

FAO: **DCC Members**

Application ref. **Royal Free Hospital, Pond Street
2014/6845/P**

Subject: **Officers' responses to letter dated 7 April 2016 from Birketts
Solicitors acting for Objectors.**

Birketts say:

The Council has not worked proactively to resolve the very serious structural issues affecting St. Stephen's Church

Officers' response

This criticism is unfair. From submission of the application in October 2014 planning officers (assisted by their technical consultants) have closely scrutinised the potential structural impacts on St. Stephens's Church and all neighbouring properties. On receiving additional technical information from the Objectors in November 2015 and again in March 2015, officers commissioned their technical advisers to review the information and have amended the related proposed Section 106 legal agreement to add further requirements prior to the basement works commencing.

Birketts say:

Leaving "the details" to be outworked through planning conditions and s106 is legally flawed..... the Council is not yet in a position to know technically whether the heritage risks can be mitigated

Officers' response

The Council's technical advisers have consistently confirmed that the outstanding details can be provided at a later stage, i.e. after planning permission has been granted but before works commence on site. Where subterranean works are being proposed it is common for certain technical details to be provided at a later stage. The proposed s106 agreement ensures that the basement works cannot be carried out until the Council is satisfied that no harm to neighbouring properties will occur from the works. This approach is entirely legal.

Birketts say:

Officers have been benevolent in trusting the professional standing of the applicant's design teamthe Objectors have showed this approach to be a failurethe applicant's advisers have left serious gaps in their coverage.

Officers' response

Officers and their technical advisers have recognised throughout the determination of this application that certain details would have to be provided at a later stage. The value of the additional information submitted by the Objectors has been recognised and the related s106 agreement has been amended accordingly. The s106 however will ensure the basement works cannot comment until satisfactory details have been provided to the Council.

Birketts say:

The LBH report is not attached to the officer report. Selective referencing of LBH's [the Council's technical advisers] review by officers to Memberscertain passages in the review suggest a more cautious approach, i.e. LBH state that:

- (i) The original BIA (submitted by the applicant) was not complete despite revisions made in February 2015. The officer report to DCC stated that the report was incomplete due to the designs not being progressed sufficiently at that stage. Given the standing of the applicant's team, this could be corrected by conditions in this case.*
- (ii) A number of areas have been identified where further investigation and assessment are going to be required and these could be progressed in advance of planning permission.*
- (iii) The new evidence heightens uncertaintythe applicant is required to demonstrate by methodologies appropriate to the site that schemes will maintain the structural stability of neighbouring properties. The latter has not been done yet.*

Officers have not properly conveyed to Members the conclusions of LBH at para 21 of the officer report.

Officers' response

Officers consider that the officer report gives an accurate summary of the LBH review. Paragraph 20 of the officer report sets out the findings of the For example, the officer report acknowledges that the LBH review states:

- that the evidence submitted by the Objectors presents new evidence concerning a number of issues (para. 15);
- the new evidence raises key valid deficiencies in the BIA concerning these issues (para 16);
- the previous BIA was incomplete (para 20); and
- further studies will need to be produced prior to works commencing on site (para 21).

Officers consider that paragraph 21 of the officer report accurately conveys LBH's view that further studies will need to be carried out but that these can be done following planning permission being granted.

Birketts say:

Paragraph 30 of the officer report is misleading

Officers' response

Officers consider that para. 30 of the officer report makes clear that there were issues identified in the original officer report to DCC which needed to be addressed but that, importantly, these issues could be addressed at a later stage.

Birketts say:

It would be an irrelevant material consideration for Members to place weight on the comments at para. 22 concerning the Applicant's expectations and financial penalties and par 30 to reduce risk of further delays

Officers' response

Officers consider this part of the report to factual background.

Officers' summary comments

Officers consider that there is no error of law in proceeding to grant planning permission with the imposition of planning obligations (under section 106) given that officers and their technical advisers are satisfied by the body of information that there is a potential solution to the issues raised.

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