

Committee(s)	Dated:
Planning and Transportation Committee	6 March 2020
Subject: 120 Fenchurch Street Rooftop Garden – Weekend Opening	Public
Report of: Chief Planning Officer and Development Director	For Decision
Report Author: Annie Hampson	

Summary

A Rooftop Garden was created as part of the redevelopment of 120 Fenchurch Street. The Section 106 Agreement (S106) provided that this should be open to the public at no charge, Monday-Friday and that a trial should be run to determine whether free public weekend opening would be successful against an agreed set of criteria. This report reviews the trial weekend opening periods pursuant to the S106 dated 14 February 2019.

Recommendation(s)

The report recommends that the Committee determine that the Roof Garden should open at weekends during both the Summer and Winter seasons (10am-5pm) and consider whether it would be acceptable for the closing time to be reduced from 9pm to 8pm on Monday-Friday during the summer period.

Main Report

Background

1. Planning Permission for the 120 Fenchurch Street office redevelopment was granted on 30 March 2012 (**ref no: 11/00854/FULEIA**). This was varied by a permission amending planning conditions under Section 73 of the Town and Country Planning Act 1990 on 8 February 2016 (ref no: **14/00237/FULMAJ**). The 2012 and 2016 permissions were subject to S106 covenants requiring free public access be provided to the Roof Garden during the week, and at weekends, subject to there being sufficient demand to justify weekend opening. Details of the weekend access trial arrangements were to be submitted by the owners in a Rooftop Garden Management Plan before occupation of the office building and approved by the City of London Corporation (CoLC). However, before that occurred a further application to amend conditions was submitted under Section 73 which included increased capacity for the Rooftop Garden and restaurant (ref no: **18/00031/FULMAJ**)
2. In evaluating the amendments proposed in 2018, officers took the view that more detailed arrangements for the Rooftop Garden operation should be secured through more detailed S106 covenants. It was considered that this would enable

the likely impacts of the increased capacity (especially at the ground level access point) to be robustly assessed. It was considered that the weekend trials should be set out in a Rooftop Garden Management Plan which formed part of the S106 Agreement to provide greater certainty regarding weekend opening. The S106 was completed on 14 February 2019 and planning permission **ref: 18/00031FULMAJ** was issued.

Current Position

3. The S106 weekend trial covenants are set out at **Appendix 1**. They require a six-week Winter Trial period and a six-week Summer Trial period. At the end of each trial period the Developer is required to provide visitor take-up information using data collected by digital counters at the entry and exit points. It is for the CoLC to decide whether or not the Rooftop Garden is to be open, free of charge, to the public at weekends during the Summer and/or Winter Seasons during the agreed Weekend Opening Hours (10am-5pm).
4. In making its decisions the City must:
 - a) consult the Developer;
 - b) have regard to whether there is sufficient demand;
 - c) have regard to the criteria in Appendix 1 to assess whether the cost of opening and maintaining free public access is reasonably proportionate to the use by the public and the public benefit achieved, having regard to:
 - (i) the extent of publicity in respect of weekend opening;
 - (ii) the principle that the Roof Garden is provided as a public benefit, to ensure the development as a whole is compliant with planning policies
5. The S106, as an overarching principle, stated that weekend opening and any review *“will be conducted with regard to the principle of prudent estate management applicable to the operation of a publicly accessible open space provided as a planning benefit as would be exercised by a reasonable estate manager in the circumstances applicable to the Roof Garden and Fen Court.”*
6. The Winter Season is 1 October to 31 March. The Winter Trial Period took place between Saturday 16 February 2019 and Sunday 31 March 2019. The Summer Season is 1 April to 30 September. The Summer Trial period took place between Saturday 10 August and Sunday 15 September 2019. The visitor take-up information and related information provided by the Developer for both periods is at **Appendix 2**.
7. During the Winter Trial period, which was carried out first, visitor numbers ranged from 548 to 1,735 per day. Total visitors during the 12 trial days were 15,086. During the Summer Trial period visitor numbers ranged from 472 to 851 per day. Total visitors during the 12 trial days were 8,209.
8. The developer did not provide a cost figure for operating the Winter Trial period but the reported cost of the Summer Trial period (12 days) was £28,370. The budget cost for the 10.5 months the roof garden was open in 2019 was £574,496 and the daily cost is reported as £2,364.

9. There was widespread and positive reporting, including in the national press, when the roof garden was opened. In the Winter and Summer trials the visitor figures increased towards the end of both trials which suggests that attendance increases as the weekend facility becomes better known.

Consultation

10. The Developer made a number of comments which have been incorporated into the report. In addition, the Developer states:

We would ask that the City need to consider more than just the weekend opening costs. Specifically, the City should take into consideration the below table which shows the average visitor cost over the summer (1 April to 30 September) evenings after 6pm. As is evident, the number of visitors drops over the evening and the cost per visit rises significantly.

Summer period evening costs are

Average cost per hour	6pm-7pm	7pm-8pm	8pm-9pm
Average visits	61	49	23
Cost per visit	£3.52	£4.39	£9.34

Based on the above data and the clear trend of falling visitor numbers in the evening and rising costs, we would propose that if the City wants the roof garden open on all weekends which adds a total increase of £71,535 per annum, then the city agrees that public hours go to 5pm across the whole year. The public then get the benefit of the space on weekends and at times when it is shown to be popular and the costs can be managed prudently.

Evaluation

11. The Developer has provided total visitor numbers and the evening visitor numbers for the hours 6pm-9pm for each day, including the percentage during the hours 6pm-9pm. To that has been added the daily percentage for the hour 8pm-9pm and the average percentage during the recorded days. See appendix 2. The developer has not provided figures for visitors arriving between 5pm-6pm and therefore the Developer's Maximum Occupancy figures have been used to consider the number of visitors in the Roof Garden during that period.
12. The visitor numbers during the winter and summer trials demonstrate significant demand for and public benefit from weekend opening which should be continued. Weekend opening ensures that the Rooftop Garden which is a unique and important amenity in this dense urban environment is available to a wider public which increases the diversity of facilities available, supporting the City Corporation's objective of providing an inclusive City that is attractive and available to residents, visitors and workers and which supports a 7-day-week visitor and cultural offer.

13. The criteria to be used in deciding whether or not there should be weekend opening require the City Corporation to consider whether the visitor numbers and public benefit are proportionate to the cost of providing and maintaining the space, having regard to the principles of prudent estate management as set out above.
14. Applying the relevant criteria and principles, it is considered that the costs are proportionate and weekend opening is consistent with the principles of good estate management. Based upon the costs provided by the developer, the daily weekend cost is approximately £688. Given that public access at no cost was an acknowledged public benefit to be provided by this large and iconic office development, the average costs per visitor are considered reasonable. It is difficult to make meaningful comparisons with other public spaces due to its unique characteristics.
15. The Developer's request that the cost of weekend opening should be offset by allowing the weekday closure to be brought forward to 5pm. This is not recommended to the Committee as the Developer's maximum occupancy figures show that the 5pm-6pm slot is a popular hour, enabling workers and visitors to access the roof garden after work hours. The Developer's total figures in Appendix 2 show that the slots between 6pm-7pm and 7pm and 8pm are also popular. However, the last slot 8pm-9pm is almost always quiet. If an average is taken of all visitors, only 2.2% of the total number of visitors visit the roof garden between 8pm-9pm, Monday-Friday.

Conclusion

16. Having regard to visitor numbers, public benefits, costs, the principles of prudent estate management and all other relevant matters it is considered that weekend opening is justified and it is recommended that there should be weekend opening during the Weekend Opening Hours. It is not considered that the Developer's request to close at 5pm on weekdays should be accepted. However, closing during the summer at 8pm and retain the winter closure at 6.30pm is not considered seriously detrimental to the public interest and Members may be minded to agree this alteration to the S106 Agreement which would require the Agreement to be varied.

Appendices

Appendix 1 – S106 Covenants

Appendix 2 – Total visitor and evening visitor numbers

Appendix 3 – Maximum occupancy for the winter trial period

Appendix 3 – Maximum occupancy for the summer trial periods

Appendix 4 – cost per hour Summer 6pm-9pm

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