Act, which had shown that residents would not be disproportionately or unacceptably impacted.
- Members of the Committee highlighted that the departure from the Local Plan had been justified by national policy framework allowing for this where a proposal would contribute significantly to the economy and asked for further detail. In response, the Planning Officer referred to the uplift in office and affordable workspace, as evidence of this.
- In response to Members' concerns that the scheme's benefits were nothing more than compliance with policy, the Planning Officer advised that site allocation does not have a target in terms of amount of floorspace to be provided, just an increase; that there would be an increase in accessibility, an increase in employment space and an active frontage at street level.
- Officers also cited the proximity of other consented schemes in the vicinity of similar height and massing.
- Objections were heard that included, that there had been inadequate consultation and engagement with the local community; that there had been miscommunication about the site already having received consent; that there had been a lack of site notices placed in the vicinity of the building; and that the departure from the Local Plan was contradictory to the Council's green policies.
- Objectors noted that they were not opposed to the development of the site in principle, but that it should preferentially be a retrofit/refurbishment rather than a rebuild, and that the scale and mass of development should be appropriate to the context of the local area and surrounding sites, as it was felt that this area was unsuitable for tall buildings and that the size and mass of the building outweighed any potential community value.
- The Committee also heard objections regarding the direct impact to 10 Epworth Street, specifically that through the adverse impact of daylight reduction and noise disruption, the proposed scheme would be of considerable harm to the block's high proportion of housebound residents, and that the developer's offer of access to the proposed new roof balcony was not enough to mitigate harm caused by the development.
- The Committee also heard from an elected member of Hackney Council, Councillor Kam Adams for Hoxton East & Shoreditch Ward, who voiced objections on the grounds of the proposals not being in the best interest of the wider community, on there being a lack of community feedback being taken into consideration, and on the proposal needing more time to be analysed and scrutinised.
- The written representation of a member of Islington Council, Councillor Valerie Bossman-Quarshie for Bunhill Ward, was read out by the Chair, in which their objection also referenced the harm to the Council's declaration of a climate emergency, the environmental impact from a rebuild, and a high office vacancy rate in the locality.
- In their response, the applicants informed the meeting that they were a family-owned business that had owned Fitzroy House for several decades and the decision to redevelop the site wasn't taken lightly.

- The applicant stated that they were aware of local concerns, but their assessments had concluded that the current building was not compliant with market demands or EPC rules and in poor physical condition.
- The applicant went on to note that their proposal would boost employment and attract high-profile businesses, and that they had a construction management plan that would ensure regular, consistent and effective communication with stakeholders during the process.
- Members noted that objectors had indicated a willingness to work alongside the applicants; in response, the applicant stated that they had engaged with local stakeholders and that while their consultation was extensive, their door remained open to further discussion.
- In response to questions from the Committee regarding the need for office space, the applicant stated that the site was in one of the most sustainable locations and that there was demand.
- In response to questions from the Committee concerning changes made based on consultation feedback, the applicant cited the revisions to height, the upper levels of the building, and the increased width of the pavement.
- The Planning Officer confirmed there was only a 5% difference for the site in terms of overall carbon cost between retrofit and redevelopment for a comparable scheme of equivalent area and accessibility.
- The Planning Officer confirmed that requests for copies of representations had unfortunately only been provided to objectors on the day of the meeting (12th October), due to both the significantly high volume and the requirement for officers to ensure that each complied with Data Protection regulations (redaction of all individual correspondent details) prior to disclosure. It was also clarified that objections form part of the application file and are made available on request.
- The applicants stated that they had explored how the design of the building could be architecturally sympathetic to its surroundings and went on to state that this scheme was the best means for this site to achieve national, Net Zero targets.
- The Chair requested advice of the Committee's Legal Advisor, with regard to the Public Sector Equality Duty. In response the Committee were advised that it was their duty, as the decision-making body, to have due regard to any adverse impacts on those with protected characteristics before reaching their decision.
- In deliberation, the Committee considered the protected characteristics of nearby residents, the revisions made to affordable workspace, additional lightwells and improved lighting and the argument of retrofit compared to redevelopment.
- The Committee also considered the strong imperative to deliver workspace at this location and the proximity of consented, neighbouring schemes of a similar design.
- Chair reminded meeting that following committee's decision to defer the application in October 2023 the whole application would not be revisited but consideration would be limited to the 3 reasons for deferral.
- Planning Officer informed the meeting that between the 12 October 2023 committee meeting to the publication of the agenda, 13 additional objections were received raising the number to the 183 reported in the deferral committee report. However since the publication of the deferral committee report, a further 16 representations have now been received raising the total number to 199.
- In terms of Affordable workspace, planning officer clarified that the scheme provides a 13.6% of the uplift in Class E(g)i office floorspace for market rent and a 12.1% of the total uplift in Class E(g)i office floorspace.
- Planning Officer reminded meeting reasons for deferral at the last meeting in October, to allow for further assessments and mitigation proposals relating to the impact on daylight and sunlight to all of the neighbouring properties with failing BRE measurements; the setback of the upper two floors to be increased and detailed on a separate section,

drawings to demonstrate that the sight lines have been positioned correctly and for the applicants to revisit their consultation with local stakeholders.

- The revised application shows that the sixth floor has been further set back from the main elevation of Epworth Street along the 'factory' element and the fifth and sixth floor chamfered corners along the Paul Street elevation have also been stepped back further from the main elevation.
- The Planning Officer stated that the reduction in height and mass to western most
- module to Epworth Street sees a substantial reduction in both height and mass which creates an enhanced neighbourly relationship in relation to the properties on the opposite side of Epworth Street and to those buildings immediately to the west on Tabernacle Street will provide a positive impact on the scheme itself and on its setting.
- Members were advised that transgressions are still reported to neighbouring 10 Epworth Street, 24 Epworth Street, 43 Tabernacle Street, 17-18 Clere Street, 20 Clere Street, 28 Paul Street and 54 Paul Street, noting that the habitable rooms affected to 10 Epworth Street, namely bedrooms and kitchens face the site, while the main living spaces are located facing south and do not face the application site. All the units are considered dual aspect.
- Planning Officer stated that due to the reduction in floorspace by way of the removal of storeys and further setbacks, respectively at fourth, fifth and sixth floor levels, the amount of proposed office floorspace has reduced by 411sqm.
- An objector, resident of 24 Epworth street was concerned that developers had completely ignored committee's request regarding further consultation, the revision to the top 2 floors to ensure it is not visible from the public realm and improve the daylight and sunlight impact to all neighbouring residents and not only those with protected characteristics. Objector stated that applicants did not engage with residents in the proper sense, that residents were not privy to substantive documents such as draft plans, section drawings and daylight and sunlight assessment and an offer of a meeting was only made available 2-3 days to the end of the consultation period.
- In terms of massing, objectors expressed the view that this was a derisory 1.62% in overall reduction to the roof. Objector reminded committee that residents of Clere Street will still experience BRE transgressions which the developer continues to ignore despite Hackney Council's objections. Another issue raised was the developers preference for demolition rather than retrofitting, contrary to Council's commitment to reduce carbon emissions.
- Another resident living in 17/18 Clere Street was concerned that the upper floors would still be still visible from the public realm, that diagrams without scale makes it difficult to verify applicants drawing, and that the only noticeable changes to the previous scheme was the changes to the planting on the roof terrace. Members were reminded that the applicant has disregarded Islington policies on height of buildings, carbon emissions, consultation and drawing protocols. Objector also reiterated the need for the applicant to come back with a scaled down and appropriate building suitable for the location with less BRE transgressions to neighbouring properties.
- Another objector was concerned that the developer had not engaged with the community despite committee's recommendation at the October meeting, that the late meeting scheduled by the applicant in December was a farce; that developer failed to share its BRE figures following its decision to cut back, that reduction to the scheme was a mere 1.26%, that the residential properties above the pub will experience a high percentage of BRE failures and windows on the 4th floor will result in a 400% reduction in light. Objector stated that providing CGI images was an attempt by applicant to hide transgressions, reminding committee that the application is full of procedural defects and cost to the neighbourhood amenity would be too high.
- Another objector living in Tabernacle Street reiterated similar points above, specifically the 2 issues of community engagement and lack of respect to the community. Objector reminded meeting that residents did not have enough time to engage and scheduling a meeting 3 days before deadline indicates the lack of respect. Meeting was advised that attempt to invite Islington's Planning Officers to visit the area was not taken up, that

developer's response has been lacklustre, that residents felt betrayed and that noise assessment had not been carried out.

- In response the applicant reminded meeting that following its deferral the revised scheme has taken on board reasons for deferral, that the setback on the upper floor has resulted in the removal of over 4,500sqm with the result that it has significantly reduced the visual impact from the streets, that the change to the overall massing is to minimise the impact on vulnerable neighbours.
- The applicant reminded committee that changes has improved the outlook, that the removal of 2900sqm floor space opposite 10 Epworth Street and the height drop of 4.2m has improved the outlook for residents of 10 Epworth Street, that the impact of light levels is insignificant. Members were reminded that despite the scheme receiving support from both planning officers and Design Review Panel, the team listened to community concerns and introduced significant measures to protect residents especially those recognised as vulnerable.
- The applicant acknowledged that while adjustments may appear small it has a huge amount of benefit.
- On the issue of consultation with residents, the applicant reiterated all attempts to engage with residents since March 2022, that letters were sent out to key stakeholders including ward councillors, Executive Members and Community project groups, that a dedicated website was launched and flyers were letter dropped to over 1400 residents, pop up event was hosted and a virtual meeting was facilitated. Members were advised that since July 2023 18 separate dates was offered to residents.
- In terms of pre submission documents, meeting was advised all necessary documents were made available on the Planning Portal and on the dedicated website.
- Meeting was advised that feedback received from meeting with residents, fell into 2 categories, being denied access to information which already existed and a further reduction to the Clere Street elevation so as to mitigate daylight/sunlight loss. On the latter concern, applicant advised that technical analysis indicate that a cut back of a couple of metres would make no difference to the visual impact to daylight and sunlight loss as most of the units are dual aspect and that habitable rooms are not affected.
- The applicant stated that to achieve no harm from the proposed development as a result of BRE losses, the elevation would need to drop about 20metres on the boundary with the top upper floor and a set back of about 14metres which will be contrary to the local plan and asking for intensification of office use will not be deliverable.
- In response to a question on why set back to all elevations had not been considered besides the relatively small cutbacks that was carried out on the Clere Street elevation, the applicant indicated that there was an understanding from the committee's recommendation at the deferred meeting was to reduce the visual impact from the street level to the upper floors. It was also stated that in relation to BRE guidelines, the building is right for the site, that it will provide huge benefit to the local area noting that jobs and improvement to the public realm will offset the harm from the building.
- In response to Hackney Council's objection as noted at the October meeting, the Planning Officer advised that no further representation was received from Hackney Council.
- On the question of consultation between residents and developer, Planning Officer informed meeting that it is not a statutory or legal requirement for the local planning authority to be involved in.
- With regard to objectors claim that revised application had not been shared with the community groups before submission, applicant advised that following deferral in July and August 2023, meetings scheduled and an offer for site tour had not been taken up, and information requested by residents had already been considered at earlier meetings.
- In response to a question, meeting was advised that Planning officers had not been shown evidence of the applicant's claim that analysis of other elevation setbacks including the Clere Street elevation had been explored but not proposed. The reason for this analysis not being shared with officers was not clear.
- Members had concerns that other elevations had not been looked into besides the Epworth Street elevation, that Hackney Council's objection regarding the BRE transgressions to

Clere Street still remains. The Chair advised the meeting that although one of the reasons for deferral was for further consultation with the residents, this was more to foster good relationship between both parties going forward, and as highlighted by the legal officer was not a statutory obligation, and as such could not be used as a reason for refusal if the committee was so minded.

- Members acknowledged that although site is within urban setting and transgressions are expected, BRE guidance could not be strictly applied, however the committee considered that the applicants should explore further mitigating the light losses to those properties in Clere Street, as this formed part of the previous reason for deferral, and there was no evidence that this had been addressed.
- Cllr Convery moved a motion to defer the application for applicant to consider amendments that deal with transgressions in daylight/sunlight loss to 17-18 and 20 Clere Street properties. This was seconded by Councillor Poyser.
- The Chair in summary reminded meeting that the item is deferred again specifically to interrogate possible mitigation of the sunlight/daylight impact to the two buildings on Clere Street noting that the unavailability of evidence from the applicant regarding the claimed previous analysis of setbacks to those elevations and impact would have been helpful, and might have left the committee in a different position with regards to it's decision.

Councillor Convery proposed a motion to defer application. This was seconded by Councillor North and carried.

**RESOLVED:**

That consideration of the application be deferred for the reasons outlined above.