

Planning Sub-Committee B

Wednesday 4 March 2020

7.00 pm

Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH

Membership

Councillor Cleo Soanes (Chair)
Councillor Maria Linforth-Hall (Vice-Chair)
Councillor Maggie Browning
Councillor Sirajul Islam
Councillor Nick Johnson
Councillor Martin Seaton
Councillor Bill Williams

Reserves

Councillor Sarah King
Councillor Graham Neale
Councillor Margy Newens
Councillor Jason Ochere
Councillor Kath Whittam

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

Babysitting/Carers allowances

If you are a resident of the borough and have paid someone to look after your children, an elderly dependant or a dependant with disabilities so that you could attend this meeting, you may claim an allowance from the council. Please collect a claim form at the meeting.

Access

The council is committed to making its meetings accessible. Further details on building access, translation, provision of signers etc for this meeting are on the council's web site: www.southwark.gov.uk or please contact the person below.

Contact

Beverley Olamijulo on 020 7525 7234 or email: beverley.olamijulo@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Eleanor Kelly

Chief Executive

Date: 25 February 2020



Planning Sub-Committee B

Wednesday 4 March 2020
7.00 pm

Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH

Order of Business

Item No.	Title	Page No.
1.	INTRODUCTION AND WELCOME	
2.	APOLOGIES	
3.	CONFIRMATION OF VOTING MEMBERS	
	A representative of each political group will confirm the voting members of the sub-committee.	
4.	DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS	
	Members to declare any interests and dispensation in respect of any item of business to be considered at this meeting.	
5.	ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT	
	The chair to advise whether they have agreed to any item of urgent business being admitted to the agenda.	
6.	MINUTES	1 - 4
	To approve as a correct record the minutes of the meeting held on 29 October 2019.	
7.	DEVELOPMENT MANAGEMENT ITEMS	5 - 8
	7.1. PECKHAM RYE PARK AND COMMON, HOMESTALL ROAD SE15	9 - 26

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	7.2. TREE PRESERVATION ORDER (TPO) 157 DUNSTANS ROAD, SE22 0HB	27 - 34

EXCLUSION OF PRESS AND PUBLIC

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

Date: 25 February 2020



PLANNING SUB-COMMITTEE

Guidance on conduct of business for planning applications, enforcement cases and other planning proposals

1. The reports are taken in the order of business on the agenda.
2. The officers present the report and recommendations and answer points raised by members of the sub-committee.
3. Your role as a member of the planning sub-committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework.
4. The following may address the sub-committee (if they are present and wish to speak) for **not more than 3 minutes each**.

- (a) One representative (spokesperson) for any objectors. If there is more than one objector wishing to speak, the time is then divided within the 3-minute time slot.
- (b) The applicant or applicant's agent.
- (c) One representative for any supporters (who live within 100 metres of the development site).
- (d) Ward councillor (spokesperson) from where the proposal is located.
- (e) The members of the sub-committee will then debate the application and consider the recommendation.

Note: Members of the sub-committee may question those who speak only on matters relevant to the roles and functions of the planning sub-committee that are outlined in the constitution and in accordance with the statutory planning framework.

5. If there are a number of people who are objecting to, or are in support of, an application or an enforcement of action, you are requested to identify a representative to address the sub-committee. If more than one person wishes to speak, the 3-minute time allowance must be divided amongst those who wish to speak. Where you are unable to decide who is to speak in advance of the meeting, you are advised to meet with other objectors in the foyer of the council offices prior to the start of the meeting to identify a representative. If this is not possible, the chair will ask which objector(s) would like to speak at the point the actual item is being considered.

Note: Each speaker should restrict their comments to the planning aspects of the proposal and should avoid repeating what is already in the report.

6. This is a council committee meeting, which is open to the public and there should be no interruptions from the audience.

7. No smoking is allowed at council committees and no recording is permitted without the consent of the meeting on the night, or consent in advance from the chair.

The arrangements at the meeting may be varied at the discretion of the chair.

Contacts: Director of Planning
Chief Executive's Department
Tel: 020 7525 5655; or

Planning Sub-Committee Clerk, Constitutional Team
Finance and Governance Department
Tel: 020 7525 7420



Planning Sub-Committee B

MINUTES of the Planning Sub-Committee B held on Tuesday 29 October 2019 at 7.00 pm at Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Cleo Soanes (Chair)
Councillor Maria Linforth-Hall (Vice-Chair)
Councillor Maggie Browning
Councillor Martin Seaton
Councillor Bill Williams

OTHER MEMBERS PRESENT: Councillor Margy Newens

OFFICER SUPPORT: Dipesh Patel (Development Management)
Glenn Ruane (Development Management)
Alex Gillott (Legal Officer)
Beverley Olamijulo (Constitutional Officer)

1. INTRODUCTION AND WELCOME

The chair welcomed councillors, members of the public and officers to the meeting.

2. APOLOGIES

There were apologies for absence from Councillor Nick Johnson and Councillor Sirajul Islam.

3. CONFIRMATION OF VOTING MEMBERS

The members listed as present were confirmed as voting members of the sub-committee.

4. DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS

The following member made a declaration regarding the agenda item below:

Agenda item 7.3 – The Southwark Park Athletics Track and Gym, Hawkstone Road, London SE16 2PE

Councillor Bill Williams, non-pecuniary as the site address and development was in his ward – Rotherhithe ward.

5. ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT

The chair gave notice of the following additional papers circulated prior to the meeting:

- Addendum report – development management items
- Members' pack.

6. MINUTES

RESOLVED:

That the minutes of the meetings held on 4 September 2019, 7 January 2019 and 12 December 2018 be approved as correct records and signed by the chair.

7. DEVELOPMENT MANAGEMENT ITEMS

Members noted the development management report.

RESOLVED:

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

7.1 ALLEYNS SCHOOL, TOWNLEY ROAD, LONDON, SE22 8SU

Planning application reference: 19/AP/2090

Report: see pages 17 to 31 of the agenda pack.

PROPOSAL

Erection of floodlighting on netball / tennis courts.

The sub-committee heard an officer's introduction to the report.

Councillor Margy Newens addressed the meeting and responded to questions from the sub-committee as a representative of the objectors.

The applicant addressed the meeting and responded to questions from members.

There were no supporters who lived within 100 metres of the development site present who wished to speak.

There were no ward councillors present at the meeting wishing to speak.

The sub-committee put further questions to officers and discussed the application.

A motion to grant planning permission was moved, seconded, put to the vote and declared carried.

RESOLVED:

That the planning application 19/AP/2090 be granted, subject to the conditions set out in the report and an amendment to one of the conditions regarding the hours to include automatic cut off switches, to ensure it complies with the consented hours of operation.

7.2 ALLEYNS SCHOOL, TOWNLEY ROAD, LONDON, SE22 8SU

Planning application reference: 19/AP/1933

Report: see pages 32 to 48 of the agenda pack and page 1 of the addendum report.

PROPOSAL

Creation of a multi-use games area (MUGA) and associated fencing.

The sub-committee heard an officer's introduction to the report.

There were no objectors present who wished to address the sub-committee.

The applicant addressed the meeting and responded to questions from members.

There were no supporters who lived within 100 metres of the development site present who wished to speak.

There were no ward councillors present at the meeting wishing to speak.

The sub-committee put further questions to officers and discussed the application.

A motion to grant planning permission was moved, seconded, put to the vote and declared carried.

RESOLVED:

That the planning application 19/AP/1933 be granted, subject to the conditions set out in the report and addendum report.

7.3 THE SOUTHWARK PARK ATHLETICS TRACK AND GYM, HAWKSTONE ROAD, LONDON, SE16 2PE

Planning application reference: 19/AP/2098

Report: see pages 49 to 73 of the agenda pack and pages 2 to 3 of the addendum report.

PROPOSAL

Redevelopment of the existing Southwark Athletics Centre including demolition of existing building and construction of new facility in the same location.

The sub-committee heard an officer's introduction to the report.

There were no objectors present who wished to address the sub-committee.

The applicants addressed the meeting and responded to questions from members.

There were no supporters who lived within 100 metres of the development site present who wished to speak.

There were no ward councillors present at the meeting wishing to speak.

A motion to grant planning permission was moved, seconded, put to the vote and declared carried.

RESOLVED:

That the planning application 19/AP/2908 be granted, subject to the conditions set out in the report and addendum report.

The meeting ended at 8.15 pm.

CHAIR:

DATED:

Item No. 7	Classification: Open	Date: 4 March 2020	Meeting Name: Planning Sub-Committee B
Report title:		Development Management	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

BACKGROUND INFORMATION

4. The council's powers to consider planning business are detailed in Part 3F of Southwark Council's constitution which describes the role and functions of the planning committee and planning sub-committees. These were agreed by the annual meeting of the council on 23 May 2012. The matters reserved to the planning committee and planning sub-committees exercising planning functions are described in part 3F of the Southwark Council constitution.

KEY ISSUES FOR CONSIDERATION

5. In respect of the attached planning committee items members are asked, where appropriate:
 - a. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for Communities and Local Government and any directions made by the Mayor of London.
 - b. To give observations on applications in respect of which the council is not the planning authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.
 - c. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by members.

6. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
7. Applicants have the right to appeal to Planning Inspector against a refusal of planning permission and against any condition imposed as part of permission. Costs are incurred in presenting the council's case at appeal which maybe substantial if the matter is dealt with at a public inquiry.
8. The sanctioning of enforcement action can also involve costs such as process serving, court costs and of legal representation.
9. Where either party is felt to have acted unreasonably in an appeal the inspector can make an award of costs against the offending party.
10. All legal/counsel fees and costs as well as awards of costs against the council are borne by the budget of the relevant department.

Community impact statement

11. Community impact considerations are contained within each item.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

12. A resolution to grant planning permission shall mean that the development & building control manager is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the committee and issued under the signature of the head of development management shall constitute a planning permission. Any additional conditions required by the committee will be recorded in the minutes and the final planning permission issued will reflect the requirements of the planning committee.
13. A resolution to grant planning permission subject to legal agreement shall mean that the head of development management is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the director of legal services, and which is satisfactory to the head of development management. Developers meet the council's legal costs of such agreements. Such an agreement shall be entered into under section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the director of legal services. The planning permission will not be issued unless such an agreement is completed.
14. Section 70 of the Town and Country Planning Act 1990 as amended requires the council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is

contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan is currently Southwark's Core Strategy adopted by the council in April 2011, saved policies contained in the Southwark Plan 2007, the where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).
16. On 15 January 2012 section 143 of the Localism Act 2011 came into force which provides that local finance considerations (such as government grants and other financial assistance such as New Homes Bonus) and monies received through CIL (including the Mayoral CIL) are a material consideration to be taken into account in the determination of planning applications in England. However, the weight to be attached to such matters remains a matter for the decision-maker.
17. "Regulation 122 of the Community Infrastructure Levy regulations (CIL) 2010, provides that "a planning obligation may only constitute a reason for granting planning permission if the obligation is:
 - a. necessary to make the development acceptable in planning terms;
 - b. directly related to the development; and
 - c. fairly and reasonably related to the scale and kind to the development.

A planning obligation may only constitute a reason for granting planning permission if it complies with the above statutory tests."

18. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.
19. The National Planning Policy Framework (NPPF) came into force on 27 March 2012. The NPPF replaces previous government guidance including all PPGs and PPSs. For the purpose of decision-taking policies in the Core Strategy (and the London Plan) should not be considered out of date simply because they were adopted prior to publication of the NPPF. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted in accordance with the Planning and Compulsory Purchase Act (PCPA) 2004 even if there is a limited degree of conflict with the NPPF.
20. In other cases and following and following the 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. This is the approach to be taken when considering saved plan policies under the Southwark Plan 2007. The approach to be taken is that the closer the

policies in the Southwark Plan to the policies in the NPPF, the greater the weight that may be given.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council assembly agenda 23 May 2012	Constitutional Team 160 Tooley Street London SE1 2QH	Beverley Olamijulo 020 7525 7234
Each planning committee item has a separate planning case file	Development Management, 160 Tooley Street, London SE1 2QH	The named case officer or the Planning Department 020 7525 5403

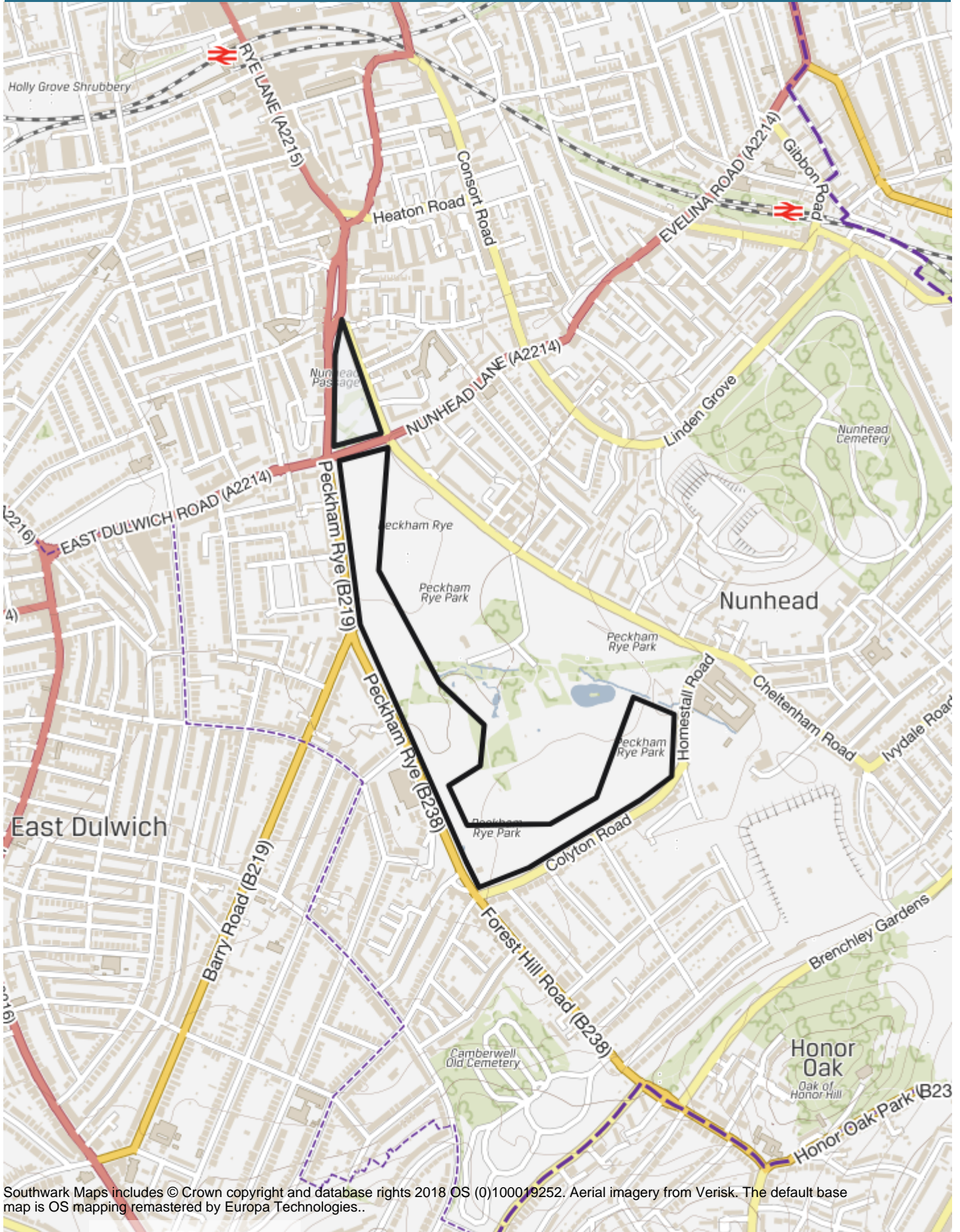
APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Chidilim Agada, Head of Constitutional Services	
Report Author	Beverley Olamijulo, Constitutional Officer Jonathan Gorst, Head of Regeneration and Development	
Version	Final	
Dated	25 February 2020	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Director of Planning	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		25 February 2020

PECKHAM RYE PARK & COMMON, HOMESTALL ROAD SE15



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Item No. 7.1	Classification: OPEN	Date: 4 March 2020	Meeting Name: Planning Sub-Committee B
Report title:	Development Management planning application: Application 19/AP/5692 for: Full Planning Application Address: PECKHAM RYE PARK AND COMMON, HOMESTALL ROAD, LONDON SOUTHWARK Proposal: Proposed landscape and environmental improvements with public access improvements and the construction of 2 x shallow embankments along the length of the northern and western boundaries of the common and park, associated underground drainage chambers.		
Ward(s) or groups affected:	Peckham Rye		
From:	Director of Planning		
Application Start Date 07/10/2019		Application Expiry Date 23/03/2020	
Earliest Decision Date 14/11/2019			

RECOMMENDATION

1. That planning permission is granted.

BACKGROUND INFORMATION

Site location and description

2. The application site is within Peckham Rye Park and Common predominantly along the western boundary of the park, adjacent to Peckham Rye, as well as the areas of the park to the north of East Dulwich Road.
3. The site is subject to the following designations:
 - Metropolitan Open Land (MOL)
 - Site of Importance for Nature Conservation (SINC)
 - Green Chain Park
 - Air Quality Management Area
 - Peckham and Nunhead Action Area
 - Grade II listed Park and Garden (Peckham Rye Park)
4. The Gardens Conservation Area is located to the west of the application site. There are no listed buildings on the site, although Numbers 156 and 158 Peckham Rye, Numbers 160 and 162 Peckham Rye (The British Red Cross Society) and Number 200 Peckham Rye are Grade II listed buildings. Peckham Rye Park is also a Grade II listed park.

Details of proposal

5. This application has been submitted by the council's Flood Risk and Drainage Team. The aim of the scheme is to alleviate flood risk in Peckham Rye Park and Common and for the surrounding properties to the north by collecting surface water flowing north along the course of the 'lost' River Peck and discharging the collected flow, whilst simultaneously providing improvements to the existing landscaping and biodiversity. This would attenuate flood risks downstream in a 1 in 75 year event.
6. The Peckham and Nunhead Community Council Area Action Plan within the Local Flood Risk Management Strategy 2015 states that 'flood storage in Peckham Rye Common and Peckham Rye Park will provide an opportunity to enhance the quality and use of the area whilst reducing flood risk'. The proposed development would facilitate this aim within the Local Flood Risk Management Strategy.
7. The proposed drainage works include:
 - Creation of a southern bund and a northern bund for storage; the southern bund is to be located within the Grade II listed Peckham Rye Park;
 - Installation of two below ground drainage chambers and flow control devices at/or near the lowest point of their respective storage areas.
 - Installation of 300mm diameter pipes to connect the proposed drainage chambers to the existing Thames Water combined sewer.
8. The proposed landscaping and biodiversity works include:
 - Enhancement of the green space immediately north of East Dulwich Road with planting.
 - Improvements to the existing connections through the park and provision of safer road crossings.
 - Ecological enhancement through using native plant species.
 - Improvements to the historic 'Donkey Ride' area along East Dulwich Road.
 - Provision of education boards and environmental enhancements along the Lost River Peck.
 - Improvements to local air quality and visual amenity through enhanced planting to the edges of the park.

Planning history

9. There is an extensive planning history within Peckham Rye Park and Common, including the construction of a café, public toilets and a playground; however, there is no relevant planning history relating to an application for flood alleviation measures.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

10. The main issues to be considered in respect of this application are:
 - a) Principle of development
 - b) Impact of proposed development on amenity of adjoining occupiers and park users
 - c) Environmental Impact Assessment (EIA)
 - d) Environmental considerations
 - e) Trees and landscaping

Adopted planning policy

National Planning Policy Framework (NPPF)

11. The revised National Planning Policy Framework ('NPPF') was published in February 2019 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
12. Paragraph 212 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.

Chapter 2 Achieving sustainable development

Chapter 8 Promoting healthy and safe communities

Chapter 12 Achieving well-designed places

Chapter 13 Protecting Green Belt land

Chapter 14 Meeting the challenge of climate change, flooding and coastal change

Chapter 15 Conserving and enhancing the natural environment

London Plan 2016

13. The London Plan is the regional planning framework and was adopted in 2016. The relevant policies of the London Plan 2016 are:

Policy 5.12 Flood risk management

Policy 5.13 Sustainable drainage

Policy 7.4 Local character

Policy 7.5 Public realm

Policy 7.17 Metropolitan open land

Policy 7.18 Protecting open space and addressing deficiency

Policy 7.19 Biodiversity and access to nature

Policy 7.21 Trees and woodland

Core Strategy 2011

14. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the Core Strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the Core Strategy 2011 are:

Strategic Policy 1 Sustainable development

Strategic Policy 4 Places for learning, enjoyment and healthy lifestyles

Strategic Policy 11 Open spaces and wildlife

Strategic Policy 12 Design and conservation

Strategic Policy 13 High environmental standards

Southwark Plan 2007 (saved policies)

15. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

Policy 3.2 Protection of amenity
 Policy 3.12 Quality in design
 Policy 3.13 Urban design
 Policy 3.18 Setting of listed buildings, conservation areas and world heritage sites
 Policy 3.25 Metropolitan open land (MOL)
 Policy 3.28 Biodiversity
 Policy 3.31 Flood defences

Draft New London Plan

16. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. Minor suggested changes to the plan were published on 13 August 2018 and an Examination in Public (EIP) began on 15 January 2019 and closed in May 2019.
17. The Inspector's report and Panel Recommendations were issued to the Mayor of London in October 2019. The Mayor then issued his intentions to publish the London Plan along with a statement of reasons for not including all of the Inspector's recommendations to the Secretary of State. The Secretary of State will respond to the Mayor, due before 17 February 2020. Until the London Plan reaches formal adoption it can only be attributed limited weight.

New Southwark Plan

18. For the last 5 years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. The New Southwark Plan Proposed Submission Version: Amended Policies January 2019 consultation closed in May 2019.
19. The New Southwark Plan Submission Version – Proposed Modifications for Examination was submitted to the Secretary of State in January 2020 for Local Plan Examination. It is anticipated that the plan will be adopted in late 2020 following an Examination in Public (EIP). As the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Consultations

20. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Summary of consultation responses from internal, statutory and non-statutory consultees

21. Flood Risk Team – The local area is at high risk of surface water flooding. The proposal would reduce the risk of flooding to local properties and free up capacity in the sewer network. Improvements to biodiversity and public access are also welcomed.

Ecology – Satisfied with the Ecological Walk-Over Study. Recommend a condition to ensure the measures for mitigation of impact and enhancement of biodiversity are implemented.

Tree Officer – Satisfied that the proposed bunds would not encroach on tree protection areas. Recommend a hard and soft landscaping condition which includes the replacement tree planting within the red line boundary of the site.

Summary of public consultation responses

22. 1 public comment has been received in support of the application. The comment raised concerns regarding the clarity of the plans. Officers are satisfied that revised plans which have since been submitted clearly detailed the proposals.
23. The Gardens Trust were consulted and do not wish to comment on the application.
24. It is also noted that there has been extensive consultation with the Friends of Peckham Rye Park in developing the scheme, including several design workshops.

Principle of development

25. The proposed development would involve flood alleviation works to Peckham Rye Park and Common through the creation of two storage areas and the installation of drainage chambers and flow control devices near the lowest point of their respective storage areas. The proposal would also include a landscaping scheme which would enhance the green space and as such, would be a public benefit. The proposal would not involve any alterations to the established land use of the site. The principle of development in land use terms is therefore supported.
26. The application site falls within Metropolitan Open Land (MOL) designation and accordingly, any development must comply with the requirements of Policy 7.17 of the London Plan and Saved Policy 3.25 of the Southwark Plan. Policy 3.25 of the Southwark Plan states that within MOL, planning permission will only be permitted for appropriate development which is considered to be the following purposes:
 - i) Agriculture and forestry; or
 - ii) Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL; or
 - iii) Extension of or alteration to an existing dwelling, provided that it does not result in disproportionate additions over and above the size of the original building; or
 - iv) Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.

This is also carried forward within emerging draft Policy P56 of the draft New Southwark Plan.

27. The proposal would not involve any significant development works or structures which would retract from the openness of the MOL. The purpose of the proposal is to enhance the open space through landscaping improvement works; the proposed bunds would be incorporated into the landscaping improvement works. It is therefore deemed that the proposal would comply with the development plan policies seeking to protect MOL in this regard.
28. Policy 7.17 of the London Plan states that the strongest protection should be given to London's MOL and inappropriate development should be refused, giving the same level of protection as the Green Belt. Taking this into consideration, Paragraph 146 of the NPPF states that the following forms of development are not inappropriate in the Green Belt:

- a) Mineral extraction;
 - b) Engineering operations;
 - c) Local transport infrastructure which can demonstrate a requirement for a Green Belt location;
 - d) The re-use of buildings provided that the buildings are of permanent and substantial construction;
 - e) Material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
 - f) Development brought forward under a Community Right to Build Order or Neighbourhood Development Order.
29. The proposed development is an engineering operation and as such, the principle of such development is considered acceptable.
30. The application site also falls within a Site of Importance for Nature Conservation (SINC). Saved Policy 3.28 of the Southwark Plan states that development will not be permitted which would damage the nature conservation value of Sites of Importance for Nature Conservation (SINC) and that where, exceptionally, such developments are permitted, the council will seek mitigation and/or compensation for the damage to biodiversity. The scope of the proposed works would not adversely impact on the nature conservation value of the site; the applicant has submitted an Ecological Walk-Over Study also identifying measures for the mitigation of impact and enhancement of biodiversity. It is therefore considered that the proposed development would not adversely impact on the SINC and that the principle of development is acceptable in this regard.

Impact of proposed development on amenity of adjoining occupiers and users of the park

31. The proposed development would be limited to Peckham Rye Park and Common itself and as such, would not directly impact on the properties surrounding the park.
32. The proposed works would improve entrances to the site and make the green space more attractive. The locations of the proposed northern and southern bunds have been selected to provide sufficient storage volume whilst not affecting any of the existing paths and structures or harming any existing trees or ecological assets. The existing access routes throughout the common would therefore be maintained and an additional disabled access point is proposed at the north west entrance of the park.
33. The flood alleviation scheme would also help to contain the potential flooding extent to certain zones and therefore improve the access routes for users. Accordingly, the proposed works would significantly improve the usability of the open space and this can therefore be considered a public benefit.

Environmental Impact Assessment (EIA)

34. The proposal is for development that is referred to in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (amended 2018). It is however considered that the potential impact would not be of more than local significance and would not give rise to significant adverse environmental impacts. As such, it is concluded that the proposed development would not be an EIA development.

Environmental considerations

Ecology

35. An Ecological Walk-Over Survey was undertaken to support this application; this sets out measures for the mitigation of impact and enhancement of biodiversity. In line with this, a condition is recommended to ensure that such measures are implemented prior to the development being first brought into use. The mitigation measures are specifically to include native planting, dead wood and 10 nesting and roosting boxes.

Flood Risk

36. The purpose of this proposed development is to improve flooding within Peckham Rye Park and Common. The site is located in Flood Zone 1 which is at very low risk from tidal or fluvial flooding, however the local area is at high risk of surface water flooding. The current infiltration rates are very low as most of the soil is identified as clay, meaning the surface runoff tends to flow through the site along the path of the Lost River Peck.
37. The proposed scheme would make use of the available land in the park to attenuate surface water runoff and protect over 100 properties to the north of the site, particularly along Peckham Rye, Rye Lane and Copeland Road, as well as smaller surrounding roads, in a 1 in 75 year event by using Sustainable Urban Drainage Systems to temporarily hold back surface water during storm events. This would be achieved by installing a northern bund and southern bund; the stored water would then be discharged to nearby combined sewers at rates lower than the identified Greenfield runoff rate for the site.
38. It is deemed that the proposed flood alleviation works would significantly reduce flood risk within Peckham Rye Park and Common and in turn would improve the usability of the site. This is therefore supported.

Trees and landscaping

39. The proposed development would include two large bunds; one would be to the north of the site bound, by East Dulwich Road and Peckham Rye, and one would be to the south of the site, opposite Friern Road. These would be of a minimal scale and would range from 35cm to 1.1m in height and up to 7m in depth. The scheme would also incorporate significant landscaping enhancements in the form of biodiversity improvements to the north of East Dulwich Road, bulb planting to the middle of the site and buffer planting to the south of the proposed southern mound.
40. The area to north of East Dulwich Road would benefit from seasonal flowering planting and natural play areas, whilst the southern pavement along East Dulwich Road would benefit from permeable paving adjacent to the proposed mound. A ramp is also proposed to improve access and would connect the park entrance to the existing park pathway; this would only rise to a height of 0.40 metres.
41. The proposed landscaping is considered appropriate to the character of the area and would enhance the visual amenity of Peckham Rye Park and Common, as well as the biodiversity on the site.
42. The proposed development would result in the removal of 12 trees; all trees to be removed are Category U trees (some of which are stumps) and are therefore of very limited value as they are not expected to live more than 10 years. Subsequent mitigation for this loss would be provided within the red line boundary of the site. This is to be secured via the recommended hard and soft landscaping condition. Furthermore, the proposed bunds would be set at a minimum distance of 0.5m from

the root protection areas of the most significant trees. Notwithstanding this, a condition has been recommended for an Arboricultural Method Statement to be submitted to ensure that existing trees are not damaged. It is therefore deemed that the proposal would not cause any significant adverse impacts on the existing trees within the site.

Historical and cultural benefits

43. The proposed development would include the provision of a sequence of education boards providing information and associated environmental enhancements on the Lost River Peck, which runs through the middle of Peckham Rye and Common.
44. The Friends of Peckham Rye Park and Common are supportive of the proposal to provide historical and cultural information for users regarding the Lost River Peck. The detailed design of this project will therefore be developed further with stakeholders, in particular the Friends, to incorporate the history of the site and create a beneficial scheme for visitors.

Conclusion on planning issues

45. The proposed development would involve flood alleviation works to Peckham Rye Park and Common, as well as landscaping and biodiversity improvements. The principle of such development on MOL is considered acceptable as the proposed works can be considered engineering operations and would not retract from the openness of the area. Furthermore, the proposal would not adversely impact on the amenity of adjoining occupiers or users of the park and would provide a public benefit by improving its usability. Properties to the north of Peckham Rye Park and Common would be protected in a 1 in 75 year event as a result of the proposal.
46. The application is therefore recommended for approval, subject to the recommended conditions.

Community impact statement / Equalities Assessment

47. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:
 - a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 - b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
 - c) The need to foster good relations between persons who share a relevant protected

characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

48. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
49. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights
50. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application. No matters pertaining to the impact of this development on people with protected characteristics have been raised through the consultation and no impact above in that detailed above in the 'planning assessment' is expected.
51. Throughout the consultation process no information was received to indicate that any members of the public falling under the protected characteristics would be affected by the development, and thus no specific mitigation measures are required in this regard.

Human rights implications

52. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
53. This application has the legitimate aim of providing improvement works to Peckham Rye Park and Common. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP 2614-B Application file: 19/AP/5692 Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 0207 525 0254 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Relevant planning history
Appendix 4	Recommendation

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Abbie McGovern, Planning Officer	
Version	Final	
Dated	16 January 2020	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team		21 February 2020

Consultation undertaken

Site notice date: 17/10/2019

Press notice date: n/a

Case officer site visit date: 17/10/2019

Neighbour consultation letters sent:

n/a

Internal services consulted

Flood Risk Management & Urban Drainage

Ecology

Urban Forester

Parks & Cemeteries

Statutory and non-statutory organisations

n/a

Neighbour and local groups consulted:

The Peckham Society

The Garden Society

Re-consultation:

n/a

APPENDIX 2**Consultation responses received****Internal services**

Flood Risk Management & Urban Drainage
Ecology
Tree Officer

Statutory and non-statutory organisations

n/a

Neighbour and local groups

140 Peckham Rye London SE22 9QH
The Garden Society

Relevant planning history

There is an extensive planning history within Peckham Rye Park and Common, including the construction of a café, public toilets and a playground; however, there is no relevant planning history relating to an application for flood alleviation measures.

APPENDIX 4**RECOMMENDATION**

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant	Mr John Kissi London Borough of Southwark	Reg. Number	19/AP/5692
Application Type	Local Authority Development	Case Number	2614-B
Recommendation	Granted		

Draft of Decision Notice**Planning Permission was GRANTED for the following development:**

Proposed landscape and environmental improvements with public access improvements and the construction of 2 x shallow embankments along the length of the northern and western boundaries of the common and park, associated underground drainage chambers

Peckham Rye Park And Common, Homestall Road, London, Southwark

In accordance with application received on 4 October 2019

and Applicant's Drawing Nos.:Proposed Plans

Planning Application Site Definition Plan 60430773/C0020/001/1 Rev 1 17.10.18
 Planning Application Site Definition Plan 60430773/C0020/001/2 Rev 1 17.10.18
 Work Location Plan Map 001 Rev 0 07.05.19
 South Check Dam General Arrangement 60430773/C0020/DR/003 Rev 3 14.02.2020
 North Bund Outline General Arrangement and Disabled Access 60430773/C0020/DR/003 Rev 3 14.2.2020
 Sections and Disabled Access Profile 60430773/C0020/DR/004 Rev 1 05.11.18
 Drainage Chambers Outline Design 60430773/C0020/DR/005 Rev 1 06.11.18

Other Documents

Design and Access Statement Peckham Rye Common Flood Alleviation Scheme London Borough of Southwark 60430773/C0020 18.02.19
 Ecological Walk-Over Survey Betts Ecology and Estates October 2018
 Arboricultural Constraints Advice Hallwood Associates October 2018
 Request for Environmental Impact Assessment Screening Opinion for the Peckham Rye Common Flood Alleviation Scheme AECOM 15.02.2019
 Arboricultural Impact Assessment HWA10161_APIII 27.01.2020
 Existing Photographs
 Artist Impression Images
 Masterplan Image

1. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

Planning Application Site Definition Plan 60430773/C0020/001/1 Rev 1 17.10.18
 Planning Application Site Definition Plan 60430773/C0020/001/2 Rev 1 17.10.18
 South Check Dam General Arrangement 60430773/C0020/DR/003 Rev 3 14.02.2020
 North Bund Outline General Arrangement and Disabled Access 60430773/C0020/DR/003
 Rev 3 14.2.2020
 Sections and Disabled Access Profile 60430773/C0020/DR/004 Rev 1 05.11.18
 Drainage Chambers Outline Design 60430773/C0020/DR/005 Rev 1 06.11.18

Reason:

For the avoidance of doubt and in the interests of proper planning.

Time limit for implementing this permission and the approved plans

2. The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

Permission is subject to the following Pre-Commencements Condition

3. Prior to works commencing, including any demolition, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

a) A pre-commencement meeting shall be arranged, the details of which shall be notified to the Local Planning Authority for agreement in writing prior to the meeting and prior to works commencing on site, including any demolition, changes to ground levels, pruning or tree removal.

b) A detailed Arboricultural Method Statement showing the means by which any retained trees on or directly adjacent to the site are to be protected from damage by demolition works, excavation, vehicles, stored or stacked building supplies, waste or other materials, and building plant, scaffolding or other equipment, shall then be submitted to and approved in writing by the Local Planning Authority. The method statements shall include details of facilitative pruning specifications and a supervision schedule overseen by an accredited arboricultural consultant.

c) Cross sections shall be provided to show surface and other changes to levels, special engineering or construction details and any proposed activity within root protection areas required in order to facilitate demolition, construction and excavation.

The existing trees on or adjoining the site which are to be retained shall be protected and both the site and trees managed in accordance with the recommendations contained in the method statement. Following the pre-commencement meeting all tree protection measures shall be installed, carried out and retained throughout the period of the works, unless otherwise agreed in writing by the Local Planning Authority. In any case, all works must adhere to BS5837: (2012) Trees in relation to demolition, design and construction and BS3998: (2010) Tree work - recommendations.

If within the expiration of 5 years from the date of the occupation of the building for its permitted use any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason:

To avoid damage to the existing trees which represent an important visual amenity in the area, in accordance with The National Planning Policy Framework 2019, Policies 11 Open Spaces and Wildlife, SP12 Design and Conservation, SP13 High Environmental Standards of the Core Strategy 2011 and Saved Policies 3.2 Protection of Amenity, 3.12 Quality in Design, 3.13 Urban Design and 3.28 Biodiversity of the Southwark Plan 2007.

Permission is subject to the following Grade Condition

4. Before any above grade work hereby authorised begins, detailed drawings of a hard and soft landscaping scheme including replacement tree planting and showing the treatment of all parts of the site not covered by buildings (including cross sections, surfacing materials of any parking, access, or pathways layouts, materials and edge details), shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall not be carried out otherwise than in accordance with any such approval given and shall be retained for the duration of the use.

The planting, seeding and/or turfing shall be carried out in the first planting season following completion of building works and any trees or shrubs that is found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of the same size and species in the first suitable planting season. Planting shall comply to BS: 4428 Code of practice for general landscaping operations, BS: 5837 (2012) Trees in relation to demolition, design and construction and BS 7370-4:1993 Grounds maintenance Recommendations for maintenance of soft landscape (other than amenity turf).

Reason:

So that the Council may be satisfied with the details of the landscaping scheme, in accordance with the National Planning Policy Framework 2019, Strategic Policies 11 Open Spaces and Wildlife, 12 Design and Conservation and 13 High Environmental Standards of The Core Strategy 2011 and Saved Policies 3.2 Protection of Amenity, 3.12 Quality in Design, 3.13 Urban Design and 3.28 Biodiversity of the Southwark Plan 2007.

Permission is subject to the following Pre-Occupation Condition

5. The following measures for the mitigation of impact and enhancement of biodiversity, set out in the Ecological Walk-Over Study, will be implemented in full prior to the new development being first brought into use, or in accordance with the timetable detailed in the approved scheme.

- Native planting
- Dead wood
- 10 nesting and roosting boxes

Reason:

To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with the National Planning Policy Framework, Policy 3.28 Biodiversity of the Southwark Plan 2007 and Strategic Policy 11 Open Spaces and Wildlife of the Southwark Core Strategy 2011.

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Item No. 7.2	Classification: OPEN	Date: 4 March 2020	Meeting Name: Planning Sub-Committee B
Report title:		TPO 551 confirmation 157 Dunstons Road, SE22 0HB	
Ward(s) or groups affected:		Dulwich Hill	
From:		Director of Planning	

RECOMMENDATION

1. That the provisional TPO reference 551 be confirmed unamended.

BACKGROUND INFORMATION

2. A Tree Preservation Order (TPO) was served on 2 October 2019 following a recommendation to fell in relation to a Subsidence report prepared by MWA on behalf of Crawford & Company Adjusters; as well as, the perceived threat of development from permission granted for the erection of a new two storey two bedroom dwelling house in the rear garden of 120A Goodrich Road, reference 17/AP/3098.
3. Council officers have proposed a 30% reduction rather than fell on the basis of distance from the subject damage to property, approval for a new build within the vicinity of the tree and associated root loss and the impact of other closer vegetation and contributory factors within the objector's land and property. This has been well received by the loss adjusters and their arboricultural consultant, although, to date, the objector has not retracted their objection, nor has any formal application for works been received by the Council.
4. The TPO protects two individual trees. One objection has subsequently been received, which according to the council's standing orders must be considered at planning committee before the order can be confirmed.
5. The site is not located within a Conservation Area.

KEY ISSUES FOR CONSIDERATION

6. The presumption exists that trees subject to a Tree Preservation Order should be retained where they are assessed to contribute positively to the character and appeal of the area, unless substantiating evidence is provided as to why they must be removed.
7. To continue to have effect the TPO attached in Appendix 1 must be confirmed within 6 months from the date of being served. Should it not be confirmed the tree described in the schedule and shown in the plan revert to the lesser protection afforded by its status within the conservation area.
8. The TPO includes two individual trees which have been assessed as contributing to amenity and because of its value to screening and biodiversity.

9. The tree was assessed as attaining a score of 17 (out of a potential total 25) under the Tree Evaluation Method for Tree Preservation Orders (TEMPO), resulting in a decision guide indicating that making a TPO is definitely merited.
10. The confirmation of a TPO cannot be appealed. However, any subsequent refusal of an application for works to a TPO or imposition of conditions upon consent can be appealed to the Secretary of State via the Planning Inspectorate.
11. Anyone proposing to carry out works to a tree or trees subject to a TPO must seek permission from the local planning authority. This involves completing an application form identifying the trees, detailing the works proposed and explaining the reasons for the works. The council's planning officer will usually inspect the trees prior to making a decision and may recommend alternative works or refuse consent. If authorisation is given to fell a protected tree, a new tree will usually be required to be planted as a replacement. However, this will in turn require a new TPO to be served.
12. If a tree protected by a TPO is felled, pruned or willfully damaged without consent, both the person who carried out the works and the tree owner are liable to be fined up to £20,000 through the Magistrates Court or, if taken to the Crown Court, an unlimited fine. There are exceptional circumstances, such as when a tree is dead, dying or dangerous, when permission is not required. However, in order to avoid the risk of prosecution advice must be sought from the council and five days notice given before carrying out any works (except in an emergency).

Policy implications

13. The law on Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
14. Section 197 of the Act imposes a duty on the local planning authority to ensure the preservation and protection of trees whenever appropriate.
15. London Plan Policy 7.21 Trees and woodlands states that trees and woodlands should be protected, maintained, and enhanced, following the guidance of the London Tree and Woodland Framework.
16. The draft New Southwark Plan P60 states that in exceptional circumstances removal of trees protected by TPO or conservation area status will be permitted where sufficient evidence has been provided to justify their loss. Replacement planting will be expected where removal is agreed. The replacement of TPO trees must take into account the loss of canopy cover as measured by stem girth and biodiversity value.
17. The current recommendation supports the relevant national legislation, London and draft Southwark policies to retain trees with proven amenity value.

Objection to the Order

18. One objection has been received from a neighbour.
19. The basis of that objection, is that the neighbour has for over 15 years been suffering from subsidence and that the Lime trees (subject of a Provisional TPO)

are the cause of damage.

20. The basis of the objection is that the Lime trees are causing damage to the property.
21. The neighbour is concerned that until the trees have been removed or substantially cut back, that the insurance company will not make any repairs to the property.
22. Following a request to provide an arboricultural and/or engineering report relating to the alleged damage insufficient evidence has been provided to substantiate the need for removal. No replacement planting is proposed to mitigate the loss of trees or harm to amenity.
23. The submitted arboricultural report undertaken by MWA on the 15 August 2018 recommends the removal of all trees within 15m of the dwelling (TG1, comprising Ash, Elder and Sycamore), the felling of one Lime, T6 (covered by the Tree Preservation Order), it was advised that trees T1 to T5 not to be allowed to exceed current dimensions.
24. Site investigations have positively identified Lime and only Lime roots. Despite this all of the trees within Tree Group 1 have been removed at the rear of 157 Dunstons road, a shrub boundary has been removed, T3 a Plum has been removed and trees T1 and T2, a Cypress and an Apple will be lost to the approved development of a 2 storey house upon construction.
25. It should be noted that two mature Limes exist side by side and are protected by the order, however the submitted arboricultural report refers to only one.
26. Whilst roots of live appearance may be located in close proximity to a building this does not always equate to vegetative related subsidence.
27. Furthermore other contributory factors, including differential foundations, internal alterations, point loading and a lack of lateral restraint have not been fully investigated.
28. Crack monitoring has shown recovery at the passage area between the kitchen and bathroom. This is the only internal monitoring data supplied to the council.
29. This would indicate that any remedial works which have so far taken place have been effective.
30. Elsewhere, crack monitoring relates solely to an external retaining wall which does not form part of a habitable structure and may be failing due to poor design.
31. Level monitoring had not been undertaken at time of serving the Tree Preservation Order, in line with best practice for assessing claims in relation to vegetative related subsidence.
32. The Lime trees are located 18 metres from the subject property with the base of the tree 2.7 metres higher than the ground level of the property. Other trees within close proximity to the property have or are due to be removed.
33. A scheme, submitted by the objector (17/AP/0398) for the erection of a two storey property with lower ground floor has been approved by the council. The

construction of which will result in major root severance of the two Limes and form an effective barrier between the trees and the objector's property.

34. The loss adjusters for the objector have since accepted the council's proposal for a 30% lateral reduction and we await a formal application on that basis.
35. Communication received by the council on the 18 November 2019 states: "Please note our interest in the 30% reduction proposal providing we provide you with the required evidence to demonstrate the influence of the Lime tree (T6). We are currently in the process of obtaining level monitoring data and once we are in receipt of some comparative readings, we will look at submitting the application to the Council for a 30% reduction to the implicated Lime tree once we have obtained the required amount of evidence to support an application (T6)"
36. At this stage it is considered that there is insufficient evidence to establish that the tree is the primary cause of any damage; level monitoring is continuing. As such the need for tree removal, is considered disproportionate and unnecessary. There is no reason why the tree could not continue to be maintained on a regular basis under the protection of a TPO.
37. Little consideration has been given to alternative solutions such as why pruning may not be appropriate in order to avoid the need for felling.
38. The implementation of an approved development will effectively create a root barrier through the severance of roots.
39. The law requires that in order for a TPO to be served the amenity must be assessed. The TEMPO methodology has in this instance been applied correctly taking into account any evidence of trees being a nuisance based on the available evidence.
40. The Lime trees are in a reasonable condition without structural defects or signs of decay, with a safe useful life expectancy of at least 40 years. The specimens can be seen from Goodrich Road and Donkey Alley.
41. The council would not unreasonably withhold approval of suitable works in order for these trees to continue to provide valuable amenity whilst abating nuisance or contact with adjacent property
42. Photos of the trees are included within the TPO at Appendix 1.
43. Should the recommendation be accepted and the order confirmed then an application to carry out works can be submitted in the usual way with consent or refusal considered on the basis of any further evidence provided.
44. Any proposed works to protected trees are consulted upon and responses are taken into account when determining the application.

Consultation

45. The TPO was lawfully served to the property and affected parties and included in the TPO register which is publically available online. Once confirmed the planning and land charges registers are updated.

Conclusion

46. Making a TPO affects the ability of a tree owner to manage and deal with the tree as they see fit. The trees in question must be of sufficient quality to be considered worthy of protection to justify the imposition on the owner that a TPO constitutes.
47. It is recommended for the reasons set out above that the tree is of sufficient quality to justify TPO status.
48. In this instance it is claimed within one objection that damage has occurred to one property and that the subject tree is the cause of that damage.
49. In an urban or suburban setting most trees will have the ability at some stage in their lifespan to potentially affect the built environment around them. A degree of proportionality has to be exercised as to the extent of that impact and what might constitute mitigation of any proven damage or nuisance.
50. Whilst there is no right of appeal against confirmation, the affected parties can apply with further evidence to carry out works to the tree should that be considered necessary. This is considered to be sufficient protection of the rights of all parties concerned and their ability to enjoy and protect their property.
51. Should the provisional TPO not be confirmed, there are no legal obstructions to removing these trees.
52. It is therefore recommended that in order to avoid repeated recourse to a TPO that the provisional order is confirmed unamended. Any refusal of consent for works to the tree in future may then be appealed to the Planning Inspectorate for an independent assessment and decision to be made by that body in the usual way.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

53. The original Tree Preservation Order was made on 2 October 2019 and this protects the trees for up to six months unless confirmed and made permanent.
54. The report refers to the duty imposed upon Councils by virtue of section 197 of the Town and Country Planning Act which requires the authority to ensure the preservation and protection of trees where appropriate.
55. In this instance, two objections to the Order have been received.

Legislative requirement

56. The TPO lapses on 2 April 2020 if not confirmed.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
TPO guidance https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#confirming-tree-preservation-orders	Online	NA
TEMPO guidance http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf	Online	NA
Southwark Council TPO information http://www.southwark.gov.uk/environment/trees/tree-preservation-orders-and-conservation-areas	Online	NA
Southwark TPO register https://geo.southwark.gov.uk/connect/analyst/mobile/#/main?mapcfg=Southwark%20Design%20and%20Conservation&overlays=TPO%20zones	Online	NA

APPENDICES

No.	Title
Appendix 1	Provisional TPO

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Liam Bullen, TPO Surveyor	
Version	Final	
Dated	20 February 2020	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	21 February 2020	



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20-Feb-2020

PLANNING SUB-COMMITTEE B AGENDA DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2019-20

NOTE: Original held by Constitutional Team all amendments/queries to Beverley Olamijulo: telephone 020 7525 7234.

Name	No of copies	Name	No of copies
To all Members of the sub-committee			
Councillor Cleo Soanes (Chair)	1	Environmental Protection Team	1
Councillor Maria Linforth-Hall (Vice-chair)	1		
Councillor Maggie Browning	1		
Councillor Sirajul Islam	1	Communications	By email
Councillor Bill Williams	1	Louise Neilan, media manager	
		Total:	18
(Electronic version only)			
Councillor Martin Seaton			
Councillor Nick Johnson		Dated: 25 February 2020	
(Reserves to receive electronic versions only)			
Councillor Sarah King			
Councillor Graham Neale			
Councillor Margy Newens			
Councillor Jason Ochere			
Councillor Kath Whittam			
Officers			
Constitutional Officer, Hub 2 (Second Floor), Tooley Street	8		
Philippa Brown / Affie Demetriou	2		
Alex Gillott /Jon Gorst, Legal Services, Hub 2 (Second Floor), Tooley Street	2		