

Committee	STRATEGIC PLANNING COMMITTEE <b>(ADDENDUM)</b>
Report Title	Land on the corner of Briant and Besson Street, London, SE14
Ward	Telegraph Hill
Contributors	David Robinson

Reg. Nos.

DC/19/114805

## **1.0 INTRODUCTION**

- 1.1 This report has been prepared as additional representations have been received since publication of the agenda. Representations have been received from the operators of The Music Room at 116-118 New Cross Road and the Music Venue Trust.

## **2.0 SUMMARY OF ADDITIONAL RESPONSES**

- 2.1 The additional response from the operators of The Music Room is summarised as follows:

- Welcome that any resolution to grant consent will be subject to a Section 106 Agreement that both requires the applicant to enter into a Deed of Easement of Noise with The Music Room in relation to the whole of the development site and, secondly, that the Council will commission its own independent noise assessment to ensure that noise emitting from The Music Room has been properly assessed, whether additional noise mitigation measures may be necessary, and if so for these to be fully implemented. These provisions are welcomed, and go a considerable way towards meeting The Music Room's concerns.
- It would be more appropriate that the Council's Noise Survey is undertaken and the results understood before a decision is taken on the application. Information arising from the further survey commissioned by the Council is clearly relevant information for the Committee to consider.
- Recognition that this application has been with the Council for a considerable period of time and that there is time pressure to determine the application not least given the significant housing development and GP surgery it will deliver. Nevertheless express a preference would be for the noise survey to be undertaken prior to determination.
- If the application is to be determined request that it be a requirement that the Council's Noise Survey is undertaken within a period of 2 months from that date and that it should be carried out in conjunction and consultation with both The Music Room and Grainger.
- The Deed of Easement should relate to the non-residential uses as well as residential uses.

- 2.2 The representation from the Music Venue Trust is summarised as follows:

- The applicants have not considered changes recommended by the Greater London Authority or the Agent of Change principle
- The proposals are contrary to national policy, the London Plan and Lewisham's Local Plan

- The trust have concerns over the adequacy of the survey undertaken to date. The survey was undertaken in winter and the beer garden was not in use and a relatively quiet theatre group were using the studios
- The third party noise survey must be undertaken prior to making a decision

### **3.0 CONSIDERATIONS**

- 3.1 The Officer Report outlines that the relevant policies and Agent of Change principles have been met with regard to the relationship of the proposed development and the operation and existing use at 116-118 New Cross Road, as well as other noise generating uses in the vicinity of the site.
- 3.2 Officers have been cognisant of the need to address potential noise pollution from The Music Room throughout the development of a residential-led scheme for the Land at Besson Street. Officers first raised the relationship with The Music Room as a key consideration with the proposed development in the first pre-application meeting held with the applicant in January 2019.
- 3.3 The proposed development has been subject to an iterative and evolving design approach that has sought to minimise the number of residential units in close proximity to existing noise generating uses in the vicinity of the site. The outcome of this has been to locate commercial and shared amenity spaces in proximity to existing noise generating businesses and uses in order to minimise any likely conflict between residents and existing businesses.
- 3.4 The scheme has been developed with the relationship with The Music Room in mind and the application has been submitted with a comprehensive Noise Assessment, which assesses external noise levels at the site (including other noise sources in addition to The Music Room) to determine the mitigation that would need to be incorporated into the proposed scheme to achieve levels inside the development that meet national and local planning requirements. The assessment demonstrates this could be achieved through construction materials, high specification glazing and mechanical ventilation. The application would be conditioned to ensure that the development would be constructed as per the recommendations of the assessment.
- 3.5 In response to concerns over the timing of the applicant's noise assessment (2019), the applicant has also incorporated data from a noise assessment undertaken on behalf of the Music Room in 2017 to ensure that the noise generation anticipated is robust and reflective of the worst case scenario.
- 3.6 In addition to this, and contrary to representations received, following recommendations within the Greater London Authority Stage 1 response, the applicant has offered to provide additional mitigation in the form of solid balustrades for the 10 units within Block A1 that are closest to Music Room London. The application would be conditioned to secure the installation of these solid balustrades.
- 3.7 On the above basis, the proposed development satisfies the Agent of Change principle as per Policy D13 of the Intend to Publish London Plan and is compliant with the Development Plan and the NPPF on this matter. The Greater London Authority have confirmed in writing that they are satisfied with the applicant proposals in this regard.
- 3.8 In addition to the above, and as a further measure of protection to The Music Room's operation, the applicant has outlined that they are prepared to enter into a Deed of Easement in favour of The Music Room. This is a legal document that would be

conditional upon implementation of planning permission for the proposed development, and would grant The Music Room defined rights over the whole of the application site by allowing it to produce noise up to specified levels during its permitted hours of operation. The relevant hours and the related noise levels would be a matter of detail to be picked up in the deed of easement itself. The Council would not be a party to this deed: it would be a bi-lateral agreement between The Music Room and the applicant.

- 3.9 Such an easement would provide an additional layer of protection to the Music Room in that easement would not just cover the 10 units closest to the music rehearsal venue but would extend across the entire development and be conditional upon implementation of the planning permission. In effect, this would preclude all future occupants from objecting to any potential noise nuisance generated by Music Room London, so long as it operates within the noise limits and hours of operation to be specified in the deed. The terms of an easement are subject to ongoing discussion between the parties.
- 3.10 As a final additional measure of protection to The Music Room, it is recommended that an independent third party assessment is secured by legal agreement. This assessment would be commissioned by the Council, at the applicant's expense and any additional mitigation identified within the assessment would be required to be implemented prior to occupation of the proposed residential units. Given the comprehensive surveys to date it is not anticipated that further mitigation would be required; rather, the purpose of this 3<sup>rd</sup> party assessment would be to ratify the results of the noise surveys already undertaken.
- 3.11 It is not considered necessary nor reasonable that this report is carried out prior to determination or within two months of a committee hearing as requested, given the comprehensive noise surveys that have already been undertaken by the applicant as well as the use of data from a noise survey undertaken by The Music Room in 2017. A recommended and reasonable trigger for the undertaking of the noise assessment would be "prior to commencement of development" as this would leave sufficient time to design any additional mitigation identified (if any) as being required by the third party assessment.
- 3.12 With regard to the request for the Deed of Easement covering residential and non-residential uses, officers clarify that the Deed of Easement offered by the applicant would extend across all uses and cover the entire site. In light of this and discussion above, the recommended S106 Heads of Terms in relation to the Deed of Easement has been amended as follows:

*Noise and Deed of Easement*

- The applicant shall enter into a Deed of Easement with the operators of The Music Room in relation **to the entire development site**
- The applicant shall fund an independent third party noise assessment in relation to noise generated by The Music Room **to be carried out prior to commencement of works on the development site** and any additional mitigation identified within this report shall be implemented prior to occupation of the residential units

## **4.0 CONCLUSION**

- 4.1 The additional comments received have been reviewed and are not considered to change the assessment undertaken or the conclusion and recommendation of the

officer report to committee. The recommended Heads of Terms for the Section 106 agreement have been amended as above.