



# REGULATORY SERVICES COMMITTEE

# REPORT

**Subject Heading:**

P1413.11 – 178 Crow Lane – canopy building (received 22 September 2011; further information submitted 19 December 2011)

P1414.11 – 178 Crow Lane - steel clad building (received 22 September 2011; further information submitted 19 December 2011)

**Report Author and contact details:**

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Statements/  
Guidance

**Financial summary:**

None

**The subject matter of this report deals with the following Council Objectives**

Ensuring a clean, safe and green borough	[x]
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	[x]
Valuing and enhancing the lives of our residents	<input type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

At the Regulatory Services Committee meeting on 23 February 2012, Members resolved to grant planning permission for the retention of buildings at 178 Crow Lane, subject to a legal agreement. The applications were notified to the Secretary of State in line with Circular 02/2009 -Town and Country Planning (Consultation) (England) Direction 2009. The Secretary of State did not call in the applications. However, an aspect of the clauses in the proposed legal agreement offered by the applicant was not accurately related in the committee report.

This report seeks Members resolution to grant planning permissions subject to a legal agreement that accurately reflects the offer put forward by the applicant.

The applicant is a relative of a Councillor.

## RECOMMENDATIONS

### **That in relation to planning application P1413.11, Canopy Building:**

That the Committee notes that the development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee is based on an internal gross floor area of 555m<sup>2</sup> and amounts to £11,110.

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Section 106 Legal Agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- To limit the height of container storage on the Land in the Area marked 'A' on the Plan attached to a maximum of five (5) containers at all times
- Not to stack any containers on the Land in the Area marked 'B' on the Plan attached at any time
- To pay towards the Councils costs in preparing this Agreement
- To pay towards the Councils costs of monitoring the obligations contained in the Agreement

That Staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the informative set out below:

INFORMATIVE

Reason for Approval:

Any harm to the Green Belt is outweighed by the applicant's demonstration of very special circumstances, and therefore the development complies with Policy DC45 and the National Planning Policy Framework.

**That in relation to planning application P1414.11, Steel Clad Building:**

That the Committee notes that the development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee is based on an internal gross floor area of 237.25m<sup>2</sup> and amounts to £4,745.

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Section 106 Legal Agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- To limit the height of container storage on the Land in the Area marked 'A' on the Plan attached to a maximum of five (5) containers at all times
- Not to stack any containers on the Land in the Area marked 'B' on the Plan attached at any time
- To pay towards the Council's costs in preparing this Agreement
- To pay towards the Council's costs of monitoring the obligations contained in the Agreement

That Staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the condition and informative set out below:

1. The building hereby permitted shall not be used other than for purposes ancillary to the main use of the site.

Reason: To ensure that the use of the building does not result in adverse impacts upon the surrounding area.

**INFORMATIVE**

Reason for Approval:

Any harm to the Green Belt is outweighed by the applicant's demonstration of very special circumstances, and therefore the development complies with Policy DC45 and the National Planning Policy Framework.

**Planning Obligations**

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy

Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

## REPORT DETAIL

### 1. Background

- 1.1 Members may recall that at their meeting on 23 February 2012, it was resolved that planning permissions be granted, contrary to recommendations, for applications involving the retention of a steel canopy building and a steel clad building, subject to the completion of a satisfactory legal agreement and no contrary direction from the Secretary of State. On 24 April, the Secretary of State confirmed that the applications raised no significant planning issues and that they should be determined at local level.
- 1.2 The legal agreement, as resolved by Members, was to require that containers in the part of the site marked on the plan accompanying the application as "Area A" be stacked no more than 5 high and that no storage of containers take place in "Area B" on the plan. The clauses suggested for the S106 agreement by Members were no doubt derived from the officer's report which outlined the steps the applicant had put forward as part of the very special circumstances why planning permission should be granted.
- 1.3 During negotiation with the applicant towards finalisation of the legal agreement, it has come to light that the officer report did not accurately outline this particular offer by the applicant. What the applicant was actually offering in relation to "Area B" is that no stacking of containers takes place in this area.
- 1.4 Staff consider that the difference in wording between what was offered by the applicant and what was reported in the committee report and taken forward by Members is significant enough that the revision to the resolution should be considered by members before the legal agreements can be completed and planning permissions granted.
- 1.5 Members should note that the applicant is related to a Councillor. This report has been passed to the Monitoring Officer and the Monitoring Officer is satisfied that the application has been processed in accordance with standard procedure as required in the Council's Constitution.

## **2. Planning Considerations**

- 2.1 The lawful use of the site is for storage purposes and the storage and stacking of containers in association with the storage use can take place on any part of the site. Currently containers are stacked toward the rear part of the site. Storage does take place to the front part of the site, but it is limited to a few containers located on areas between the existing buildings on the site, the rest of the open areas being for used for parking and circulation purposes. The applicant has pointed out that any restriction on the ability to store containers on Area B would affect the ability of the business to function.
- 2.2 A restriction not to stack containers in Area B would not change anything that is currently on the site, but it would prevent in the future any containers being more than one high on this part of the site. Members may consider that this restriction, together with the restriction on Area A to maximum of five containers stacked is sufficient to constitute very special circumstances together with the considerations previously made on 23 February.
- 2.3 It is considered that given the view expressed by the Secretary of State that the applications should be determined locally that a further referral to the Secretary of State would not be required.
- 2.4 It is therefore recommended that planning permissions be granted to retain the buildings, subject to a legal agreement that containers not be stacked more than 5 high in Area A, or stacked in Area B.
- 2.5 It should be noted that the grant of planning permission will result in the development being liable for the Mayors Community Infrastructure Levy (imposed on all relevant planning permissions granted after 1 April 2012). For the canopy building, based on a gross internal floor area of 555 square metres the rate payable would be £11,100. For the steel clad building, based on a gross internal floor area of 237.25 square metres, the rate payable would be £4,745. As the decisions may only be made after the Secretary of State confirming that a local decision is appropriate (SoS confirmation received 24 April), Mayoral CIL would now apply to these proposals in any event.

### **IMPLICATIONS AND RISKS**

#### **3. Financial Implications and risks:**

3.1 None.

#### **4. Legal Implications and risks:**

- 4.1 The applicant is a relative of a Councillor. This report has been passed to the Monitoring Officer and the Monitoring Officer is satisfied that the application has been processed in accordance with standard procedure.
- 4.2 Legal resources will be required to prepare and complete the legal agreement.
5. **Human Resource Implications:**
- 5.1 None.
6. **Equalities and Social Inclusion Implications:**
- 6.1 The Council's planning policies are implemented with regard to Equalities and Diversity.

## **BACKGROUND PAPERS**

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.
4. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
5. The relevant planning history.

