

Our Ref: 30-11-04 (Reports)

Chief Planning Officer
Planning Department

30th November 2004

Dear Sir / Madam

**Re: Planning Application Ref: ()
Site Address**

I act for (objector) who has particular expertise in planning and property litigation.

In drafting this submission I have considered the application form, drawings and supporting documentation/submissions. I have also attended a site visit with (architect) and incorporate his comments concerning design matters at Appendix 1. I have also reviewed the substance of the City of London Unitary Development Plan 2003 – 2012 which became operative on 9th April 2002, hereafter referred to as the Adopted Plan.

It is understood that (the Applicant) has lodged an application in relation to (Site) for the following development, namely:

“Refurbishment including external alterations, side and roof extension including new entrance and servicing.” (Example)

In the following paragraphs I deal with the substance of the Adopted Plan specifically Chapter 9 Transport and Movement and Chapter 10 Environment Quality, extracts at Appendix 2 and 3 and my assessment.

CHAPTER 9 TRANSPORT AND MOVEMENT

Pedestrian Movement: It is noted at Paragraph 9.31 of the Adopted Plan that the relatively short walking distances between firms, institutions and other services located in the “Square Mile” form a unique and valued feature of the City’s business environment. Furthermore, that many business journeys within the City are made on foot, and journeys to the City using other forms of transport are completed on foot. As such pedestrian movement through and within Plough Place is a material consideration.

Policy TRANS 6 deals with pedestrian movement and states that the council aim:

“to improve the environment for pedestrians, particularly at street level, by:

- i. providing facilities to enhance safety and convenience ;
- ii. ensuring that there is adequate provision for pedestrians when new developments are proposed...

It is recognised that the daily influx of large numbers of people into the City’s small area results in pedestrian concentrations in certain areas and conflicts between pedestrians and vehicles. Furthermore, that it is essential that the areas available for pedestrian movement are safe and adequate.

This development fails to improve the environment for pedestrians, does not enhance safety and makes inadequate provision for pedestrians, as such it is contrary to the substance of Policy TRANS 6.

Accessibility for Disabled People: paragraph 9.40 of the Adopted Plan notes that many of the streets in the City date back to the medieval period and have narrow footways, unsuitable for wheelchair users, the roadways themselves forming the only accessible routes. The paragraph states that the Corporation wishes to ensure that accessibility on the City’s highways for disabled people is improved and will have regard to the needs of people with mobility and sensory impairment in the design, location and implementation of streetworks and the walkway network.

The applicant has failed to provide for pedestrian circulation around the building at ground floor level and has ignored the obligations contained at paragraph 9.40 of the Adopted Plan.

CHAPTER 10 ENVIRONMENTAL QUALITY

Paragraph 10.14 of the Adopted Plan deals with urban design and it states that the network of routes and spaces, the scale, form, architectural expression and detailed design of buildings, together with the use of particular building materials, and the contribution of these elements to the composition of street blocks are characteristic of and combine to produce the close knit and intricate townscape of the City. The council state that it is important that new buildings and alterations respect and reinforce this general character.

The applicant has paid insufficient attention to the principles of good urban design encapsulated in Paragraph 10.14; see Planning Assessment – Urban Design.

Policy ENV1 New Development: The above aspirations are encapsulated in Policy ENV1 which states that the council aim to

“To encourage development which visually enhances the City, and avoids harm to the townscape, by ensuring that:

- i. the bulk and massing of schemes are appropriate in relation to the surroundings;
- ii. development has due regard to the general scale, height, character and materials of the locality; and
- iii. all development is of a high standard of design and architectural detail.

The applicant has paid insufficient attention to the principles of good urban design detailed at ENV 1; see Planning Assessment – Urban Design. More specifically the development does not reflect the character of Plough Place and in so doing harms the townscape.

Policy ENV 4 Street Networks and Open Spaces: reads as follows:

“to resist the loss of routes and spaces that enhance the function, character and historic interest of the City and to require adjoining development to respect their character, scale and amenities.

Paragraph 10.30 notes that the pattern of streets, lanes, and other urban spaces such as courts and squares is a distinctive element in the city’s townscape and is often of historic importance. The paragraph continues that the Corporation will normally seek to maintain the widths and alignments of streets, lanes, and other urban spaces where these have a historic value or underpin the aesthetic character of a location or its surroundings.

Paragraph 10.32 continues that some post-war developments have been inappropriately set back or have not paid due regard to the alignment of streets, lanes and alleys to the detriment of the City’s characteristic enclosure and grain.

The applicant has paid insufficient attention to the principles of good urban design encapsulated in Policy ENV4; see Planning Assessment – Urban Design and Highway Safety . More specifically it does not enhance the character of Plough Place and in so doing harms the street networks and open space.

Policy ENV 27 Access to Buildings and Facilities: reads as follows:

“To require access to the built environment for everybody including the provision of facilities and amenities for disabled people.”

Paragraph 10.81 explains that as the City changes through redevelopment or the upgrading and refurbishment of buildings, opportunities arise to ensure that the City’s environment caters for everyone’s needs, including those of disabled people. Paragraph 10.84 states that it is important that the design of buildings, open spaces, pedestrian walkways and the external environment generally,

incorporate provision for access in a manner that is fully integrated and allows users to be independent.

The applicant has paid insufficient attention to pedestrian circulation around the proposed building and within/through Plough Place and goes against the principles encapsulated at Policy ENV 27, and Paragraphs 10.81 and 10.84.

Policy ENV 6 Alterations and Extensions: states that the Council wish

“to ensure that all alterations or extensions to an existing building take account of its scale, proportions, architectural character, materials and setting.”

The applicant has paid insufficient attention to the principles of good urban design encapsulated in Policy ENV6; see Planning Assessment – Urban Design and Highway Safety. More specifically it does not take account of its setting and relationship with Plough Place

POLICY ENV35 Daylight and Sunlight: and states

To resist development which would reduce noticeably the daylight and sunlight available to nearby dwellings and open spaces to levels which would be contrary to the Building Research Establishment’s guidelines.

The proposed development will be extended to within 9 metres of (site) and proposes an additional 2 storeys replacing and extending the existing plant room. As such we trust that the Council will insist that the applicant demonstrate that the proposal will not impact on daylight and sunlight on adjacent properties, in particular the ground floor windows of (objector’s site). The test is clearly laid out at Policy ENV 35 of the Adopted Plan.

Paragraph 10.111 Servicing: reads

“The provision of adequate servicing, particularly for new development, is an important consideration and can affect the movement of vehicles and the safety of pedestrians.”

The applicant has failed to provide for pedestrian circulation around the building at ground floor level nor resolved the conflict with servicing (including deliveries by couriers) and has ignored the obligations contained at paragraph 10.111.

PLANNING ASSESSMENT

Adopted Plan: It is considered that the proposal is contrary to the provisions of the Adopted Plan for the reasons outlined above and as such should be refused planning consent or alternatively amended to deal with the concerns raised.

Urban Design: The footprint of the building is rectangular and bounded by () to the south, () to the south west, () to the north west and paved pedestrian area to the north east. The view of the development from the south is clearly important albeit the greatest impact will be on ().

While () has been despoiled by car parking and poor design over recent years the development at () is well designed, respects street blocks and the composition of () and facilitates pedestrian movement at ground floor level both along () and () (with a 2 metre wide pavement). These considerations are referable to the proposed development but unfortunately the current application fails to meet the challenge.

Highway Safety: It is considered that the proposed development creates a conflict between pedestrians and vehicles at the southern access/egress to (). It should be noted that the perspective of the proposed building, view from () is misleading as it relates to the southern access/extension. The obligations on the applicant are laid out at Policy TRANS 6 Pedestrians, TRANS 7 Pedestrian Routes and Paragraphs 9.40 which deal with Accessibility for Disabled People.

(Site) is a comparatively narrow road albeit the gap between (site and objector's site) is reduced to 9 metres (approximately), with a footpath which is significantly less than 2 metres, creating a pinch point. The proposed development will make the situation worse, particularly when the needs of wheelchair users and the disabled are taken into account.

() is used as a short cut for pedestrians using Station/New Lane and pedestrians use the road adjacent to (site). The southern access to () should this development proceed will create a hazard for both able bodied and disabled pedestrians/wheelchair users because there is no footpath adjacent to the building. It is necessary to bear in mind that couriers (many on motor bikes) will deliver parcels to the building from the south using New Lane.

The junction between (site) and adjacent Buildings has seen a number of accidents in recent years and the problem has been exacerbated by the creation of two way traffic.

For a case where the local planning authority committee's decision was overturned for failure to take into account highway safety as a material consideration, see R v Newbury DC Exp Blackwell. A copy of the report in the Journal of Planning and Environmental Law 1 [1998] J.P.L.680 is included at Appendix 4.

Cumulative Impact: The Council must recognise that the cumulative impact of recent developments, including

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Local businesses will inevitably experience serious disruption to their commercial activities which in isolation are tolerable but cumulatively unacceptable. The planning process treats disruption during construction as inevitable, preferring to mitigate and minimize disruption by way of condition. However, where the burden becomes intolerable litigation tends to follow and the Council should take note of the litigation by Kendall Freeman against Land Securities to build an 18 storey building in (site), see article included at Appendix 5. Whether the litigation is successful or not is not at issue, it demonstrates the strength of feeling within the local business community.

Delegated Authority: It is understood that the application is scheduled to be considered under Officer Delegated powers. For the avoidance of doubt whether or not an application should be referred to the planning committee or dealt with by the planning officers is generally a matter of delegated authority within the terms of the local planning authority's standing orders. However, if the officers deal with the matter, as opposed to committee, and there is evidence of a real prospect that the planning committee would have come to a different conclusion had they been properly appraised of all relevant matters which should have been put before them, then that in itself might provide a ground for an applicant to seek costs on appeal. Equally, a third party might consider judicial review of a grant of planning permission taken by the officers in such circumstances.

Whether or not a matter is referred to committee is essentially a judgment for a chief planning officer within the terms of standing orders but it has to be demonstrated that he actually made that judgment, ie that the matter concerned was brought to his attention and that he was aware of all aspects of the case, for example public concern, replies from consultees, etc, which would indicate that it was not a routine matter of comparatively minor significance and ought therefore to be referred to the committee.

CONDITIONS AND INFORMATIVES

Should the Corporation be minded to grant consent for the proposed scheme, with or without amendment, we trust that conditions will be imposed to mitigate the harm to the amenity of the area.

We reserve the right to add to the following conditions and informatives on receipt of additional information from the applicant and/or revised drawings.

Balconies: The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority. [Note: In the alternative we request

that any balustrades are set back at least one metre from the parapet to avoid direct overlooking].

Construction Work: Any construction work related to the implementation of planning permission shall not begin until a scheme for protecting nearby residents and commercial occupiers from noise from the site has been submitted to and approved by the Director of Environmental Health.

The construction/project management company concerned with the development should be required to contact the Department of Environmental Services and provide a working document detailing steps they propose to take for the duration of the works at least 14 days prior to commencement of the work.

The above document should cover the whole duration of the on-site works and include demolition/construction methods and management control to secure the best practicable means to control noise and dust.

[Note: It is understood that the restrictions on working hours will normally be enforced following discussions with relevant parties to establish hours of work for noise operations. While the Corporation do not have a statutory duty to notify my client of receipt of the above documents/negotiations we formally request that we be kept apprised as a matter of best practice.]

Informative: Hoardings and scaffolding (both of which require licenses), temporary road closures and other activities on the public highway in connection with the proposed building works will cause disruption to local businesses. It is understood that the Corporation operates a Considerate Contractors Scheme.

We trust that the Corporation will make the applicant aware of other developments in the area and that the Corporation will use its best endeavours to mitigate the cumulative impact of the various building projects.

The applicant should be informed that failure to notify the Department of Environmental Services of the start of the works or to provide the working documents may well result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (which will dictate the permitted hours of work including noisy operations) and under Section 80 of the Environmental Protection Act 1990, for the control of dust.

CONCLUSION

In short the application as submitted is fundamentally flawed and should be withdrawn or refused planning consent. In any event the application should be supplemented by a report dealing with highway safety and proposal amended as outlined in these submissions. Should the Council be minded to grant consent the conditions and informatives detailed above should be imposed.

Please provide me with a copy of the Officer's Report in due course and timetable for determination of this application.

Yours sincerely

Chris Plenderleith
BA (Hons) MRTPI
Encs

LIST OF APPENDICES

- APPENDIX 1 Letter from David Sayer & Associates (Architect)
Dated 30th November 2004.
- APPENDIX 2 Policies from the Adopted Plan, Chapter 9
Transport and Movement.
- APPENDIX 3 Policies from the Adopted Plan, Chapter 10
Environmental Quality.
- APPENDIX 4 Extract of Report in Journal of Planning and
Environmental Law
R v Newbury District Council.
- APPENDIX 5 Article relating to Kendall Freeman who seeks an
injunction against former client.