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Item No. 7.2	Classification: Open	Date: 2 November 2022	Meeting Name: Planning Committee
Report title:	The council's Statement of Case for an appeal in relation to Avonmouth House, 6 Avonmouth Street, London, SE1 6NX (a 16 storey scheme, reference (21/AP/4297)		
Ward(s) or groups affected:	Chaucer		
From:	Director of Planning and Growth		

RECOMMENDATIONS

1. That Planning Committee:
 - 1) Note that the appeal for non-determination has been received in respect of planning application reference 18/AP/4039 and application for listed building consent reference 21/AP/4297, that this is a major application that would normally have been considered and determined by planning committee but will now be determined by the Secretary of State.
 - 2) Note that a planning inspector has been appointed to decide the appeal and that a planning inquiry has been listed with a time estimate of six days at present, on 14 - 16 December and 19 - 21 December 2022. Further days have been reserved on 22 and 23 December 2022 (the Inspector will review whether all of these days are required following the consideration of this report by the planning committee).
 - 3) Consider and endorse the Statement of Case at Appendix 1 which has been submitted to the planning inspectorate and includes the likely reasons for refusal of the application had they not been appealed for non-determination. These likely reasons for refusal relate to the following topics:
 - An unacceptable impact on townscape and local character and;
 - A lack of a S106 agreement to secure obligations to mitigate harm and secure planning benefits.
 - 4) That members note the significant concern expressed by the Health and Safety Executive about this development in relation to fire safety and agree non-compliance with D12 Fire Safety as an additional reason for refusal.

BACKGROUND INFORMATION

2. The purpose of this report is two-fold. Firstly to inform planning committee about the appeal for non-determination in respect of the application for planning

permission (reference 21/AP/4297) and secondly to request that planning committee consider and endorse the Statement of Case, at Appendix 1 to this report which, in accordance with the timetable for the appeals, has already been submitted to the Planning Inspectorate. The Planning Inspectorate has appointed an Inspector to consider the appeals on behalf of the Secretary of State.

3. As the application is now the subject of appeal, planning committee will no longer be able to decide the application in the usual way as the decision will be made by the Inspector. However, as it is the role of planning committee to consider major and strategic applications, this report seeks to provide further information about the application and the content of the Statement of Case, which forms the basis of the case which the council will present at the public inquiry.
4. An application for a second scheme on the same site but for a development of 14 storeys was submitted in May 2022 (reference 22/AP/2227) which is under consideration and officers are likely to recommend this application for approval soon.
5. The appellant, Tribe Avonmouth House Limited, submitted their appeal in on 15 July 2022, the Planning Inspectorate informed the council on 30 August that the inquiry procedure is to be followed and gave directions that the council's Statement of Case had to be submitted by 4 October 2022. The council is required to keep to the timetable and there are potential costs implications for failing to comply. Given the deadline for submission of the Statement of Case, there was not enough time to report to planning committee in advance of submission. The submitted Statement of Case contains the likely reasons for refusal had the council determined the applications, and therefore summarises the case that the council will present at the forthcoming inquiry. Whilst the Statement of Case has now been submitted in accordance with the procedural rules, the planning committee are asked to consider and endorse its contents. It is important to note that officers, following further analysis, consider that the reason for refusal relating to the impact on the listed court building should not be pursued. The initial Statement of Case included a putative reason for refusal regarding the impact on the listed court building however following this officers have further analysed this and concluded that there would not be a harmful impact so submitted an amended statement of case on 13 October which is the document appended to this report.

The application

6. This planning application was submitted in November 2021 and the description of development read:

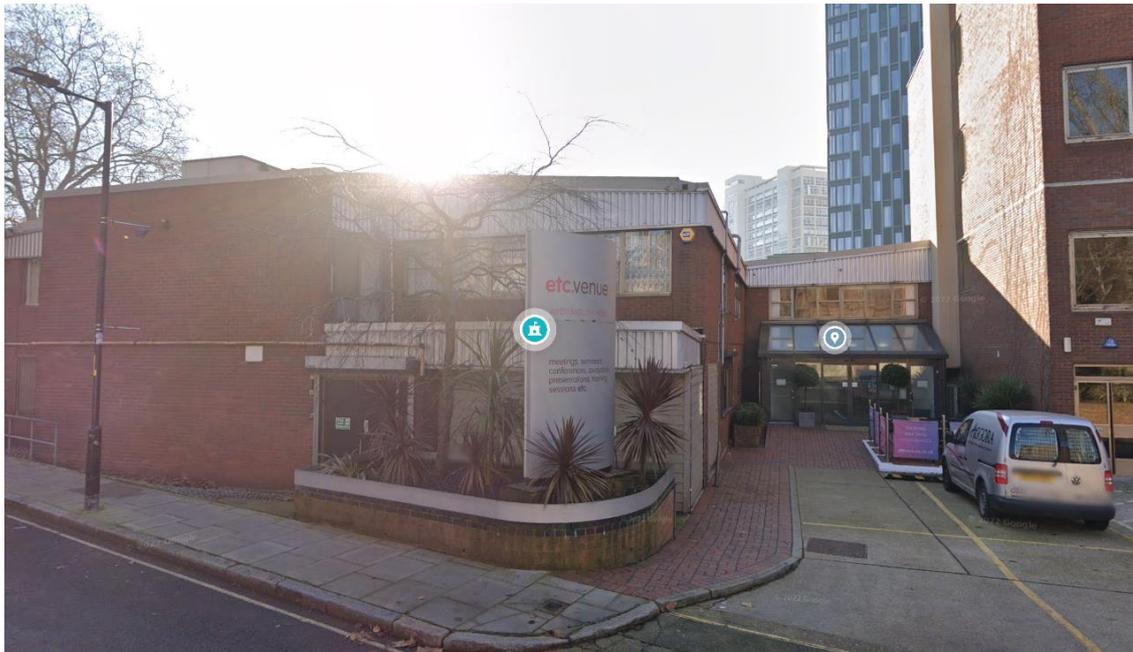
Demolition of existing building and structures and erection of a part 2, part 7, part 14, and part 16 storey plus basement development comprising 1,733sqm (GIA) of space for Class E employment use and/or community health hub and/or Class F1(a) education use and 233 purpose-built student residential rooms with associated amenity space and public realm works, car and cycle parking, and ancillary infrastructure.

Site location and description

7. The Site as existing comprises a building used as a training venue and ancillary service yard located to the south of Newington Causeway. Avonmouth Street runs south east from Newington Causeway before returning south west to wrap around the warehouse building on the site. The site is bounded by buildings fronting Newington Causeway to the north west, modern annexes to the Inner London Sessions Court located across Avonmouth Street to the north, Newington Gardens open space to the south east and Telford and Stephenson's Houses, comprising 5 storey interwar council estate blocks to the south west. Beyond the site to the south west, Avonmouth Street becomes Tiverton Street, where a 24-storey hotel known as the Ceramic Building is located.



Existing site plan



Site looking southwest from Avonmouth Street

8. The Site is within the Central Activities Zone, the Elephant and Castle Opportunity Area, and the Elephant and Castle major town centre. It is also within North Southwark and Roman Roads Archaeological Priority Zone, flood zone 3 and the air quality management area.
9. The Site is not within a Conservation Area. It is not within the background assessment area London View Management Framework (“LVMF”) views or protected local borough views. There are no protected trees within the Site nor adjacent to it. The Inner London Sessions Court building located approximately 40m to the north east of the site is a Grade II listed building.
10. The Site has a PTAL of 6b due to its proximity to the Elephant and Castle rail and Underground stations and bus routes in the area. Access to the Site is from the northern portion of Avonmouth Street, where the shared service yard is located itself hosting the entrance to the warehouse building situated on the application Site
11. To the north of the Site are the rear of buildings fronting Newington Causeway. These comprise:
 - No. 2 Avonmouth Street, a four storey Victorian building in residential use with a rear elevation facing onto the site and service yard,
 - Balppa House, 57 – 61 Newington Causeway, a five storey mixed use building with ground floor retail and residential at floors 1 – 3
 - Coburg House, 63 – 86 Newington Causeway, a four storey office building with servicing access to the rear
 - No. 69 – 71 Newington Causeway, a four storey office building
 - No. 73 – 75 Newington Causeway, a four storey period property in office use and which is identified as an undesignated heritage asset
12. To the east but not immediately adjoining the site is a two storey building hosting

the Southwark Theatre, at 77 – 85 Newington Causeway. To the immediate east of this is a 24 storey mixed use building hosting hotel and residential use known as the Ceramic Building, addressed 87 Newington Causeway. Further south along Newington Causeway, the tallest building in the vicinity of the site comprises a 41 storey building located on Newington Causeway, addressed 251 Southwark Bridge Road.

13. Across Avonmouth Street to the north of the site are the modern annexes to the Inner London Sessions Court, beyond which is the Grade II listed court building. To the east and south east of the site is Newington Gardens, a local open space, identified as an undesignated heritage asset of approximately 1.2ha.
14. To the south and south west of the site are two five storey interwar council estate blocks: Telford House and Stephenson House, set in ancillary landscaped amenity areas. Both blocks are part of the wider Rockingham Estate located to the south and south west of the Site

Summary of the proposal

15. The application proposed the demolition of the existing buildings and the construction of a part two, seven and 14-storey building. A two-storey basement is also proposed, though the lower part would only cover part of the site. The basements, ground and first floor would provide a mix of storage facilities (cycle and refuse), lobbies and a flexible non-residential space which the appellant would use as education/employment floorspace or a health hub. The floors above are proposed as student accommodation with most of the accommodation- 217 rooms- being in the form of cluster flats. 16 studios are proposed with 12 of these being accessible units.



Proposed ground floor plan

16. Across the site, a total of 8789.45sqm GIA of floorspace is proposed, comprising 1733sqm employment/education/community health hub and 7056.45sqm residential student accommodation.
17. The development would be stepped from seven to 14 and then to 16 storeys as seen on Avonmouth Road in the image below. A lower two storey element would be on the northwest part of the site closest to the rear of the buildings on Newington Causeway.



Elevation on Avonmouth Street



Render of the development from Newington Causeway looking southeast



Render of the proposed development looking north along Tiverton Street

Public realm

18. A triangular pocket park would be provided on the southern part of the site functioning as an area of public realm while a communal amenity space would be provided on the roof of the seventh floor element for residents.



Landscaping plan



Render looking along Avonmouth Street showing the pocket park on the left

Servicing and parking

19. Deliveries and servicing by larger vehicles, including refuse vehicles, would take place on Avonmouth Street as is presently the case. Smaller vehicles such those used by couriers would service the building from within the site in the forecourt.
20. A total number of 210 cycle parking spaces are proposed with 176 long stay spaces, 24 long stay spaces within the site for resident students and users of the commercial space at ground floor. 10 visitor parking spaces are proposed within the public realm. The scheme would be car-free except for one blue badge car parking space in the fourcourt.

Planning history of the site

21. The relevant planning history of the site is in the table below.

Application reference	Description of Development	Date received	Decision
89/AP/0133	Change of use from office B1 to educational D1 at 6 Avonmouth Street SE1	10 January 1989	Granted
04/AP/1181	Retention of external refurbishment works to include new planters, resurface existing driveway, installation of new railings to semi-enclosed area and installation of a double set of doors to entrance	2 July 2004	Granted
04/AP/1607	Relocation of existing free standing advertisement sign, to be positioned within a proposed planter	1 September 2004	Granted

22. In addition to the subject appealed application, there is a live planning application at the site (ref: 22/AP/2227) with a statutory expiry date of 30 August 2022. The application is for:

“Demolition of existing building and structures and erection of a part 2, part 7, part 14 storey plus basement mixed-use development comprising 1733sqm (GIA) of space for class E employment use and/or class F1(a) education use and 219 purpose-built student residential rooms with associated amenity space, including at 7th floor roof level, and public realm works, car and cycle parking, and ancillary infrastructure..”

Planning policy and material considerations

23. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.
24. The statutory development plans for the Borough comprise the London Plan (2021) and the Southwark Plan (2022). The National Planning Policy Framework (2021), SPDs, SPGs, draft LPGs and other planning documents constitute material considerations but are not part of the statutory development plan. A list of the relevant policies, guidance documents and other material considerations which are relevant to this application is provided within the Statement of Case at section 7.
25. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) requires decision-makers determining planning applications for development within conservation areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act also requires the authority to pay special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess.
26. There are also specific statutory duties in respect of the Public Sector Equalities Duty which are referenced in the overall assessment at the end of the report.
27. The site is located within the:
 - Elephant and Castle Major Town Centre;
 - Strategic Cultural Area – Elephant and Castle Strategic Cultural Quarter;
 - Elephant and Castle Opportunity Area;
 - Central Activities Zone;
 - Archaeological Priority Area (North Southwark and Roman Roads);
 - Air Quality Management Area; and
 - Environment Agency Flood Zone 3 area
28. The site forms part of SPD 46- 63-85 Newington Causeway.

KEY ISSUES FOR CONSIDERATION

29. As a major redevelopment that includes a tall building, the submitted planning application has been assessed against many policies within the development plan, the NPPF, guidance and other material considerations. The proposal complies with some aspects of the development plan, but is contrary to others, namely the policies relating to the impact on townscape and fire safety in addition to that for planning obligations. The extent and significance of the conflict with policy forms part of the council's case for why planning permission should be refused.
30. This section of the report has two areas; firstly, the planning issues that form the council's likely reasons for refusal in its Statement of Case; secondly, a summary

of the topics that are not identified as likely reasons for refusal within the Statement of Case.

1) Summary of likely reasons for refusal in the Statement of Case

31. The council's case in response to the appeal focuses on two main issues that would have been likely reasons for refusal of the planning application:
- The proposed development would be contrary to policies P13 (Design of Places) and P17 (Tall Buildings) of the Southwark Plan 2022 because it fails to respond positively to the existing character and context and would as a result cause harm to the local townscape. Officers do not consider that the public benefits of the scheme in providing commercial space and residential student housing outweigh the harm.
 - The lack of a completed section 106 agreement or unilateral undertaking fails to secure planning obligations to mitigate adverse impacts and secure public benefits.

An issue that came to light following the submission of the statement of case was a significant concern raised by the HSE in relation to fire safety so officers are asking members to endorse a third reason for refusal:

- The proposed development would not achieve the highest standards of fire safety as required by policy D12 of the London Plan 2021 following the significant concern identified by the Health and Safety Executive.
32. The original statement of case submitted to the Planning Inspectorate for the council on 4 October included a reason for refusal on the harm to the listed court building. As mentioned above, officers have further analysed this point and withdrew this punitive reason for refusal, submitting an amended statement of case excluding this on 13 October.
33. The reason for refusal on townscape is set out in the Statement of Case, which is an appendix to this report, and is reproduced in the paragraphs below with additional with images and diagrams to illustrate the issues. Additional information is also provided on the matter of fire safety and the lack of a s106 agreement.

Impact on townscape and local character

34. Policy P13 ('Design of places') of the Southwark Plan (2022) requires the height, scale, massing and arrangement of development proposals to respond positively to the existing townscape, character and context.
35. Policy P17 ('tall buildings') additionally requires development proposals for tall buildings to respond positively to local character and townscape. The policy goes on to define tall buildings as those being either above 30m (or 25m where they are located within the Thames Special Policy Area) and also 'where they are

significantly higher than surrounding building or their emerging context.’ The policy has a number of other criteria which proposals for tall buildings are required to conform to, and the council requires these to have been adequately addressed

36. Policy P19 (‘Listed buildings and structures’) states that development which relates to listed buildings and their setting will only be permitted if it conserves or enhances a listed building’s special significance in terms of, among other things:
- Architectural style and features of a listed building
 - The contribution a development proposal makes to a listed building’s setting; and
 - Views which contribute positively to the significance of the building or its setting.
37. The planning application for the proposal was supported by a heritage and townscape visual impact assessment (HTVIA). This set out how the proposal would appear in key local views were it to be implemented. Several of the townscape views demonstrate the building to be tall enough, relative to the context of the site, to cause harm on the townscape and by extension local character of the immediate area. It is the council’s view that this is in part incurred as a result of the scale and overall 16 storey height of the proposed building, which is compounded by the proposed architectural approach to the crown of the building, with the top two storeys (floors 14 & 15) in a darker colour redbrick, contrasting strongly with the light-buff-brick-led façade of the remainder of the tower below, and which provides an impression of a top heavy, building within the streetscape. Consideration has been given to whether a change in material to match the rest of the building would reduce the impact to an acceptable level and it would not; the building would still appear incongruous within the townscape to an unacceptable degree
38. For the purposes of this Statement of Case and the council’s assessment of the impact of the proposal on the local townscape, the relevant views set out in the submitted HTVIA have been grouped into 3 types:
- Local townscape views from streets adjoining the Site and local estate roads which adjoin them
 - Views from within and across the Newington Gardens open space
 - Views from within the wider townscape, including those featuring the Grade II listed Inner London Sessions Court building
39. The views of each group tested and set out in the HTVIA and are listed below:

40. Local townscape views:



View 1 (Tiverton Street)



View 2 (Stephenson House to the East of the Railway Viaduct)



View 3 (Stephenson House to the South Corner of the Quadrangle)

41. Views across Newington Gardens



View 4 ('Stephenson House, to the West of Newington Gardens')



View 5 ('Newington Gardens, South Corner')



View 6 ('Newington Gardens, South East Side')

42. Views of the wider townscape



View 8 ('Harper Road, at Swan Street')



View 9 ('Harper Road, Opposite Inner London Crown Court Car Park')



View 11 ('Newington Causeway near the Junction with Avonmouth Street')

43. The primary elements of the local townscape which the proposed building is required to positively respond to include:

- the five-storey, red brick interwar council estate housing blocks of Telford and Stephenson Houses

- The Grade II listed Inner London Sessions Court
 - the four-storey contemporary, blue-rendered four-storey mixed use block of Balppa House located on the corner of Newington Causeway and Avonmouth Street
 - the landscape and greenery afforded by Newington Gardens
44. In addition to buildings located in wider views, including the 24-storey 'Ceramic Building', addressed 87 Newington Causeway, located to the south-west of the Site, opposite Telford House and which has a four-storey podium level fronting the streetscape, in addition to the 41 storey 251 Southwark Bridge Road, located on the opposite side of Newington Causeway and railway viaducts that bisect that section of the road
45. Views 1 – 3, 8 – 9 and 11 demonstrate that the proposed building is of a height that is out of character with the existing townscape in the immediate and wider vicinity of the Site. This is as a primarily as a consequence of the proposed height of the building at 16 storeys. It is acknowledged that the surrounding townscape character is mixed in terms of building scale and architectural design, and that this site is potentially suitable for a taller building as set out in the NSP site allocation NSP46. A building which was taller, but not as tall as the proposed, could potentially meet NSP policy requirements.
46. The proposed 16-storey building does not successfully respond to the existing townscape of taller buildings located towards the Elephant and Castle town centre, in including in the context of the views of the Inner London Sessions Court (Views 8 and 9), in which these existing taller buildings also appear. Due to the location of the site and its distance from the Elephant and Castle town centre, the 16 storey building's scale is read within the townscape of being the same height as that of the 24 storey Ceramic building located to the south west of the Site
47. Within these townscape views, the proposal would be contrary to the council's otherwise consistent approach of steering development of taller buildings (both approved and anticipated to come forward) towards locations where the imposing impact of the taller height on the townscape is justified, such as at the convergence of key routes or focuses of activity. The results of this strategy are demonstrated clearly in Views 8 and 9, where 251 Southwark Bridge Road is remains as the tallest building while being located closest to the Elephant and Castle town centre (and so furthest away from the Site), and which the Ceramic Building is appropriately subservient too. This progression of scale of buildings within the townscape would not be achieved with the 16-storey proposal within these views.
48. The proposal is considered to be excessively tall in relation to the five-storey housing blocks of the Rockingham Estate as demonstrated in Views 1 – 3 of the HTVIA. In Views 2 and 3 in particular, the proposal is considered to harm this part of the townscape due to
49. The tested views from and across Newington Gardens within the submitted HTVIA show the Gardens' trees with full foliage, obscuring the proposed building on the Site. The Council is of the view that the full impact of the proposal has not

therefore been readily available for assessment within the submission. It is likely that in the winter the lower floors of the building would remain partially obscured by branches of the trees which are relatively dense, while the upper storeys of the building's 16 storey height would be more visible.

Conclusion on the proposal's conformity with Policy P13 ('Design of places'), P17 ('Tall buildings') and P19 ('Listed buildings and structures')

50. The above analyses set out how the proposal does not respond positively to the existing townscape, character and context of the Site and is on this basis contrary to policies P13, P17 and P19 of the Southwark Plan (2022). This is with particular regards to the substantially lower scale buildings of the proposal's immediate context, the views from and across Newington Gardens and those from the wider vicinity, including within the context of the Grade II listed Inner London Sessions Court building and the context of the Council's consistent approach to the emerging character of the Elephant and Castle town centre in terms of tall buildings.
51. The council's evidence will explain that as a result of the factors summarised above the proposed development is contrary to national planning policy in section 12 of the NPPF and to the following development plan policies:
 - London Plan (2021) policies D3 "Optimising site capacity through the design-led approach", D9 "Tall buildings", HC1 "Heritage conservation and growth" and HC3 "Strategic and local views",
 - Southwark Plan (2022) policies P13 "Design of places", P14 "Design quality", P17 "Tall buildings" and P19 "Listed buildings and structures"

Lack of legal agreement

52. In the absence of a completed section 106 agreement or unilateral undertaking, the Planning Application Proposal fails to secure appropriate planning obligations to mitigate its adverse impacts and to secure the public benefits of the proposal to ensure compliance with planning policies for these topics. Planning obligations are necessary in relation to:
 - Provision of a nominations agreement as set out and required by policy P5 of the Southwark Plan
 - provision of the on-site affordable workspace at discount rent, with the associated fit out, marketing and management in order to comply with policy P31 "Affordable workspace" of the Southwark Plan and E3 "Affordable workspace" of the London Plan;
 - provision of the public realm within the site and public access to it;
 - transport mitigation (highway works and financial contributions for improvements to Avonmouth Street and Tiverton Street, bus service improvement contribution, Legible London contribution, cycle docking

station improvement contribution, provision of the Underground station entrance, servicing and deliveries management with the associated deposit and monitoring fee, and a travel plan including cycle hire access) to comply with Southwark Plan policies P49, P50, P51 and P53, and London Plan transport chapter policies;

- construction phase employment and training to comply with London Plan policy E11 “Skills and opportunities for all” and Southwark Plan policy P28 “Access to employment and training”;
- operational phase employment and training to comply with London Plan policy E11 and Southwark Plan policy P28;
- local procurement during construction and operational phase to comply with Southwark Plan policy P28;
- carbon offset payment to comply with policy SI2 “Minimising greenhouse gas emissions” of the London Plan and P70 “Energy” of the Southwark Plan;
- archaeological monitoring contribution to comply with policy P23 “Archaeology” of the Southwark Plan;
- wind assessment post-construction to ensure sufficient mitigation to comply with policy P17 “Tall buildings” of the Southwark Plan and D9 “tall buildings” of the London Plan; and

53. In the absence of an appropriate signed agreement, the proposal is contrary to the development plan policies that relate to these topics, and to policy IP3 “Community infrastructure levy (CIL) and section 106 planning obligations” of the Southwark Plan (2022), policies T9 ‘Funding transport infrastructure through planning’ and DF1 “Delivery of the Plan and planning obligations” of the London Plan (2021) and the guidance within the “Section 106 Planning Obligations and Community Infrastructure Levy” SPD (2015 and its 2020 addendum).

54. It is anticipated that this issue will be resolved through discussions with the applicant on the heads of terms and draft planning agreement which are to progress ahead of the Inquiry. The appellant has indicated that they have had discussions with higher education institutes who would not be in a position to commit until planning consent had been given, To this end, the council is satisfied that this requirement could be met through an obligation in any legal agreement. Other mitigation would need to be secured by conditions imposed on any permission.

Impact on fire safety

55. The HSE was consulted and reviewed the application and supporting documents and in particular, the fire statement submitted. The statement says that the floors above the ground floor would be served by a single stair core that would be designed as a firefighting stair. This stair would continue to the two basement

levels connecting with ancillary areas. The HSE highlight in their comments (appendix 2) that the fire safety guidance and standard require that in single stair buildings, the stair should not continue to basements and this principle applies to firefighting lifts, the reason being there would be a risk of fire and smoke from the basement comprising the means of escape and fire service access.

56. Another significant area of concern is that a dry riser is proposed but for a building of over 50m a wet fire mains should be installed to allow adequate pressures to provide water supplies at each level immediately.
57. Concerns with the ground floor layout are the final exit for the escape route from the common stairs is next to the bin store that is contrary to the fire standard; the access for firefighters to the firefighting shaft would be via the concierge, which connects with ancillary accommodation.
58. Regarding the upper floors, the HSE say that the upper floors need of not provide an adequate firefighting lobby from the stair to the residential areas.
59. Finally, they say that there was not enough information provided to confirm if there are disabled refuges on the upper floors with consideration needed to the interaction between the refuges and the dry riser outlets.
60. The appellant is aware of these issues presented by the HSE and is working on amending drawings to address them. There is a possibility that these matters could be resolved by the time of the Inquiry though until that point, it is recommended that members endorse a putative reason for refusal relating to fire safety as below:

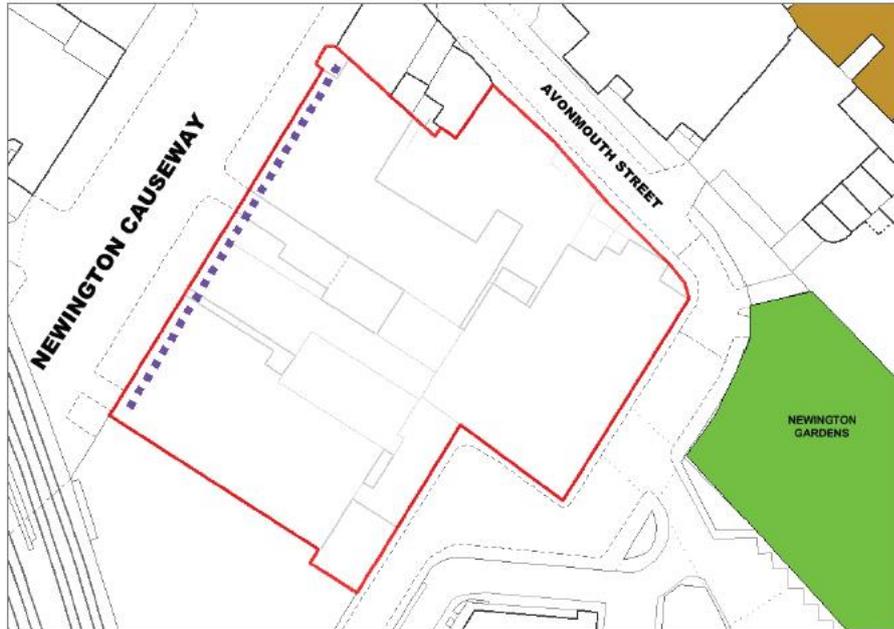
The development would not achieve the highest levels of fire safety contrary to policy D12 of the London Plan.

2) Summary of topics not raised as concerns within the Statement of Case

61. Other planning issues have been considered in respect of the applications but are not identified as likely reasons for refusal. These are summarised below.

Principle of the proposed land uses

62. The proposed uses are appropriate for the site's location. It is within the allocated site NSP 46:



- | | |
|----------------------------------|--|
| Site Boundary | Improved connectivity for pedestrians and cyclists |
| Conservation Area | Open Spaces |
| Grade I Listed Building | Buildings of architectural and historic merit |
| Grade II Listed Building | Buildings of townscape merit |
| Grade II* Listed Building | Locally Significant Industrial Sites |
| Opportunity for Active Frontages | Strategic Protected Industrial Land |
| Cycleways | New Public Open Space |

63. This appeal is for a proposal on the northern part of the site. The site allocation says detail is below.

Site Area	<ul style="list-style-type: none"> • 3,784m² 	
Existing uses (GEA)	<ul style="list-style-type: none"> • Southwark Playhouse (Sui Generis) – 816m² • Office (E)(g)(i)) – 4,168m² • Light industrial uses (B1c) – 827m² • Job Centre (E(c)(i)) – 546m² 	
Indicative residential capacity	<ul style="list-style-type: none"> • 93 homes 	
Site requirements	<p>Redevelopment of the site must:</p> <ul style="list-style-type: none"> • Provide at least the amount of employment floorspace (E(g), B class) currently on the site or provide at least 50% of the development as employment floorspace, whichever is greater; and • Retain the existing theatre use or provide an alternative cultural use (D2); and • Provide active frontages including ground floor retail, community or leisure uses (as defined in the glossary) on Newington Causeway. <p>Redevelopment of the site should:</p> <ul style="list-style-type: none"> • Provide new homes (C3). <p>Redevelopment of the site may:</p> <ul style="list-style-type: none"> • Provide a new community health hub (E(e)). <p>Planning application 12/AP/2694 is relevant to this site.</p>	
Design and accessibility guidance	<p>Redevelopment should deliver a more complementary and harmonious mix of uses alongside the retained Southwark Playhouse theatre that emphasises its cultural significance, attracts more visitors to the area and creates active frontages on Newington Causeway. Redevelopment should enhance accessibility to public transport, walking and cycle routes.</p> <p>Southwark needs to accommodate significant growth for offices and other workspaces which are growing in demand contributing to the central London economy and status as a world city. Sites that are within the Central Activities Zone are most in demand for delivery of offices and will be required to contribute to this growth by providing an increase in the amount of employment floorspace.</p>	
The site location		
	Approach to tall buildings	Comprehensive mixed-use redevelopment of the site could include taller buildings subject to consideration of impacts on existing character, heritage and townscape.
	Impacts Listed Buildings or undesignated heritage assets	The site is within the setting of Grade II listed building Inner London Sessions Court and the undesignated heritage asset Newington Gardens and undesignated heritage assets on Newington Causeway.
	Impacts a Conservation Area	The site is within the setting of the Trinity Church Square Conservation Area.

64. The development would provide residential floorspace but not self contained dwellings, the indicative number of 93 can be accommodated on the rest of the site. The present use of the site is educational, being a training venue, the proposed non-residential use is proposed to be a flexible use of this, employment (office) or a health hub. If an employment use is pursued, the appellant has agreed to provide at least 10% as affordable workspace. The principle of the land use is therefore acceptable and in compliance with the policy designation.

Affordable housing

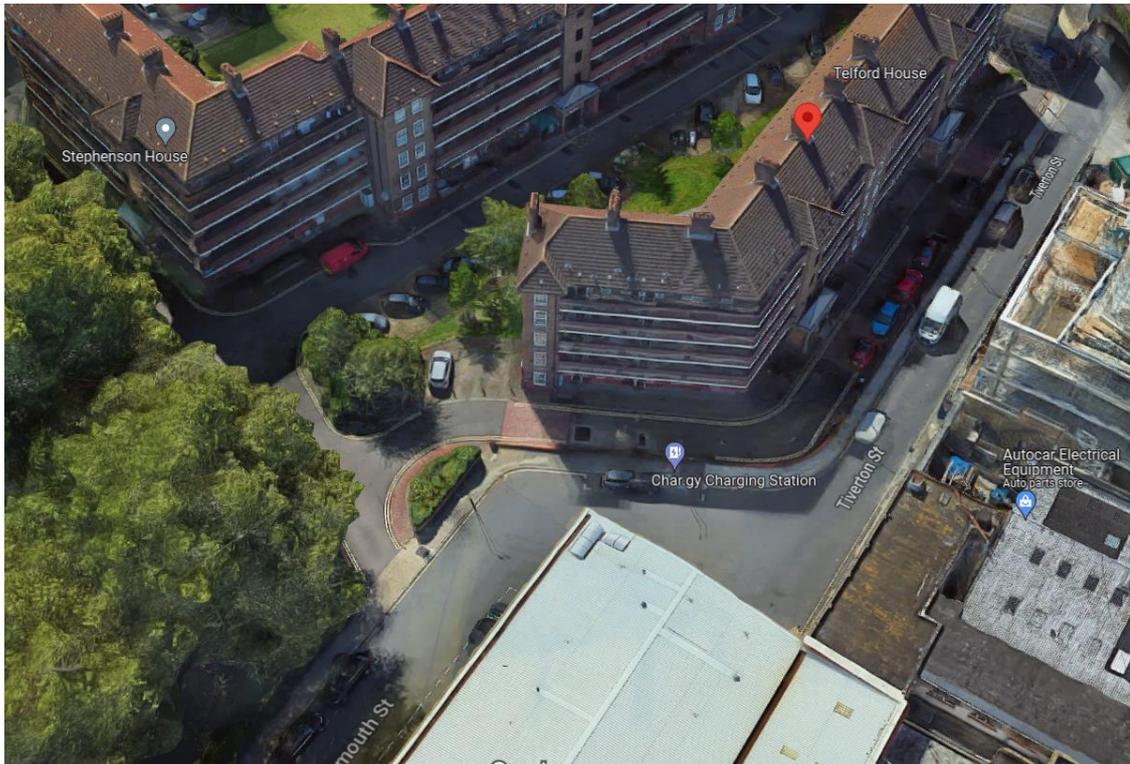
65. P5 of the Southwark Plan details the policy requirements for student homes and says:

Development of purpose-built student housing must:

- 1) Provide 5% of student rooms as easily adaptable for occupation by wheelchair users; and
 - 2) When providing direct lets at market rent, provide the maximum amount, with a minimum of 35% as conventional affordable housing by habitable room subject to viability, as per policy P4, as a first priority. In addition to this, 27% of student rooms must be let at a rent that is affordable to students as defined by the Mayor of London; or
 - 3) When providing all of the student rooms for nominated further and higher education institutions, provide the maximum amount of affordable student rooms with a minimum of 35% subject to viability. The affordable student rent should be set as defined by the Mayor of London.
66. The scheme would provide the requisite number of rooms as wheelchair accommodation with 12 units making up 5.5% of the overall number. The appellant has confirmed that they would secure a nominated education institution for the accommodation, which means the requirement is for a minimum of 35% of the accommodation to be affordable student rooms. Securing a nominated education provider is a requirement under criterion 3 of P5 for it to be applied; it would be secured in the legal agreement should be Inspector allow the appeal.

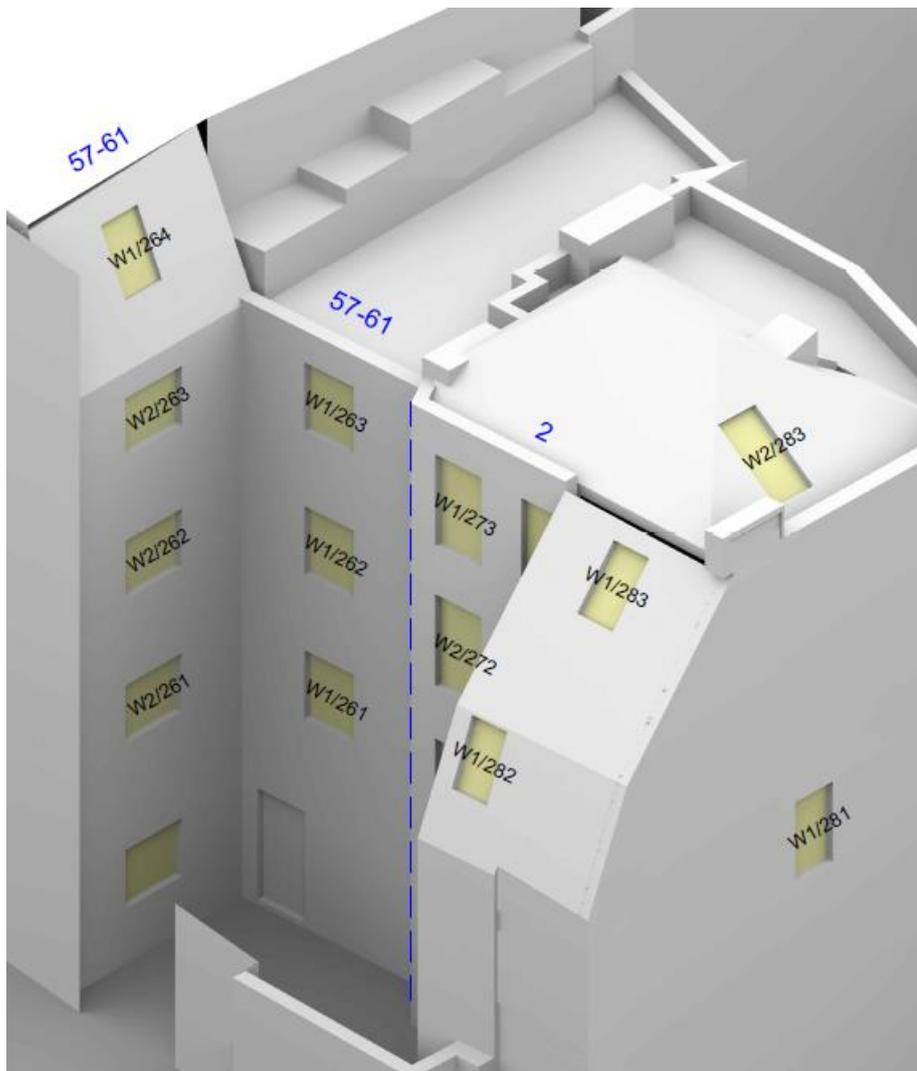
Daylight and sunlight

67. The applicant has undertaken a daylight and sunlight assessment. It looks at the impacts of overshadowing on Newington Gardens and the impact of daylight and sunlight for the following neighbouring properties:
- Telford House
 - Stephenson House
 - 57-61 Newington Causeway (Balppa House)
 - 2 Avonmouth Street
68. There would be noticeable reductions in daylight for windows of Telford House and Stephenson House facing the site. The rooms affected are bedrooms facing and bathrooms with the main living areas facing away from the site to the south. The access deck that means a small reduction in absolute daylight would have a proportionately larger impact affects daylight to these rooms.



Aerial photograph of Stephenson and Telford houses

69. While the assessment shows a reduction of more than 20% for a number of windows, the assessment without the impact of the decks show that the reduction would be less than 20% and in line with the BRE guidance for there to be no adverse impact except for two windows on Stephenson House where the retained VSC would be between 18-19%. There would be no impacts on sunlight as the site is to the north of these residential blocks. Impacts on 2 Avonmouth are mostly in line with the BRE guidance with some reductions above 20% but less than 30%. Impacts on 57-61 Newington Causeway windows facing the site are higher with a reduction of between 27% and 49% but the daylight here is already constrained with absolute e reductions of 4-8% resulting in high proportional reductions. The impacts on daylight and sunlight are considered, in these circumstances, to be acceptable.



Constrained windows at 57-61 Newington Causeway and 2 Avonmouth Street

Additional topics of assessment

70. The proposal would comply with policies in the development plan regarding the following topics if the necessary conditions and planning obligations were secured on any permission:
- Archaeology: subject to conditions and payment of a financial contribution (secured by a planning obligation) for the archaeologist's monitoring and advice during the pre-commencement and construction works.
 - Impact of the proposed development on the amenity of nearby residents from activity associated with the development would be limited as this would take place away from the quieter end of Avonmouth Street and Tiverton Street. Daylight and sunlight impacts are considered above.
 - Security and fire safety: subject to the Secured by Design condition, security details and fire statement being secured by conditions.
 - Impact of adjoining and nearby uses on occupiers and users of the proposed development.
 - Demolition and construction phase environmental impacts: would need to be mitigated by securing environmental management plans and logistics plans by conditions.

- Air quality: subject to dust mitigation measures during demolition and construction being secured as part of the demolition and construction management plan conditions.
- Transport matters (except for servicing): car parking, cycle parking (subject to conditions requiring further details of the locations and types of cycle parking for staff and visitors).
- Energy and sustainability: the sustainability of the proposal would need to be improved in terms of on-site carbon measures, payment of a carbon offset contribution and on-going “be seen” monitoring and reporting (secured by obligations), achieving BREEAM excellent to all buildings, providing whole life carbon and circular economy information (secured by conditions).
- Ecology and urban greening factor: subject to securing details of the planting, landscaping and bird boxes by conditions.
- Waste: subject to a delivery and servicing management plan by an obligation, and waste collection condition.
- TV, radio and telecoms networks: subject to securing a TV reception mitigation plan by condition.

Planning obligations and conditions

71. The assessment of the planning application has noted areas where planning obligations would be necessary in order to secure necessary mitigation to make the impacts of the proposal acceptable, to comply with planning policies, and to ensure the public benefits of the proposal would be provided. The absence of a completed section 106 agreement is set out in the Statement of Case as a likely reason for refusal of the planning application but is expected to be resolved through discussions with the appellant ahead of the inquiry.
72. Although the council’s case at the appeal is that the applications should be refused, a legal agreement will be drafted with the appellant as part of the appeal procedure, so that the matters summarised above would be secured if the Inspector is minded to approve the applications. The heads of terms are summarised below, and will need to be negotiated with the appellant.

The following planning obligations are suggested in order to make the development acceptable in planning terms:

1. Restriction on occupation of the student accommodation by students of a Higher Education Institution;
2. Not to occupy the student accommodation until a Nomination Agreement has been entered into with either London South Bank University, University of London, or another Higher Education Institution in respect of the student accommodation;
3. To provide 35% of the student accommodation as affordable student accommodation as defined through the London Plan;
4. Approval of a detailed Student Accommodation Management Plan (SAMP) prior to occupation and compliance with the SAMP for the duration that the development remains occupied;
5. To provide 5% of the student accommodation as wheelchair accessible;

6. To provide 10% of the 1,733sqm GIA non-purpose-built student accommodation floorspace as affordable workspace should it be implemented as E class floorspace;
 7. Payment of the carbon offset contribution prior to occupation;
 8. Provision of one disabled car parking space and an electric vehicle charging point as part of the disabled parking space;
 9. Restriction on car parking permits for occupants of the development;
 10. Payment of a cycle hire contribution to TfL (£120,000);
 11. Provision of public realm and highways improvements through a Section 38/278 Agreement;
 12. Approval of a Construction Skills and Employment Plan prior to implementation of the development;
 13. Approval of the Energy Strategy prior to occupation;
 14. To achieve the agreed carbon targets contained within the approved energy strategy;
 15. Approval of a Delivery and Service Management Plan prior to occupation;
 16. Approval of a Demolition Environmental Management Plan prior to any works of demolition;
 17. Approval of a Construction Environmental Management Plan prior to implementation; and
 18. Payment of an administration and monitoring fee.
73. Without a completed legal agreement in place (either a section 106 agreement or a unilateral undertaking), the necessary mitigation measures, and the elements of the scheme required to achieve policy compliance, would not be secured in the event that planning permission is granted. In the absence of a completed s106 agreement, the proposal is contrary to the development plan policies that relate to these topics, and to policy IP3 “Community infrastructure levy (CIL) and section 106 planning obligations” of the Southwark Plan (2022), policies T9 “Funding transport infrastructure through planning” and DF1 “Delivery of the Plan and planning obligations” of the London Plan (2021) and the guidance within the “Section 106 Planning Obligations and Community Infrastructure Levy” SPD (2015 and its 2020 addendum).
74. The conditions the council would like to be included on any planning permission were appended to the Statement of Common Ground (Appendix 3 of this report), in Appendix 2 of that document. These have been agreed with the appellant.

Comments from members of the public

75. Eight objections have been received from members of the public including residents. The topics raised are below, along with officer comments.

1) Impact on Newington gardens from overshadowing and ecology

Officer comment

The daylight and sunlight assessment shows that there would be no significant impact on the park from loss of light and would comply with the BRE guidance.

2) Disturbance from residents

Officer comments

The scheme has been designed with entrances away from residential areas. Residents would access the site along Avonmouth Street from Newington Causeway with little additional traffic to the more residential areas of Tiverton Street and the wider housing estate that includes Telford and Stephenson houses.

3) Impact of servicing

Officer comments

This would be done from Avonmouth Street and be away from the residential estate and not differ significantly from the existing servicing.

4) Impact during construction

Officer comment

The appellant has agreed to a condition to control and limit impacts of noise, dust, highway impacts and other disturbance during construction.

5) Impact on daylight

Officer comment

There would be some significant impacts, the assessment is provided above.

6) Height, sense of enclosure

Officer comment

The site is identified as being suitable for tall buildings in the site allocation. The proposed building would be part a townscape that already has tall buildings and there would be areas between them to reduce the sense of enclosure, along with the distance to neighbours.

Community impact and equalities assessment

76. 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:
1. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 2. 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
3. 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.
77. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.
78. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of considering this application.

Human rights implications

79. 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.
80. This application has the legitimate aim of redeveloping this site for a mixed use scheme and alterations to listed buildings on the site. 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
Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 1214 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Statement of Case
Appendix 2	Comments from the HSE on fire safety
Appendix 3	Statement of common ground

AUDIT TRAIL

Lead Officer	Stephen Platts, Director of Planning and Growth	
Report Author	Dipesh Patel, Group Manager	
Version	Final	
Dated	4 April 2022	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Director of Law and Governance	No	No
Date final report sent to Constitutional Team		24 October 2022