

Committee	PLANNING COMMITTEE (C)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 1 August 2019

LONDON BOROUGH OF LEWISHAM

Minutes of the Planning Committee (C)

Thursday, 1st August 2019 Time 7:30pm

PRESENT: Councillors Ogunbadewa (Chair), Penfold (Vice Chair), Bernards, Rathbone, Moore, Krupski, and Johnston-Franklin.

APOLOGIES: Councillors Paschoud, Maslin and Openshaw.

OFFICERS PRESENT: James Hughes (Development Management Team Leader), Kheng Chau (Legal Advisor), Patrycja Ploch (Senior Planning Officer), Alfie Williams (Planning Officer) and Georgia McBirney (Committee Co-ordinator).

1. ADDENDUM

An addendum was circulated to Members at the start of the meeting. The addendum related to Items 3 and 4 on the Committee Agenda. The addendum is attached as an appendix in the minutes.

Councillor Johnston-Franklin raised concern in regards to the lateness of the addendum.

2. DECLARATION OF INTERESTS

Councillor Johnston-Franklin declared that Item 5 (30 Vicars Hill) on the agenda is in the ward for which she is a ward councillor.

3. MINUTES OF THE PREVIOUS MEETING

Councillor Penfold stated that the minutes should be amended in section 4 to state that Councillor Penfold re-joined the meeting after Item 5 18 Bolden Street.

Subject to the amendment the minutes were agreed.

4. THE WHITE HART, 184 NEW CROSS ROAD, LONDON, SE14 5AA

Planning Permission and Listed Building Consent for alterations in connection with the conversion of the upper floors of No 184 New Cross Road, SE14, into 2 one bedroom, self-contained flats, a two bedroomed self-contained flat and a one bedroomed self-contained maisonette with study, together with the reconfiguration

and retention of the existing public house at ground and basement level and the provision of two lantern lights to the flat roof at the rear of the existing public house.

RECOMMENDATION: Refuse Planning Permission and Grant Listed Building Consent

Alfie Williams (Planning Officer) presented the details of the applications and answered Members' questions.

Councillor Penfold asked how many noise complaints have been received as a result of current live music at the application site. Alfie Williams outlined that Environmental Health were consulted and they did not raise that there is a history of noise complaints.

Councillor Johnston-Franklin asked how long the public house has benefited from 3am licence. Alfie Williams stated that he did not know the answer and that this question was best suited to the applicant team.

The Chair invited Mr Dan Taylor to speak on behalf of the applicant. Mr Taylor stated he disagrees with how the Council has interpreted and applied policy. Mr Taylor states that a Public House will be retained and that the applicants are willing to accept conditions; and that the proposed conditions are not unreasonable as it is not unreasonable for a Public House to close at 11pm and have restrictions on live and amplified music.

Mr Taylor went on to state that the proposed development would still contribute to the night time economy and that the operation of the Public House is not a planning consideration. Mr Taylor also stated that the applicants are not required to submit a viability statement and that the proposed residential accommodation would exceed space standards.

Councillor Rathbone asked the applicant to clarify that he is stating that they are not required to demonstrate that the live music use is unviable and that officers have misinterpreted policy. Mr Taylor said yes. Councillor Rathbone asked for legal input. Kheng Chau stated that it is not for him to state who has applied the policy correctly, both parties have come to a professional view which are different.

Councillor Penfold asked how many nights the 3am licence is for. Mr Taylor stated that the licence covers everyday but does not operate until 3am every day and that it is best to ask the tenant. Councillor Penfold asked whether other pubs owned by the applicant have live music. Mr Taylor stated there currently is not live music at the other Public Houses owned by the applicant. Councillor Penfold asked a follow up question in relation to the viability of live music and residential accommodation.

James Hughes stated that both Public Houses could operate from the site but the character/use of the pub would be altered as it would no longer facilitate live music.

The Committee heard representation from Joseph Ryan who supports Officer's recommendation to refuse the planning permission. Joseph Ryan is the current tenant of the Public House. Mr Ryan stated that the Public House in its current use is

a much loved venue which contributes to arts and cultural entertainment. Mr Ryan goes on say that the proposed development is against London Plan Policy which seeks to enhance social infrastructure and that the current hotel supports other industries in the area. Mr Ryan states that there is an incompatibility between late live music and the proposed residential accommodation. Mr Ryan goes onto state that the existing operation of the pub through music events helps other business on the area.

Councillor Johnston-Franklin asked if the 3am licence has been in place since 2016. The applicant stated that the 3am licence has been in use since 2016.

Councillors Bernards asked if planning permission were to be granted whether there would be a loss of employment. Me Ryan stated that they would be put out of business as revenue is generated from live music and late music.

Councillors Krupski asked if musicians are professional or amateur. Mr Ryan stated that some musicians are professional.

Councillor Johnston-Franklin asked how many local people are employed. Mr Ryan stated about 20 local people.

Councillor Rathbone moved a motion to accept the Officers recommendation, this was seconded by Councillor Krupski.

FOR: Councillors Rathbone, Krupski, Ogunbadwa, Penfold, Bernards, Moore and Johnston-Franklin.

5. LAND ATTACHED TO EVELYN HALL, CLYDE STREET, SE8.

RECOMMENDATION: Gran Planning Permission subject to conditions and a legal agreement

James Hughes explained that the Addendum outlines that additional objections have been received since the publication of the committee agenda and that the objections have not raised any new material planning considerations. James Hughes also outlined that subsequent discussion have taken place with the applicant since the publication of the agenda and that condition 13 is to be deleted from the report and two new conditions are proposed in the addendum in relation to opening hours and church service hours.

Ms Patrycja Ploch (Senior Planning Officer) presented the details of the application and answered Members' questions.

Councillor Rathbone highlights that the Equalities section of the report states that there are no Equalities considerations and goes onto state that the toilets are in the basement and no lift is proposed and states that this should be an equalities considerations and questions the legality of the toilets being inaccessible.

The Chair defers the meeting for five minutes so that the issue can be looked into.

The Chair re-started the meeting and Patrycja Ploch outlined that the toilets in the basement would be accessible as a ramp is proposed to provide access.

Councillor Krupski asked if the basement would comply the minimum head height requirements. Patrycja Ploch stated that basement would comply with head height requirements.

The Chair invited Mr Ed Kensley and Tim Lewis to speak on behalf of the applicants. Mr Kensley explained that the proposal aims to deliver a new church building and bring forward residential accommodation; the proposed residential accommodation would provide the funds to build the new church. Mr Kensley outlines that the church has been in operation for 30 years and outlines that the applicants have agreed to Community Access Plan.

Councillor Krupski asked how it is intended for the building to power. Mr Lewis states that traditional services are proposed and Mr Kensley elaborated that detailed construction plans have not be undertaken. James Hughes stated that as less than 10 residential units are proposed sustainability measures are not required.

Councillor Johnston-Franklin asked when the current church services are. Mr Lewis outlined the days and times of the current church services. Councillor Johnston-Franklin if the current days and time of the church services are being kept, Mr Lewis said yes; Mr Lewis went onto to say that this will be secured by condition and that they are willing to sign to a Community Access Plan.

Councillor Johnston raised concern that the new building for the church may attract new members which would result in the church being over capacity and the noise implications of this, particularly on Sunday evenings. Mr Kensley outlined that the capacity of the new church building is the same as the existing and that there are no restrictions on the existing church and that the new building would have sound insulation whereas the existing church does not have any.

Councillor Rathbone asked about the accessibility of the church. Mr Kensley outlined that the church floor steps up towards the altar. Councillor Rathbone went onto to ask if there is level access to the garden. Me Kensely outlined that there is level access to the garden from the street.

Councillor Rathbone asked why spiral staircases have been proposed in the residential units. Mr Kensley stated spiral staircases are proposed to utilise space.

Councillor Penfold raised concern about parking capacity and asked for the capacity of the Church. Mr Kensley stated that he understands that the capacity of the Church is 50. Councillor Penfold went on to ask what the capacity of the building is; Mr Kensley stated that he does not know but is happy for a condition to be added to a permission to restrict the capacity of the building. James Hughes stated that the Community Access Plan would impose an upper limit and this is by way of a legal agreement rather than a condition. James Hughes went onto to state that currently the church has no restrictions and officers are of the view that the proposed conditions and legal agreement would improve the current situation.

Councillor Krupski asked about the long term sustainability of the of the church and community space. Patrycja Ploch outlined that as the application is not a major application there is no trigger for sustainability requirements but outlined that it is the applicant's interests for the building to be sustainable.

Councillor Penfold asked for clarification in regards to paragraph 93 of the report in relation to CPZ permits. James Hughes highlighted that the applicants are required to

make a contribution to a CPZ study and that if a CPZ is implemented in the future the residential units would be restricted from obtaining permits for any future CPZ.

Councillor Moore raised concern in regards to the proposed spiral staircases in the residential units and whether alternatives are required for those with reduced mobility. James Hughes outlined that this is another difference between a major and minor application as there is no requirement for a percentage of the units to comply with Part M of Building Regulations and that the spiral staircase is a design choice and that units comply with the required space standards.

Councillor Johnston-Franklin asked about the proposed soft landscaping and loss of tree. Mr Kensley outlined the proposed soft landscaping.

Kheng Chau advised in relation to the discussion on spiral staircases that if a standard staircase was proposed as a part of this application and at a later date it was changed to a spiral staircase, planning permission would not be required for this change and also clarified that access to a building is a Building Control matter.

Councillor Penfold asked why the S106 agreement makes no reference to affordable housing. Patrycja Ploch outlined that as the proposal is a minor development there is no policy requirement to provide affordable housing. Councillor Penfold highlighted that the Manifesto seeks 50% affordable housing. Kheng Chau advised that there is no trigger for the provision of affordable housing as less than 10 units are proposed and advised that the manifesto is not a planning consideration.

Councillor Krupski asked if Members can comment on design, James Hughes said yes. Councillor Krupski outlined that she was wary of the crosses incorporated in the elevations as lot of emphasis has been made in regards to the building being a community asset, and that the Borough is diverse and whether the building will be viewed as being inclusive or for use by anyone due to the prominence of the crosses. James Hughes stated that the London Plan is about physical design and materiality the siting of the building. James Hughes went on to state that the design intent shows the D1 use.

Councillor Rathbone outlined that the church hall is approximately 2/3 seating and whether this has an impact on the viability on its use as a community space. James Hughes stated that that the community use is not restricted other religious groups and that any one is welcome to use the space.

Councillor Bernards asked whether a wedding is considered a church service. James Hughes outlined that the Community Access Plan would require prior consent from the Councils for anything other than a normal church service to control the community use of certain sizes as to avoid an unacceptable impact on neighbouring amenity.

Councillor Kelleher spoke under Standing Orders. Councillor Kelleher highlighted that she had a neutral view of the application but had some concerns in relation to access and who would be living in the units. Councillor Kelleher went onto outline there is an issues with noise and parking from a number of churches in the area and that the Church needs to be a considerate neighbour and asked why no play space has been proposed. James Hughes stated that due to the number of proposed units that application does not reach the trigger point for the provision of on-site children's play space.

Councillor Rathbone asked if the area at the back of the church is private community space for use by the church or residents. Patrycja Ploch stated that this is a shared space between users.

Councillor Krupski highlighted that the lot of trees are visible in the aerial photos in the presentation. Patrycja Ploch states that the trees are not in the application site.

Councillor Rathbone stated he is not satisfied with the design quality and the spiral staircases but cannot see a planning reason for refusal, and moved a motion to accept the Officers recommendation with the amended conditions outlined in the addendum. The motion was seconded by Councillor Bernards.

FOR: Councillors Rathbone, Bernards and Ogunbadwa

AGAINST: Councillor Johnston-Franklin

ABSTAINED: Penfold, Krupski and Moore.

6. 30 VICARS HILL, SE13 7JL

Alfie Williams (Planning Officer) presented the details of the application and answered Member's questions.

Councillor Penfold stated that he did not realise that the application property was in the Brockley Conservation Area. Alfie Williams outlined that the Vicars Hill is close to the boundary of the conservation area. Councillor Penfold asked why the property was included in the conservation area, Alfie Williams stated he did not know. James Hughes outlined that the proximity to the boundary of the conservation area does not have an impact on the assessment of the application as the impact on the conservation area still needs to be considered.

The Chair invited Mr Peter Currie to speak on behalf of the applicants. Mr Currie outlined that the proposed development is relatively modest, that the existing flat roof is out of character and that the proposed development would not have an unacceptable impact on the host property or the conservation area.

Councillor Krupski asked how much space would be gained as result of the extension. Mr Currie stated that approximately 30m² would be added to the flat.

Councillor Penfold asked for the presentation to show the slide with the photo of the flat roof. Alfie Williams put the requested slide on display.

The Chair invited Clare Cowen on behalf of the Brockley Society to speak in objection of the application. Ms Cowen circulated photographs of the streetscene. Ms Cowen stated that road is in the conservation area as the properties are Arts and Crafts houses and are architecturally interesting. Ms. Cowen outlined that the proposal is overly dominant and bulky and would result in a top heavy appearance. Ms Cowen asked for the proposal to be amended as the application site is the gateway to the conservation area.

James Hughes highlighted that the Conservation Officer did not raise an objection to the proposed development.

Councillor Krupski moved a motion to accept the officer's recommendation, and this was seconded by Councillor Penfold.

FOR: Councillors Krupski, Penfold, Ogunbadwa, Bernards, Rathbone, Moore and Johnston-Franklin.

The meeting finished at 9.20pm.

Appendix 1 - Addendum

Committee	PLANNING COMMITTEE C
Report Title	ADDENDUM
Contributors	James Hughes; Alfie Williams, Patrycja Ploch
Date	1 August 2019

1 ADDENDUM

1 This report sets out an addendum to the committee agenda published on 22nd July 2019 in respect of Planning Committee C on 1st August 2019. The report outlines additional representations and amendments to Items 3 and 4, as set out below.

2 ITEM 3 – THE WHITE HART, 184 NEW CROSS ROAD, LONDON, SE14 5AA

Addition of GLA Comments

2 Officers received comments from Greater London Authority (GLA) Office of Culture and Creative Industries during the application process, however these comments were omitted from the published committee report in error.

3 The GLA comments received by officers on 24th May 2019 were:

The Mayor and his Night Czar have been approached regarding the future of the White Hart in Lewisham. There are concerns that planning applications (ref DC/18/106611 and DC/18/106613) in their current form - to convert a hotel above the pub into residential units, change the layout of the pub below and restrict its licence to reduce its hours and remove its ability to host live music - would negatively impact its cultural offer and viability. While I understand that the pub use in planning terms isn't going to cease, the crux of the issue is that the planning restrictions would effectively mean the end of one of the only live venues in the area.

The Mayor has made protecting music and cultural venues a top priority. His Cultural Infrastructure Plan - which sits alongside the London Plan - shows that London has lost 35% of its grassroots music venues and 25% of its pubs over the last decade or so, with Lewisham alone losing 41% of

it's pubs between 2001 and 2017. In response, he has increased planning protections in his new London Plan for pubs (policy HC7) and music and cultural venues (policy HC5). The latter policy requires that cultural venues (which includes music venues, which often do not have a separate use class) are replaced like for like in new developments. Furthermore, he has also introduced the Agent of Change principle (policy D12) which states that new residential developments that impact pre-existing music venues should bear the responsibility for managing change, and his Culture and the Night Time Economy SPG provides further guidance against including licensing restrictions at the planning stage.

The venue also sits within one of London's six Mayoral designated Creative Enterprise Zones, called SHAPES Lewisham. This initiative is one of the Mayor's key manifesto commitments. It is helping creatives put down roots and establish themselves in local areas, by protecting cultural infrastructure and developing skills in local people. These Zones will be reflected in local planning policy.

Limiting the venue's opening hours and music offer at the planning stage could also negatively impact its viability as a cultural venue. Proposed licensing restrictions would impact programming (which includes music, comedy, cabaret, films and club nights) and could impact it's income. There are examples of venue licensing hours being squeezed, ultimately leading to their closure.

Officer Response to GLA Comments

- 4 The comments support the officer position to refuse the proposal, however there are no new material issues raised. The issues set out by GLA officers including the loss of the late night music venue and the impact on London's Nighttime Economy are addressed in the committee report in Paragraphs 74 to 79. Members should note the comments do not represent a formal planning objection from the GLA in respect of the scheme.

Updates to the Planning Practice Guidance - Noise

- 5 Following the publication of the committee agenda, the Planning Practice Guidance (PPG) website was updated by the Ministry of Housing, Communities and Local Government (MHCLG) to provide additional guidance around the assessment of noise as a planning issue. This updated guidance sets out further detail of the application of the "Agent of Change" principle enshrined in the revised National Planning Policy Framework (NPPF).
- 6 A summary of the updates as they relate to the committee report is below.
- Paragraph 98 of the report sets out how noise may be considered a statutory nuisance. Revised Paragraph 017 (Reference ID: 30-017-20190722) of the PPG provides further detail as to how statutory noise nuisance should be assessed by Local Authorities.

The PPG revisions align with the approach in the committee report.

- Paragraph 54 of the report sets out the Agent of Change principle and its application in planning terms. Revised Paragraph: 009 (Reference ID: 30-009-20190722) provides further detail around the responsibility of the Agent of Change in the planning process to ensure mitigation where possible to address planning impacts. The PPG revisions align with the approach in the committee report.

Officer Comments to PPG Updates

- 7 The PPG updates do not introduce any new material issues for the decision maker, and accord with the officer recommendation to refuse the scheme on the basis the proposal will yield units with unacceptable living conditions for future occupiers due to noise. The PPG updates confirm officers have appropriately applied the “Agent of Change” principle to the current application.

Applicant’s Letter to Officers

- 8 The applicant’s agent has responded to a letter from officers dated 11th July 2019 setting out the intention to recommend the scheme for refusal. The applicant’s Agent, Boyer, wrote officers on 19th July 2019 setting out a view that officers had misapplied adopted and emerging planning policy and the proposal should be recommended for approval. This letter has been added to the planning file. A summary of the issues in the letter is below.

Summary of Applicant Letter of 19th July 2019

- The applicant disputes that viability information is required to be submitted in this instance. The applicant considers that the Council is involving itself in commercial and operational matters that are beyond the purview of planning. The applicant considers the venue’s music operations are a licencing matter and states the operator’s lease is expired.
 - The letter states the application is policy compliant and provides examples of applications and appeals in London the applicant considers show a successful model of a lock up pub together with flatted development. The applicant also notes a positive working relationship with officers prior to being advised of refusal. The applicant notes an intention to appeal and to make an application for an award of costs against the Council.
- 9 Officers consider the letter from Boyer raises no new material issues and the concerns raised are addressed in the committee report. The lease and licencing issues are not material to planning, nor is the status of the current hotel operator.

Appeal Costs Risk

- 10 The issue of appeal costs is a matter of planning judgement for the Planning Inspector in any case, although the Inspector would be guided by the Planning Practice Guidance (PPG) and the list of behaviours that may give rise to an award of costs to appeal parties.
- 11 Officers consider while there is always a costs risks in finely balanced planning decisions, it is not unreasonable behaviour to take a different view to the applicant on the retention of the live music venue, and the Council's position is justified with regard to the development plan and other material considerations.

Councillor Feedback to Item 3

- 12 Officers wrote Cllr Millbank, Cllr Bell, Cllr Bourne, Cllr Sobra and Cllr Dromey on 15th July 2019 to advise of the officer intension to recommend refusal.
- 13 Cllr Sorba, Cllr Dromey, Cllr Millbank and Cllr Bourne replied noting they supported the officer position to refuse. Cllr Bell's previous objection is recorded in the committee report.
- 14 Members should note a Councillor may chair a non-statutory local meeting if they have previously or subsequently expressed a view on a development proposal. It is only if a Councillor is a voting member of Planning Committee and has previously expressed a view on a proposal they may need to recuse themselves from voting, depending on the circumstances.

Typographical Error – Item 3

- 15 There is a typographically error in Paragraph 50 on Page 24 of the report. A reference to Paragraph 83 of the NPPF should be deleted – only Paragraph 92 is relevant.

3 ITEM 4 – LAND ATTACHED TO EVELYN HALL, CLYDE STREET, LONDON, SE8 5TW

Additional Submission

Officers have received six additional objections. These objections were received by officers on 29th July and 31st July 2019 after the publication of the committee agenda. These objections raise no new material planning issues. The issues raised are:

- Development relies on unmarked unrestricted parking
- The development does not consider the wider implications and opportunities in the area. There is a need for a masterplan
- Excessive site coverage
- Poorly designs addition to the streetscene that is not in character with the area

- The size of existing and proposed congregation, nature of activities number of staff and visitors, worship and operating houses would have detrimental effect on local amenity
- People will not follow the transport plan
- Adverse environmental impact resulting in the excessive car journeys
- The cycle facilities are not sufficient for future uses and visitors

The issues above are addressed in the Committee Report. The total number of objections to the scheme is therefore 14.

Revised Conditions

- 16 Following the publication of the committee agenda, the applicant contacted officers requesting an amendment to proposed Condition 13 (Opening Hours) on Page 74 of the published agenda package.
- 17 The applicant noted the wording of the condition restricted the opening times of the building only to times when Church Services were occurring, which would preclude use at other times when the operator may wish to use the building for activities other than church services.
- 18 There are currently no planning controls with respect to the times of use of the building and both the applicant and the Council agree that such controls are appropriate. Officers acknowledge it is typical for a church to operate other ancillary uses outside of scheduled worship times.
- 19 Officers proposed revisions which would reword Condition 13 to clarify it pertains to Church Service activities only. A second less restrictive condition around the building's hours of operation is recommended to be imposed, as set out below. To ensure there are no undue transport and amenity impacts for uses outside of Church Services a community use agreement will set an operator limit for times outside the Church Services.

Recommended Condition Alterations

- 20 Condition 13 on Page 74 is deleted from the report and the conditions below are recommended to be inserted below:

13) OPENING HOURS

The Place of Worship hereby approved shall only be operational between the hours of 09:00 and 22:00 on Monday to Sunday and at no other times.

REASON: In order to safeguard the amenities of adjoining occupants

14) CHURCH SERVICE HOURS

Church Services shall only occur be between the hours of 18:00 and 22:00 on Tuesday, Thursday and Friday; 10:00 and 12:00 and 18:00-

22:00 on Saturday; and 10:30 and 15:00 and 18:00 and 22:00 on Sunday.

REASON: In order to safeguard the amenities of adjoining occupants

Impact of Recommended Condition Alterations

- 21 Officers consider the planning impacts to the proposed condition alterations to Item 4 will be negligible and revised conditions will have the intended planning effect of controlling amenity while still allowing users the flexibility to operate non-Church Service activities during the day with a restricted number of users. The applicants have agreed these condition alterations.