

MINUTES OF PLANNING COMMITTEE

Monday, 11 September 2023
(7:00 - 7:56 pm)

Present: Cllr Muhammad Saleem (Chair), Cllr Jack Shaw (Deputy Chair), Cllr Muhib Chowdhury, Cllr Alison Cormack, Cllr Cameron Geddes and Cllr Dominic Twomey.

Apologies: Cllr Faruk Choudhury, Cllr Edna Fergus, Cllr Harriet Spoor and Cllr Sabbir Zamee.

9. Declaration of Members' Interests

There were no declarations of interest.

10. Minutes (17 July 2023)

The minutes of the meeting held on 17 July 2023 were confirmed as correct.

11. David James Motor Co., 154 High Road, Chadwell Heath, Romford - 22/01950/FULL

The Development Management Officer (DMO), Be First Development Management Team, presented a retrospective planning application from David James (the applicant) for a change of use from a car sale to hand car wash at the site of 154 High Road, Chadwell Heath, Romford RM6 6NT. In accordance with the Scheme of Delegation this application was presented to the Planning Committee for decision as more than five objections were received.

A total of 117 notification letters were sent to neighbouring properties from which 15 objections were received, the material planning considerations and issues raised from which were addressed by the DMO in their planning assessment of the application. In addition to the published papers a supplementary report was presented clarifying and correcting aspects of the published report.

The DMO summarised the planning history of the site and notably that an enforcement notice was issued in October 2021 for the unauthorised material change of use from car sales to a car wash. This notice was unsuccessfully appealed in March 2022, and consequently it was noted that despite the submission of a retrospective application for a change of use, the time for compliance with the notice had passed, and the case was now at prosecution stage.

The Local Planning Authority has the power to decline to determine a planning application on a development already the subject of an enforcement notice. If any new application includes part of the details of the breach in the

enforcement notice, then the LPA could decline its determination. However, having regard to the grounds of the appeal and the outcome, it was noted that the appeal did not consider whether the development could be made acceptable if planning permission was retrospectively sought with or without conditions and planning obligations. In the light of this the Officers agreed that the retrospective application could be accepted and considered as long as it addressed the harm that was initially caused and required an enforcement notice to be served.

A representation was made at the meeting by Councillor Achilleos, who on behalf of his fellow Whalebone ward councillors made a statement opposing the application for the following reasons:

1. The applicant had shown a flagrant disregard of planning policy and enforcement action, and that based on his behaviour ward councillors had no confidence that should the application be approved that he would comply with the proposed conditions of use set out in the report.
2. The negative impact that the illegally operated business has had on residents through excessive and disruptive noise,
3. The adverse effect the business already has on traffic congestion in the immediate area, and the heightened risk of accidents, and
4. Seeing that the local Controlled Parking Zone operates from 8am till 5.30pm, and the application for the car wash is to operate until 7pm, means the potential for substantial queuing, which could lead to customers utilising resident parking spaces causing problems for residents returning home from work.

The Chair asked the DMO that as to whether she was confident that adequate mitigation measures had been put in place with regards to the application to satisfy the reasons for issuing the enforcement notice. The DMO responded that she had worked closely with the applicant to overcome any concerns including those raised by ward councillors.

Members whilst sympathising with the ward councillors point about the applicant disregarding the enforcement notice, did acknowledge that this was not a material planning consideration when it came to determining the retrospective application. They did however think that there was merit in the points raised about noise, disturbance and parking issues, and to that extent should the Committee be mindful to approve the application then consideration could be given to restricting the operating hours from 7am to 5.30pm.

Officers stated that times of operation were open to discussion although the key factor would be one of reasonability i.e weighing up residents' concerns to that of the viability of the business.

Another point raised concerned that the nature of the car wash operations meant that a number of the public claimed to get wet as they passed by the site on the footway, and again should this application be approved then it would be sensible to erect some form of protective screening to mitigate the impact of splashes and water run-off from the site.

In response to the resident objections, the comments of the ward councillor and the remarks of the Members of the Committee, the applicant stated that he had operated on the site for over 30 years and had always looked to build good relationships with his neighbours. He questioned the validity of the enforcement notice suggesting that the change of use from car sales to that of a car wash were not in his opinion contrary to his original planning consent. That said he accepted that his appeal against the enforcement notice had been dismissed, but that by presenting the retrospective application and with the conditions suggested, he was confident he could work alongside residents to keep them happy. To that end he would be prepared to put up appropriate protective screening as suggested. As for the proposed additional time restrictions on operation until 5.30pm, he felt this was unfair given the nature of the High Road and that the vast majority of businesses operating in the Road do not close until after 7pm.

In conclusion, the proposed amendments to the operation of the hand car wash on the site of the former petrol filling station forecourt were considered by officers to overcome the reasons for serving the enforcement notice to cease the use. Officers were also satisfied that following the submission of additional information the proposal would not generate unacceptable levels of pollution, noise and general disturbance, and would not pose an unacceptable threat to the quantity or quality of the Borough's water resources. As such, the proposal was considered to accord with the relevant development plan policies, and therefore it was recommended that planning permission be granted subject to a number of conditions detailed in the report, and the additional points raised by Members, namely that condition 1 be amended to require commencement within 3 months, not 3 years, that condition 3 be amended to change the hours of use from 1900 to 1730, and a new condition 7 be added to require that protective screening be installed at the front of the site within 3 months, to prevent splashing on to the pavement.

Therefore, the Committee **RESOLVED** to:

Agree the reasons for approval as set out in the report, and delegate authority to the Strategic Director of Inclusive Growth (or authorised Officer) to grant planning permission subject to the Conditions listed at Appendix 4 of the report as amended at the meeting.

12. Gascoigne East Phase 3A - 23/01146/S106

The Development Management Officer (DMO), Be First Development Management Team, introduced a report and presentation on an application from LBBD for an amendment to Schedule 4 (Phase 3 affordable housing schedule) of the approved S106 Agreement as varied by 20/01251/VAR to remove the reference to private units and replace them with Discount Market Rent units in connection with the development at Gascoigne Estate East Phase3A, King Edwards Road, Barking.

In addition to internal and external consultations, a total of 158 notification letters were sent to neighbouring properties together with the requisite statutory site & press notices. No objections were received.

The proposed changes were sought by the applicant following a review of LBBD's development portfolio which had identified that additional affordable housing could be provided at Gascoigne East Phase 3A, to be achieved through a change of tenure mix, secured via a S73 application alongside another application for the scheme known as the Development Site, Junction of Stamford Road and Woodward Road (see minute 13)

The DMO explained that the application had been made under a S106a modification and discharge of planning obligations. The legislation states at S106A(6):

6) Where an application has been made the authority may determine—

(a) that the planning obligation shall continue to have effect without modification,

(b) if the obligation no longer serves a useful purpose, that it shall be discharged; or

(c) if the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect, subject to the modification.

In considering the above changes, officers have concluded the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect, subject to the proposed modification. It was considered that the proposal falls within the legislative provisions as set out above and therefore it has been recommended that the deed of variation proceeds. Officers also recognise the benefits of increasing the number of affordable homes, acknowledging the role Discount Market Rental homes have in meeting local demand.

In those circumstances,

The Committee **RESOLVED** to:

1. Agree the reasons for approval as set out in the report, and
2. Delegated authority to the Strategic Director of Inclusive Growth in consultation with the Head of Legal Services to approve the proposed changes, subject to the completion of a new Deed of Variation to replace the existing Deed of Variation attached to application 20/-1251/VAR dated 26.01.2021 based on the changes summarised in Appendix 4 of the report.

13. Woodward Road - 23/01143/VAR

The Development Management Officer (DMO), Be First Development Management Team, introduced a report and presentation on an application from LBBD seeking consent for a variation of Condition 2 (Approved Plans) attached to planning consent 20/00097/FUL dated 17.07.2020, so as to amend the approved affordable housing tenure mix by changing 15 out of the 16 London Affordable Rent units to Discount Market Rent in connection with

the development on the site at the junction of Stamford Road and Woodward Road, Dagenham.

In addition to internal and external consultations, a total of 266 notification letters were sent to neighbouring properties together with the requisite statutory site & press notices. No objections were received.

The DMO stated that although the changes would result in the loss of 15 low-cost rent units the proposed amendment to the consented scheme would enable the applicant to use right to buy receipts, clawing back a significant proportion of the scheme's deficit as it stood, and would in so doing allow for the continued delivery of the scheme and the provision of much needed affordable accommodation in the borough. This despite an accompanying viability assessment which confirmed that even after the proposed changes the scheme would remain in deficit.

In conclusion officers consider the proposed changes to be acceptable and constitute a minor material amendment, and therefore they have recommended that planning permission be granted subject to the completion of a deed of variation. In those circumstances,

The Committee **RESOLVED** to:

1. Agree the reasons for approval as set out in the report,
2. Delegate authority to the Strategic Director of Inclusive Growth in consultation with the Head of Legal Services to grant planning permission subject to the completion of a deed of variation under s106 of the Town and Country Planning Act 1990 (as amended) based on the changes identified at Appendix 6 and the Conditions listed in Appendix 5 of the report, and
3. That, if by 11 March 2024 the legal agreement has not been completed, the Strategic Director of Inclusive Growth be delegated authority to refuse planning permission or extend the timeframe to grant approval.