

Committee:	Date:
Planning and Transportation	1st July 2022
Subject: Establishment of a Special Sub-committee	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	10, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Town Clerk	For Decision
Report author: Catherine Evans	

Summary

This report is required due to a forthcoming planning application in respect of The Turret, John Wesley Highwalk, Barbican. Your Committee's Terms of Reference include responsibility for *'All functions under part II of the City of London (Various Powers) Act 1967 including declaration, alteration and discontinuance of City Walkway'*.

The application land includes City Walkway. The application therefore engages the restrictions in Regulation 10 of the Town and Country Planning General Regulations 1992 (prohibiting a committee from determining planning applications if that committee is responsible for the management of any land to which the application relates).

In order to address the restriction the establishment of a special sub-committee to determine the application is recommended.

As the application is submitted by the City of London Corporation the arrangements in Section 8e of the Planning Protocol (requirement to adopt a Handling Note to secure separation of functions) are also engaged. The Handling Note in the Appendix to this report is recommended. On the basis of the recommended Handling Note, it is recommended that the special sub-committee be constituted of all members of the Grand Committee other than those who also serve on the Committees which are or were promoting the proposals due to arrangements for the separation of functions, as set out in the Handling Note.

Recommendations

That Planning and Transportation Committee:-

1. Adopt the Handling Note in the Appendix to this Report.
2. Establish a Special Sub-committee with the following Terms of Reference: to determine planning application reference: 20/00271/FULL and associated Listed Building Consent application 20/00272/LBC.
3. That the Special Sub-committee sits following the rising of the Planning and Transportation on a date to be determined; and
4. That the Special Sub-committee be constituted of all Members of Planning and Transportation Committee other than those who are also members of Barbican Residential Committee or were past members of the Corporate Asset Sub (Finance) Committee, or Project Sub-Committee whilst those committees were responsible for bringing forward the planning application/proposal.

Main Report

Background

1. In March 2020 the City of London Corporation as Local Planning Authority ("LPA") received from the City of London Corporation a planning application which was given planning application reference: 20/00271/FULL ("the planning application") and associated Listed Building Consent application which was given reference 20/00272/LBC ("the LBC application") (together "the applications").
2. The planning application includes the conversion of podium level and upper floors of the turret to form one two-bedroom residential dwelling, including the insertion of windows. The proposals include the rescission of part of the City Walkway.
3. The proposals are/were being promoted by Barbican Residential Committee, Project Sub Committee and Corporate Asset Sub (Finance) Committee.
4. The LPA has been consulting on the application and has been progressing its evaluation of the application, consultation responses and other representations.

Issue

5. Regulation 10 of the Town and Country Planning General Regulations 1992 prohibits a committee from determining planning applications if that committee is responsible for the management of any land to which the application relates. Your Committee has within its Terms of Reference '*All functions under part II of the City of London (Various Powers) Act 1967 including declaration, alteration and discontinuance of City Walkway*'. It is reasonable to regard this Committee as being responsible for the management the land, which is the land to which the planning application relates and therefore unable, while constituted as the

committee responsible for City Walkway functions, to determine such a planning application. The planning application in this case engages this restriction.

Handling Note

6. Section 8e of the Planning Protocol sets out the requirement (in Regulation 64(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017) that where a local authority is bringing forward a proposal, it must make appropriate administrative arrangements to ensure there is functional separation between the persons within the authority responsible for bringing forward the proposals, and the persons responsible for determining that proposal. The arrangements considered to be appropriate are contained in the Template Handling Note at Appendix C of the Planning Protocol.
7. The Template Handling Note has been used to prepare the Handling Note for the applications. The effect is that Members of Barbican Residential Committee, the previous Project Sub Committee and the previous Corporate Asset Sub (Finance) Committee (the last two committees being no longer constituted) are identified as persons involved in the promotion of the proposals. The Handling Note sets out that they should not sit on Planning and Transportation Committee when it considers the proposals.
8. The Regulation 10 separation of functions requirement does not extend to Listed Building Consent applications made by the authority (which are subject to oversight by Historic England, National Amenity Societies and the Secretary of State under separate regulations). However, it is considered prudent and efficient to consider the LBC applications at the same time as the planning application and the Handling Note therefore includes reference to the LBC applications.

Proposal

9. Standing Order 27 provides that Committees may at any time constitute or dissolve Sub-committees.
10. A Sub-committee that did not have within its Terms of Reference any responsibility for city walkway would not be prevented, under Regulation 10, from determining the application.
11. It is therefore proposed that your Committee constitute a Sub-committee with the following Term of Reference: to determine planning application reference: 20/00271/FULL and associated Listed Building Consent application 20/00272/LBC. This would be on the basis that the Sub-committee be dissolved once its Terms of Reference have been carried out.
12. Although Regulation 10 applies only to planning applications, not applications for Listed Building Consent, it is considered more effective and efficient for them to be considered together.

13. As regards the membership of the special sub-committee it is proposed that it be constituted of all Members of Planning and Transportation Committee other than those unable to participate due to separation of functions requirements.
14. On the basis of the Handling Note in the Appendix, it is recommended that the special sub-committee membership does not include those members who also serve on the Barbican Residential Committee, or served on the previously constituted Projects Sub-Committee or Corporate Asset Sub (Finance) Committee at the time those committees were responsible for bringing forward the planning application/proposals. No officers involved in bringing forward the proposals (identified in the Handling Note) should be involved in advising the LPA or attending the special sub-committee (other than in the same way as arm's length applicant advisers would attend).
15. In order to determine the application it is proposed that a meeting of the special sub-committee be held at the rising of the Planning and Transportation Sub-committee on a date to be determined. The 19th July meeting is currently being targeted.

Conclusion

16. The establishment of a special sub-committee is recommended as set out in this report and recommendations.

Appendix: Handling Note

Background documents: Planning Protocol

CITY OF LONDON CORPORATION

TEMPLATE FOR REGULATION 64(2) HANDLING NOTE

Application Reference: 20/00271/FULL

Site Address: The Turret, John Wesley Highwalk, Barbican, London, EC1A 4LA

(“the Proposal”)

Conversion of podium level and upper floors of Turret to form one two bedroom residential dwelling (Use Class C3), including the insertion of windows. The proposals include the rescission of part of the City Walkway. (20/00271/FULL)

Insertion of new windows, walls, internal partition walls, mezzanine, new flue at roof level, and other alterations in connection with the use of the space as a residential unit. (20/00272/LBC)

Background

1.1 Regulation 64(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”) requires that where a proposal for EIA development is brought forward by the City of London Corporation and the City of London Corporation will also be responsible for determining that application for planning permission, they must make appropriate administrative arrangements to ensure that there is a functional separation, when performing any duty under the EIA Regulations, between the persons bringing forward the proposal for development and the persons responsible for determining that proposal.

1.2 This note sets out the arrangements which must be adopted to ensure compliance with the EIA Regulations

1.3 This note also applies to applications for planning permission for development which is not EIA development made by the City of London Corporation as applicant to the City of London Corporation as local planning authority.

2. Overarching Principles to be observed in handling the Proposal

2.1 The Local Planning Authority must assess the Proposal in the same way as if it was submitted by any other applicant. It will be assessed and determined solely on the material planning considerations, disregarding any financial or other benefits to the City of London Corporation as applicant. If more information is required it will be sought from the applicant notwithstanding potential delay or cost consequences for the applicant.

2.2 The Local Planning Authority function will be undertaken wholly independently of the applicant/promoter functions, acting impartially and objectively

2.3 There will be no discussion or communication about the Proposal between the officers and members carrying out the Local Planning Authority function in respect of the Proposal and the officers and members carrying out the Applicant/Promoter functions in respect of the Proposal, other than formal communications appropriate to the application process such as would occur with any other Applicant.

2.4 No officer or member carrying out the Applicant/Promoter function in relation to the Proposal may give any instructions to or put any pressure whether direct or indirect upon any person acting or assisting in the discharge of the Local Planning Authority function.

3. Arrangements for handling the Proposal

3.1 Local Planning Authority Functions

Gwyn Richards (Interim Development Director and Chief Planning Officer) is the lead officer responsible for undertaking the local planning authority functions arising in respect of the determination of the planning application including pre-application advice

He is (or has been) assisted by the following officer team:

Department	Officers
Planning	Catherine Evans Ruby Raw Joanna Parker
Transportation and Highways	Lucy Foreman
Legal	Deborah Cluett Fleur Francis
Communications	

The Local Planning Authority officer team will report to a Sub-committee appointed by the Planning and Transportation Committee for the purpose of determining the application. No member of a committee with responsibility for promoting the Proposal should sit on the Planning and Transportation Committee nor the sub-committee when it is considering the establishment of the sub-committee or the planning application for the Proposal. The members of the Planning and Transportation Committee who are to sit on the sub-committee when determining the planning application shall be identified as soon as is practicable following receipt of the planning application.

3.2 Applicant/Promoter (non-Local Planning Authority) Functions

The officers, consultants and Committees who are (or have been) involved in the promotion of the Proposal are as follows:

Department	Officers
Department of Community and Children’s Services	Michael Gwyther-Jones James Illsley Michael Kettle
Legal	Sean Austin
Communications	Nabeela Ahmed

Committees	Barbican Residential Committee Project Sub Committee Corporate Asset Sub Committee
Consultants	Mackay & Partners Architects LSI Architects H7H Fire Consultants John K Harris quantity Surveyor MLM Building Control

3.3 Implementation of Arrangements

3.3.1 The persons identified at 3.1 and 3.2 will be reviewed regularly and updated to reflect any changes in responsibilities or roles, and any such changes shall be noted on an updated Handling Note

3.3.2 The officers identified at paragraph 3.1 and any members of the Planning and Transportation Committee identified as those who will sit on the committee or any sub-committee to determine the planning application shall not engage in any discussion or communication in relation to the planning application with other officers or members save that the officers identified in paragraph 3.1 shall be entitled to communicate with the officer/s identified in paragraph 3.2 as the agent for the planning

application and only in the same way as those officers identified in paragraph 3.1 would communicate with any person acting as an agent in relation to planning applications in general, and save when officers identified in paragraph 3.1 are conducting formal consultation on the planning application.

3.3.3 Persons identified at 3.2 must not engage in any discussion or communication in relation to the planning application with the persons identified in paragraph 3.1, save that person/s identified as the agent in paragraph 3.2 may communicate with the officers identified in paragraph 3.1 in the same way and on the same basis as the agent in relation to planning applications in general.

3.3.4 The Handling Arrangements will be published and will be included within the publicly available planning application documents both in hard copy and electronically

3.3.5 The Handling Arrangements will be circulated to all persons identified at 3.1 and 3.2, and recirculated to them following any amendments

3.3.6 Any communications, documents or other information generated by those exercising the Local Planning Authority function which would not normally be shared with an Applicant should be marked “CONFIDENTIAL: LOCAL PLANNING AUTHORITY ONLY”, and should not be stored on file space accessible to any person other than those exercising the Local Planning Authority function (unless this is authorised by the Interim Development Director and Chief Planner and he has satisfied himself that, where applicable, such disclosure would be compliant with the EIA Regulations)