

PLANNING COMMITTEE MEETING – 12th February 2025

Amendment/De-brief Sheet

MAJOR PLANNING APPLICATION

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Reference Number: 23/03204/OUT
Address: Beehive Centre, Coldham's Lane, Cambridge
Determination Date: 12 February 2025

Representation from the Applicant on the Daylight and Sunlight considerations and assessment

On Tuesday 11 January, the following documents were submitted on behalf of the applicant:

- Letter from Bidwells
- Note prepared by Mr Lonergan of eb7 (applicant's Daylight and Sunlight assessor)
- Note prepared by Rupert Warren KC

Officers have taken Counsel advice in preparing a response to these submissions.

To Note:

Collectively, the representations received contend that the daylight, sunlight, and overshadowing impacts of the scheme have not been properly assessed with regards to BRE guidance, appeal decisions, legal precedent, and planning judgement.

The principal concern raised is that officers have not followed the two-stage process for assessing the daylight, sunlight, and overshadowing effects, as outlined in the judgement of *Rainbird v Tower Hamlets LBC* which requires establishing the impacts against the BRE guidance and then appraising the acceptability of the harm, once the impacts are understood, having regard to context and the wider planning balance.

Other concerns have been raised regarding the absence of continued dialogue between eb7 and the Council's appointed daylight and sunlight consultant, Schroeders Begg; a lack of consideration for existing tree shading,

for example to the garden at No. 38 Silverwood Close; the focus on harm to specific windows, rather than considering the effects on rooms and properties as a whole; incorrect weight being afforded to low-angle winter sunlight with lack of consideration given to the annual sunlight position; a general lack of consideration has been given to specific constraints; and that flexibility is required to enable the meaningful redevelopment of the site, as acknowledged in the independent review report prepared by Schroeders Begg.

The representations received also provide further endorsement and support for the lawful use of a planning condition to secure only the effects of the illustrative scheme in relation to specific plot development (8, 9 and 10).

The officer response to the points raised is as follows:

- Officers have undertaken a two-stage process for assessing the daylight, sunlight, and overshadowing effects. Firstly, the divergences from the BRE guidance have been identified, and then the acceptability of the harm has been deliberated with officers having regard to the site's context and the opportunity to redevelop it in a meaningful way. The conclusion reached is that the harm would be unacceptable. This conclusion has subsequently been weighed in the planning balance, with the harm having been found to outweigh the benefits of the scheme.
- The relevance of the appeal decisions that have previously been put forward by eb7 were considered by officers, however, they were not considered to be relevant to the suburban context of the application site, for instance the character of the site and its surroundings are not comparable to Islington. A recent appeal decision regarding a local site at Station Road at CB1, which was dismissed on residential amenity grounds relating to daylight and sunlight, has been highlighted to the applicant within the independent review prepared by Schroeders Begg, but the applicant has not commented on this.
- The committee report at paragraph 24.7 acknowledges that there are additional considerations when interpreting reductions in daylight, sunlight, or increases in overshadowing, including the existing

low-rise character of the site and its surrounding context. It also recognises that there may inevitably be some degree of harm to neighbouring amenity due to these additional considerations, with the BRE guidance incorporating some flexibility accordingly. However, flexibility in the BRE guidance does not imply that a material deterioration can be disregarded if the guidance indicates it will occur. Officers have had regard to both reductions and retained values when reaching the conclusion that the daylight and sunlight impacts of the scheme would be unacceptable.

- It is not considered that agreeing alternative target values for daylight and sunlight would overcome the concern in relation to residential amenity, given the degree of the impacts resulting from the proposed development, including visual enclosure. That aside, the applicant did not seek to agree any alternative target values with officers during the design stage of the development. It should be noted that the BRE guidance represents advice aimed primarily, but not exclusively, at designers.
- Officers did not oppose, or prevent, eb7 from having a dialogue with Schroeders Begg, however, officers are of the understanding that the meeting held between the two parties on 31 January 2025 principally focussed on addressing concerns regarding the illustrative scheme, not the maximum parameters scheme, and other minor points that would not result in a change to their advice or the officer position.
- To add to the point regarding awareness of the site's context, officers have visited the site and walked the boundary perimeter observing the relationship between the site and neighbouring properties. Additionally, the case officer has visited neighbouring properties. As such, officers have a sound awareness of the boundary conditions and the amenity currently enjoyed by neighbours.
- In terms of the specific concern regarding the trees present in the rear garden of No. 38 Silverwood, the BRE guidance notes that trees are not usually included in overshadowing calculations, partly because their shapes are almost impossible to predict, and partly because the dappled shade of a tree is more pleasant than the deep shadow of a building. Moreover, Appendix G of the BRE guidance

notes that daylight is at its scarcest and most valuable in the winter when most trees, namely deciduous trees, will not be in leaf. Shading provided by trees can therefore be variable, changing throughout the day and across seasons due to seasonal leaf cover, natural gaps, and movement.

- The report is principally concerned with highlighting where there are divergences from the BRE guidance. This includes the four living rooms in St Matthew's Gardens that would not meet BRE guidance for winter hours.
- The committee report, as informed by the specialist advice contained in the independent review, focusses on specific main windows, habitable rooms, and gardens. This approach has been informed by the data and its presentation within the eb7 assessment. The committee report advises at paragraphs 24.16 and 24.23 that a more detailed breakdown of the reductions in daylight and sunlight, including affected properties and retained values, can be found in the independent review at Appendix E. The assessments prepared and submitted by eb7 are also publicly available to view online. There is no requirement for a committee report to contain an elaborate citation of underlying background materials.

Using a Condition to Overcome Harm to Amenity

In a letter on the public file of 31 January 2025, officers rejected a suggestion from the applicants that the impacts of the outline parameters could be moderated to an acceptable level through the use of a specific draft condition, limiting the daylight and sunlight impacts to being no worse than illustrative impacts for building plots 8, 9 and 10, which are set out in eb7's Daylight and Sunlight assessments. For clarity, despite officers' repeated requests, the illustrative scheme model has not been shared.

The applicant's Counsel advice concludes that they 'cannot see any legal or practical justification for the Council to reject such a condition, if it felt it appropriate to limit the effects of the Scheme in daylight/sunlight terms to below those caused by the Parameter Plans'.

Officers are of the view that the applicant's legal opinion fails to grapple with the detailed points of concern raised by officers and, that in any event, it does not recognise that officers have indicated that the illustrative impacts appear, in themselves, to be unacceptable.

This is not to say that an alternative set of daylight and sunlight impacts based upon a revised illustrative model - shared with the Council - could not be capable of achieving acceptance and secured through an alternatively worded condition. The impacts of any such alternative scheme would have to be evidenced as being compatible with the quantum of floorspace sought and achieve a range of Daylight and Sunlight values agreed with officers with guidance from its expert advisor. Officers would have to be satisfied that such a condition was precise, enforceable and would minimise the extent of harm identified across the scheme's overall impacts.

At the point of completing the amendment sheet, Officers cannot report any correspondence from the applicants which indicates that they would be willing to undertake such a process, albeit it remains within their gift to meaningfully engage on this issue should they so wish. In that event, and if a singular reason for refusal were to arise following debate, it would not be unreasonable for members of the Committee to agree to a deferral of the item to allow such a process to be undertaken. As stated above, this would rely on willingness from the applicants to engage further.

Textual Amendments to Report

Section 1.0 – Executive Summary

Correction to final sentence of paragraph 1.20 as follows:

Amendments to
Text:

However, while there is an opportunity for the Council to facilitate significant investment and align with the Government's growth agenda in this crucial sector, providing new employment and retail uses as part of an innovative urban quarter that reduces car dominance, including the removal of 490 parking spaces, while 6 Beehive Centre addressing the poor urban fabric and limited biodiversity, the development must be determined in accordance with the development **plan** as a whole.

Section 24.0 – Residential Amenity

Correction to paragraph 24.7 as follows:

There are, however, some additional considerations when interpreting any numerical reductions in daylight, sunlight, or increases in overshadowing. For instance, given the relatively low-rise nature of the existing buildings on the site, some of the surrounding neighbouring properties may benefit from higher levels of daylight and sunlight than ordinarily anticipated for an urban / **suburban** location, meaning that some degree of harm to neighbouring amenity, due to daylight and sunlight reductions, may be inevitable. Accordingly, the BRE guidance incorporates some flexibility for alternative target values to be adopted where they can be justified based on the special requirements of the development or its location. However, this flexibility in the guidance does not imply that a material deterioration can be disregarded if the guidelines indicate it will occur.

Correction to paragraph 24.11 as follows:

In terms of daylight, 37 main windows serving habitable rooms in St Matthew's Gardens and 26 main windows serving habitable rooms in Silverwood Close would not meet the BRE targets for VSC in terms of reduction. Of these reductions in daylight to windows, 15 would be major adverse, ~~29~~ **30** would be moderate adverse, and 18 would be minor adverse.

Correction to paragraph 24.14 as follows:

Additionally, in terms of overshadowing, two amenity areas in St Matthew's ~~Close~~ **Gardens** and three amenity areas in Silverwood Close would experience reductions in sunlight availability below BRE guidelines. Of these reductions in sunlight, four would be over 40%, and one would be 39%.

Additions to paragraph 29.3 (Section 106 HoTs) as follows:

Section 8: Transport & Highways: to include obligations for additional/enhanced bus services to serve the site; and delivery of off-site cycle and pedestrian improvements between Coldham's Lane and Newmarket Road.

Additional Third-Party Representations

Third Party
Representations

Additional third-party representations received which raise no new material planning issues to those already reported and are as follows:

7 no. object
3 no. support

Further representations in support of the development proposals have been received from organisations Constructed Pathways CIC and Indie Cambridge.

Pre-Committee
Amendments to
Recommendation:

These representations can be found on the public file.

None

Decision:

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