

<b>Item No:</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 11 March 2014	<b>Meeting Name:</b> Planning Sub-Committee A
<b>Report title:</b>		<b>Addendum</b> Late observations, consultation responses, and further information.	
<b>Ward(s) or groups affected:</b>		College, East Walworth, Grange, Peckham, Peckham Rye	
<b>From:</b>		Head of Development Management	

## PURPOSE

- 1 To advise Members of observations, consultation responses and further information received in respect of the following planning applications on the main agenda. These were received after the preparation of the report and the matters raised may not therefore have been taken in to account in reaching the recommendation stated.

## RECOMMENDATION

- 2 That Members note and consider the late observations, consultation responses and information received in respect this item in reaching their decision.

## FACTORS FOR CONSIDERATION

- 3 Late observations, consultation responses, information and revisions have been received in respect of the following planning applications on the main agenda:

### 3.1 **Item 8.1 and 8.2 – Car Park, 5-11 Pope Street SE1**

### 3.2 A letter raising further remarks/concerns/objections has been received:

Point 5: The officer report mentions 12 houses in the site in the 19th century. It is not clear whether the site included the small houses now existing on Tanner Street (opposing Florin Court) and whether the site was in fact holding 8 houses?

*Officer response:*

*Historic maps appear to show a terrace of 8 houses on the site and 4 houses at 1 - 4 Pope Street.*

Point 17: The officer report states that the height of these 8 houses is not known. The objector requested that an indication of their height "in location" (with a picture maybe) be provided.

*Officer response:*

*No documents are available showing the height of the 8 houses in question.*

Point 22: The interpretation of the BRE guide is confusing and confirmation is required that 9 windows do not pass the Vertical Sky Component (VSC) test.

*Officer response:*

*9 windows on the first floor of 166-168 Tower Bridge Road do not pass the Vertical Sky Component (VSC) test.*

The sentence "the BRE guide however acknowledges that if an existing building stands close to the common boundary, a higher degree of obstruction may be "unavoidable". As a matter of fact, the contemplated project is not an existing building facing 166 Tower Bridge Rd. While looking at light issues officers shouldn't be looking at the loss of light of the people in the contemplated project, but at the loss of light of people in the existing building. If the contemplated project would be different, the loss of light would be avoidable for us so why ignoring the VSC test and deem the loss of light is "unavoidable".

Secondly, the mirror image is not relevant in this case simply because in the first place, the development is not respecting the 12 metres distance that is recommended. At such a small distance, mathematically speaking the mirror image will always work unless the project you look at is bigger than your own building.

*Officer response:*

*BRE guidance relates to both the loss of light of the people in the contemplated project and the loss of light for people in existing buildings.*

Appendix F of the BRE guidance provides guidance on situations where the issue is whether the existing building is itself a good neighbour, standing a reasonable distance from a boundary. Appendix F 'Setting alternative target values for skylight and sunlight access' contains guidance on using a method which constructs an imaginary 'mirror image' building the other side of the boundary.

Additionally, the Daylight and Sunlight Study measures the loss of light at windows level and doesn't account for the room breadth where the light is lost. Hence in the case of 166 Tower Bridge Road, and considering the architecture of the building, which has been existing for over a decade, the loss of light is way more important.

*Officer response:*

*The daylight and sunlight report has been carried out by experts using all the information that was available at the time. Where internal layouts have not been available, reasonable assumptions have been made on room sizes.*

*Irrespective of the actual room sizes, the windows would not fail on the BRE guidelines. It should also be noted that the kitchen element of any apartment, if it is under 13 square metres, is excluded from consideration.*

Point 27: Thanks for mentioning what we are in fact entitled to have in terms of rights....12 metres distance, not 6m.

*Officer response:*

*Whilst the Council's Residential Design Standards refer to 12 metres being the normal separation standard where buildings face each other across a street, regard has to be had to the circumstances of the scheme in question and the particular site context in each case. In this case, the context of the site is a tight urban location where buildings generally stand closer to each other and yet*

*manage to co-exist successfully. Given this context it is considered that a narrower separation is acceptable in this instance.*

Point 29: The window labelled 26 on the plan is literally "surrounded" by two windows of the new houses (2.5 and 3.3). The new residents can look into the room. Windows 2.4 of the new houses is overlapping (in over 75% of its surface) window labeled 33. Hence the risk of overlooking is clear, and distance has mentioned in point 29 is not standard versus what is recommended by the council itself. As a result, if objectors are obliged to compromise on the distance there cannot be such obvious overlooking situation and therefore the windows 2.4, 2.5 and 3.3 have to be modified (ie. reduced or removed) to avoid the overlooking.

*Officer response:*

*It is not clear that the window numbers referred to by the objector are correct, but it is likely that the windows mentioned in the proposed development are associated with kitchens which are less likely to lead to overlooking compared to living room windows (which in this case are designed to minimise loss of privacy through overlooking).*

Point 32 and 33: Despite obvious and recognized enclosure (point 32) for floor 1 and 2 of 166 Tower Bridge Road why is the project not required to be modified? The objector disagrees with the assessment in point 33 that if the project was one floor lower it wouldn't change anything. Officers have no proof it would not improve the situation and in fact this is going against common sense. If the building was one floor lower, there will be no nuisance to floor 3 of 166 Tower Bridge Rd (compared to now) and the situation of floor 2 would be improved with limited loss of light and overlooking risk. While overlooking situation would not be changed for floor 1, the light situation would be improved, at least slightly, as the building in front of them would be lower. Hence, I would like to have the clear explanation on why one floor lower wouldn't contribute to at least improve the situation slightly.

*Officer response:*

*It is considered that the sense of enclosure to the flats on the first floor would be very similar to the current scheme even if there were a reduction to the scheme..*

Point 34: As mentioned above and related to point 29, there is a clear risk of overlooking into 2 windows of the first floor flats.

*Officer response:*

*It is not clear that the window numbers referred to by the objector are correct, but it is likely that the windows mentioned in the proposed development are associated with kitchens which are less likely to lead to overlooking compared to living room windows (which in this case are designed to minimise loss of privacy through overlooking).*

Point 36: The current proposed windows arrangement is not satisfying enough - the second bedroom (to be a child room - windows labeled 26) is subject to overlooking by 2 windows in the proposed plan. Risk also exists for the window of a kitchen-living room (labeled 33). This is a significant issue for privacy as most time a child would spend is in his/her room, and adults spend a significant amount of time in their living room/kitchen.

*Officer response:*

*It is not clear that the window numbers referred to by the objector are correct, but it is likely that the windows mentioned in the proposed development are associated with bedrooms which would be less used in comparison to living rooms.*

### Changes to Conditions

3.3 Officers recommend the following changes to conditions:

Removal of condition 3 (as it is not appropriate or necessary for a development of only 5 new single dwellings):

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling / disposing of waste resulting from demolition and construction works

Reason:

To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of pollution and nuisance, in accordance with strategic policy 13 'High environmental standards' of the Core Strategy (2011) saved policy 3.2 'Protection of amenity' of the Southwark Plan (2007), and the National Planning Policy Framework 2012.

3.4 Removal of condition 13: (as the site is not directly adjacent to a noise generating source):

The dwellings hereby permitted shall be designed to ensure that the following internal noise levels are not exceeded due to environmental noise:

Bedrooms- 30dB LAeq, T \* and 45dB LAFmax

Living rooms- 35dB LAeq, T †

\*- Night-time 8 hours between 23:00-07:00

†Daytime 16 hours between 07:00-23:00.

Reason:

To ensure that the occupiers and users of the development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources in accordance with the National Planning Policy Framework 2012, strategic policy 13 'High environmental standards' of the Core Strategy (2011), saved policies 3.2 'Protection of amenity' and 4.2 'Quality of residential accommodation' of the Southwark Plan (2007).

3.5 Wording of condition 8 amended to identify the required Code level - changed from `3 or 4` to `4`.

3.6 **Item 8.3 – 88 Brandon Street SE17**

3.7 Change condition 2 to read:

The rear (north facing) windows shall be installed as obscure glazed, or an obscure glazed screen shall be applied, and shall thereafter be maintained as such.

Reason:

In order to avoid harmful overlooking, and to ensure the protection of amenity of nearby neighbours, in accordance with the National Planning Policy Framework 2012, Strategic Policy 13 - High Environmental Standards of The Core Strategy 2011 and Saved Policy: 3.2 Protection of Amenity of The Southwark Plan 2007.

3.8 Additional condition:

The cladding to the rear (north) wall shall be altered in accordance with the same submitted alternating colour scheme and banding of the front (south) wall and flank walls (east and west) as set out on approved drawings 1816.SS.01 and 1816.SS.02.

Reason:

In order to ensure all elevations to the building are consistent in appearance, and to be in accordance with saved policy 3.12 Quality in Design of the Southwark Plan 2007, and SP12 Design and Conservation of the Core Strategy 2011.

3.9 Clarification on neighbour representation :

The comments from 102 Brandon Street are listed in the report as being an objection, whereas their context was more as general comments rather than an objection.

3.10 **Item 8.4 – Dulwich College, Dulwich Common**

3.11 Additional objection received from local resident

The comments received raises concerns that the main report does not appear to take account of the relevant case law in respect of MOL. The resident claims that it appears that Southwark are relying on the fact that the harm caused to the Metropolitan Open Land (MOL) is slight as the very special circumstances justifying approval.

The courts have emphasised on more than one occasion that the circumstances must indeed be “very special”, as opposed to common or garden planning considerations. The resident then provides an example of case law. The objector also highlighted that case law has been established that the “absence of harm” will rarely be sufficient to constitute very special circumstances.

The objector therefore requests an update to indicate what the very special circumstances are to justify what is accepted to be inappropriate development.

### Officers' response

*As stated in the main report under the Principle of Development section, in respect of MOL the proposed development for the creation of classrooms does not fall within the definition of 'appropriate' development, and therefore this proposal has been considered as 'inappropriate' development.*

*There is a general presumption against inappropriate development in Metropolitan Open Land (MOL). When considering any planning application, substantial weight should be given to any harm to any MOL. Para 87 of the National Planning Policy Framework (NPPF) confirms that inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify appropriate development will not exist unless the harm by reason of the inappropriateness, and any other harm, are clearly outweighed by other considerations.*

*In this case there are considered to be very special circumstances as the proposal is situated within an established group of school buildings and there would be educational benefits from the development. The new science block would provide for much improved facilities. Strategic Objective 1B of the Core Strategy advises that Southwark will be a place that creates positive futures by building, redeveloping and improving educational facilities with good access for everyone. Furthermore, Strategic Policy 4 'Places for Learning, Enjoyment and Healthy Lifestyles' of the Core Strategy also encourages the building of new schools and improving existing schools to provide improved education opportunities. It is considered very important that the Council continue to increase the quality of our existing schools.*

*The proposal would replace an existing building in a broadly similar position, application is a section 73 application (material minor amendment) to approved scheme 12-AP-3691 and the principle of development has already been established. The openness of the surrounding MOL is not considered to be impacted upon given the circumstances.*

*In light of the above comments, there are very special circumstances to justify the development.*

*Whilst Officers have indicated above that this proposal has been considered as 'inappropriate' development in MOL, but there are very special circumstances to justify this, Members should also be made aware that the NPPF highlights the exceptions to construction of new buildings in Green Belt (in this instance the MOL as it is within London). Para 89 of the NPPF lists those exceptions where they may be appropriate development and in particular highlights that limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt (MOL) may be possible. The site already comprises an existing building and is considered brownfield land in this instance and the development would not impact on the openness of the surrounding MOL.*

*Overall, officers maintain the view that the proposal is justified in MOL given the particular circumstances that pertain here.*

### 3.12 Item 8.7 St George's Church, Wells Way SE5

3.13 For the sake of clarity, the proposal is considered to be appropriate development in MOL as it constitutes a very modest development which does not materially impact on openness on what is a previously developed site (i.e within the curtilage of the former St George's Church on a hard paved area) and therefore in accordance with the NPPF para 89.

#### REASON FOR LATENESS

4. The comments reported above have all been received since the agenda was printed. They all relate to items on the agenda and Members should be aware of the objections and comments made.

#### REASON FOR URGENCY

5. Applications are required by statute to be considered as speedily as possible. The application has been publicised as being on the agenda for consideration at this meeting of the sub-committee and applicants and objectors have been invited to attend the meeting to make their views known. Deferral would delay the processing of the applications/enforcements and would inconvenience all those who attend the meeting.

#### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Individual files	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403.

#### APPENDICES

No.	Title
Appendix A	Correct map for item 8.4

## AUDIT TRAIL

<b>Lead Officer</b>	Gary Rice, Head of Development Management	
<b>Report Authors</b>	Andre Verster, Team Leader Wing Lau, Planning Officer Susannah Pettit, Planning Officer Michael Glasgow, Senior Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	11 March 2014	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Strategic Director of Finance and Corporate Services	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Community Services	No	No
Director of Regeneration	No	No
<b>Date final report sent to Constitutional Team</b>	11 March 2014	