

Redevelopment of Queens Market

Decision of Head of Property and Development to authorise the submission of amendments to the St Modwens Planning Application for the redevelopment of Queens Market.

This minute records the decision taken by the Head of Property and Development having received legal advice from the Head of Legal Services

1. It is recognised that in exercising its functions the Council should have due regard to its equality obligations including its obligations under s71 Race Relations Act 1976 (as amended) when carrying out its functions to have due regard to
 - I. The need to eliminate unlawful discrimination,
 - II. The need to promote equality of opportunity, and
 - III. The need to promote good race relations between persons of different racial groups.
2. Section 71 applies to the evolving process of formulating regeneration proposals for the site. It will also be relevant to the Council's determination (as local planning authority) of the planning application.
 - a. The Head of Property and Development has taken into account the regard which the Council has had to s.71 during the evolution of the proposals so far; the EQIA (as revised) and the fact that consideration of any race equality issues will be a material planning consideration when the Council, as local planning authority, makes its decision in respect of the site. Having regard to this context, the Head of Property and Development Services considers that the submission of the planning application is consistent with the Council's duties under s.71.
3. The Council has had regard to its obligations under s71 and broader considerations of equality throughout the preparatory stages of the emerging regeneration proposal for this site.

It will be recalled that the Cabinet decision of 23 June 2005 resolved that a revised scheme which secures the future of the market scheme should be worked up in detail and proceed to a full planning application. It was an essential component of that decision that 100% of the existing market stalls would be re-provided in the new scheme in the most valuable part of the site fronting Green Street. Thus from the outset the principle has been established that the regeneration of the Queens Market should go hand in hand with the preservation of a thriving market with protection for the existing market stalls.

3. The decision dated 23 June 2005 was supported by a report which listed extensive consultation which had taken place by that time and also addressed the equality implications of that proposal. :

"The Council believes that everyone in Newham should be treated without discrimination and prejudice and have equal access to services, employment and



trading opportunities. The Council believes that these should be delivered regardless of a person's age, disability, sexual orientation, language, HIV status, religion, social origin or class.

Equalities Core Values for Queens Market are –

- Everyone has opportunities to fulfil their potential
- Discrimination is not tolerated
- Everyone makes their contribution
- Racial equality is promoted
- Diversity is valued in the new scheme and promoted.

If the Mayor agrees to the progression of the improvements plans for the Queen's Market and surrounding environs, this will give a green light for the developer to prepare a formal planning application. A race equality impact assessment of the development proposal will be carried out and the report will be published and the findings taken account of before any development proposals are finalised for submission for planning permission.

The Council's intention is to undertake an impact assessment. Once completed it will be published on part of the council's web-site dedicated to Queen's Market".

4. It is clear that the Council had regard to the matters contained within s.71 RRA in reaching its decision in June 2005 to proceed with the working up of a development proposal for the Queens Market.
5. It is also clear that at this early stage there was extensive consultation and the consultation responses were taken into account in the formulation of the emerging proposals and shaped the emerging proposal.
6. On 22 December 2005, the Mayor in consultation with the Cabinet approved the inclusion of a new library and local service centre in the new proposed Queens Market development.
7. The report to Cabinet addressed "equalities" considerations (at paragraphs 3.4.1-3.4.3) and was accompanied at Appendix 3 by an "Equality Impact Assessment" (see attachment 2).
8. That assessment:-



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- a. noted that it was a current strength of Queens Market that it provided cheap fresh produce and stated that the development would "continue to provide the availability of fresh produce at affordable prices".
 - b. specifically noted that the "redevelopment process will need to be sensitive to specific requirements of members of our communities and therefore regular consultation with the residents will be required"
 - c. Identified the function of the market for the "purchase of cultural goods and services".
 - d. noted that the assessment process was being started at an early stage to ensure that the impacts of the proposal could be reviewed.
9. Thus the preservation of the market and the role of the market in terms of the provision of fresh products which served the specific needs of the diverse community which it served was at the forefront of the Council's consideration at this early stage of the emerging proposals. It is therefore considered that the Council had due regard to the matters prescribed by s.71 at this stage of the process of these evolving proposals for the site.
 10. The EQIA was updated in January 2006 (attachment 3). That assessment noted the Council's objectives as including "expand[ing] the role of the Queens Market site as an integrated, urban and dynamic business location and specialist area" (section 3.1). It specifically noted the role of the existing market providing "diverse, affordable food stuffs to a wider customer base, including low income households" and recorded that "100% of the existing market stalls will be reprovided". It is therefore clear that at this stage the protection of the market and its importance in terms of providing affordable and diverse food was a significant factor in the Council's approach.
 11. The 2006 EQIA assessment records a series of consultations which it was then anticipated would take place as the proposal emerged towards a more detailed scheme. As is recorded in the Statement of Community Involvement which has been prepared in support of the planning application, such a programme of consultation has indeed taken place.
 12. In March 2006 the Council entered into a development agreement with the St Modwens in respect of Queens Market. The agreement contains safeguards concerning the operation, relocation, management and allocation of new market stalls and shops for existing traders and obligations relating to the upkeep of the market. That agreement was consistent with the parameters established by the prior decisions of the Council as recorded above which were informed by consideration of s.71. The Council's partnership arrangements make provision for the protection of existing traders which will promote Queens Market continuing as a thriving market serving its diverse population and customer base.



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13. The emerging proposals for the redevelopment of Queens Market have been the subject of extensive public consultation since 2004. An overview of the number and type of consultations which have taken place at various stages since 2004 is contained in the Statement of Community Involvement which was submitted in support of the planning application. This shows extensive public consultation has taken place during the emergence of the proposals. This has included regular meetings with representatives of the market traders, regular drop in sessions at the market itself (the fortnightly information office), targeted consultation with the residents of the Hamara Ghar area of Green Street, work with the local community forum, numerous exhibitions as well as the specifically targeted consultation which informed the EQIA.
14. The Council (in conjunction with St Modwen) has commissioned a full equality impact assessment prior to the submission of the planning application. This reflects the course of action contemplated by the Council in its earlier decisions.
15. The Council (in conjunction with St Modwen) have commissioned specialist consultants to prepare an equality impact assessment.
16. The methodology of that assessment is based on guidance published by the GLA and the Council and EDAW's own specialist review of best practice in EQIA's.
17. The EQIA is a document which evolved in several stages:-
 - a. Initially a scoping exercise was prepared which identified potential impacts of the development proposal which needed to be addressed.
 - b. Those issues were the subject of specifically targeted consultation with groups who were considered to be particularly affected. The programme of consultation events was also advertised (described in section 6 of the document).
 - c. The results of that proposal were fed into the final document and informed changes to the planning application.
18. The EQIA has been updated as a result of a further consultation event and taking account of written representations received. The revised EQIA has now been published.
19. The EQIA is relevant to inform the Council's decision as landowner as to whether the proposed redevelopment as currently formulated in the planning application (as amended) is consistent with the Council's duties under s.71.



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20. The equality impact assessment will also inform the Council's decision as local planning authority which will have to be taken having due regard to the Defendant's duties under s.71 (amongst other considerations).
21. The process of consultation is continuing because the planning application itself is the subject of consultation and representations made during the course of the application will be taken into account in the determination of the application.
22. Having regard to the proposals, the contents of the revised EQIA and the manner in which these proposals have evolved (with consultation and an emphasis on the protection of existing traders), the Head of Property and Development considers that the submission of the planning application (and amendments now proposed to it) is consistent with the Council's obligations under s.71.
23. The proposals in their current form have been carefully formulated with the aim of improving Queens Market whilst protecting its existing tenants and diverse food offer. The proposals aim to achieve an enhancement of the market and to do so in a way which is sensitive to preserving its benefits as a place where the diverse population of Newham and visitors mix and have access to affordable ethnically diverse food. In the evolution of these proposal to date, the Council has been pro-active to ensure that these benefits of the existing market are not lost in the achievement of the wider and much needed regeneration of the area. As such it is considered that there is no incompatibility between the development proposal and the matters to which the Council must have due regard pursuant to s.71 namely the need to eliminate unlawful racial discrimination, promote equality of opportunity and promote good race relations between people of different groups. It is an aim of the proposal from the Council's perspective that Newham's unique and diverse populations, visitors and traders to the market will continue to benefit from the social mixing and diverse offering which Queens Market offers its users and traders. The Council does not consider that there is any incompatibility between achieving the regeneration of the area and ensuring that the benefits which the market delivers to its diverse population are protected and indeed enhanced as part of the regeneration programme. In the Council's view, these objectives pull in the same direction rather than conflict with each other.
24. The consultation process has highlighted some concerns about potential impacts of the proposal. It is considered that these have been satisfactorily addressed in the development proposals as they have emerged so far. As part of any planning decision, conditions can be imposed and/or s.106 obligations required to ensure that the development proceeds in a manner which is acceptable when more detailed aspects of the proposal are finalised. The precise details of these requirements will be a decision made by the Council, as local planning authority. However, it is clear that there is ample potential to protect existing traders and secure an appropriate design of the market through such measures.



25. One recurring concern which was highlighted in the consultation responses is the fear that rents will rise and this will have an adverse impact on the diverse offer of Queens Market. The Council have had this concern very much in mind in the evolution of the proposals and have taken steps to ensure the protection of existing traders. St Modwen's has pledged to fix the rent for market stall traders for five years from the opening of the new market hall. This is consistent with the Council's commitment to ensure that the diverse food offer of the market is safeguarded in the evolution of proposals to develop the site. It is considered that this 5 year commitment is significant and provides the necessary safeguards to ensure that there will be continuity in the market and that its benefits in terms of the provision of diverse affordable food will be maintained and secured alongside the achievement of the regeneration of the site. The Council (in its capacity as landowner) considers that this 5 year commitment strikes the right balance between positive support for existing stall holders and protecting the existing diverse offer of the market on the one hand and ensuring that the market is viable and economically sustainable on the other hand. The Council has had specific regard to s.71 in supporting this positive support for existing stall holders during this 5 year period after the new market opens. It will be a matter for the Council as local planning authority to consider how this commitment should be secured in any planning permission that is granted but it is presently anticipated that one way in which this could be achieved is through appropriate provision in a s.106 agreement or obligation.

With regard to shop keepers, St Modwen has accepted the principle that there will be a stepping of rent over 5 years from the opening of the new market. St Modwen has confirmed that rents for shops at the new Queens Market will generally be lower than those on Green Street. Precise rental levels will be set according to each shop units location within the new Queens Market. The Council is therefore satisfied that mechanisms will be in place to ensure that existing traders and those members of the local community aspiring to trade at the market will not be priced out of the new development. This will help to ensure that the development proceeds in a way which benefits the diverse local community and continues to be a place where a diverse local community is represented and have opportunities to mix and have access to a range of ethnic food and produce. The size of the shop units in the scheme have been designed to be suitable for local traders and are not sized to appeal to High Street traders. The aim of the development is to support and enhance the local community not to replace it. The Council is therefore confident that the development will benefit the local community whose needs it serves.

26. Construction



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Concerns have been expressed as to the impact on the market of the construction period. It is considered that this is an issue which can be addressed through careful planning and that the Council as local planning authority may well consider that it was appropriate if planning permission for the development was to be granted a condition could be attached to any planning approval for a Method Statement to be provided and adhered to setting out how access and amenity can be maintained during the construction phase. The plan for the market during the construction phase should ensure that the variety and diversity of the market is preserved through careful allocation of stalls (on which stall holders will be consulted), use of signposting and ensuring that the market is accessible to all including those with disabilities. Whilst it is not possible to achieve a single site solution during the temporary construction period, there will be linkage between the 2 market areas and the Council considers that the vitality of the market can be preserved through careful planning and management. Stall holders will be involved in the formulation of the plans during construction to make sure that their needs are met as far as possible and that the market thrives and retains its character during the construction period. Whilst it is acknowledged that there will be some disruption to the market during the construction phase, it is considered that this can be managed in a way to ensure that it remains a vibrant and diverse destination during the necessary phase of construction that will trigger the regeneration of the site. The Council does not consider that the role which the market plays in serving the needs of the local community so far as the provision of the diverse food or as a place where persons of different races and backgrounds mix will be damaged during the construction period. Any disruption that will take place can be managed to ensure that the market continues to thrive in this necessary period of transition.

27. Market Design

The detail of the design of aspects of the proposal is likely to continue to evolve. The Council accepts that the detail of such decision can have important implications for the effectiveness of the market and the delivery of the scheme both in terms of regeneration and in terms of social and equality impact.

The EQIA recommended intervention provides that local community groups should be engaged in the design of the community open space. The organisation and management of the space should ensure optimal access to community groups to hold events, fairs and celebrations. This recommendation is supported.

St Modwen is working with the National Market Traders Federation and Market Centric to ensure that the detailed design is appropriate to retain the markets current success (both financial and social). As part of this market traders will be able to set out at the form of stall which is most appropriate to them and the level of formality this takes. Market traders should continue to be consulted throughout the detailed design and fit out of the internal market. This will ensure that existing traders will be involved



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in the important details of the final design of the market and will also enable issues such as ensuring that the market provides a place for mixing and social interaction for all of its users to be incorporated into the evolution of the detailed design.

As part of the consultation process involved in the statutory process for determining the planning application the Council as local planning authority is consulting on the overall design of the scheme and will decide on how to use conditions to ensure that it has sufficient control over any detailed aspects of the design which have not be finally resolved at the date of determination of the planning application.

It would be anticipated that the final detailed design of the market itself will be controlled by planning condition. Section 71 will apply to any decision to grant planning permission and also in respect of the planning decision as to detailed detail design submitted in due course be approved. It is therefore envisaged that the process contains ample protection to ensure that the detail of the design of the proposed development does not cause any conflict with the Council's obligations under s.71.

Criticisms of consultation process

It is to be noted that a number of criticisms are made of the consultation exercise that was carried out as part of the EQIA by a numbers of consultees who object to the proposed development.

The Council is satisfied that there has been sufficient and well coordinated consultation as part of the formulation of the EQIA.

The use of targeted consultation is an appropriate strategy to ensure that those groups who are hard to reach have the opportunity to engage in the consultation process.

In addition consultation events have been publicised and the results of those consultations publicised.

Some criticisms were made after the publication of the EQIA relating to the timing of consultation events which in one instance pre-dated the advertisement.



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In response to this criticism and to ensure that a further opportunity to consult was available, a further event was held.

In addition, a process of written consultation was undertaken which enabled any concerns about the equality impacts of the proposal to be identified in writing. A list of questions was drawn up to focus this consultation but comments were invited.

Having regard to all of the opportunities for consultation as part of the EQIA the Council is satisfied that there has been fair and meaningful consultation on the impacts of the proposal.

The outcome of the consultation exercise is addressed in detail in the revised equality impact assessment and certain key issues relevant in particular to s.71 have been highlighted above.

It must also be recalled, as stated above, that the preparation of the EQIA is part of one stage in a wider process which has involved ongoing consultation and which will culminate in the consultation process relevant to the planning application. It is considered that ample opportunity has been afforded for concerns about the proposal and its effects (including the matters covered by s.71) to be expressed and that the matters raised have been taken into account in the formulation both of the parameters of the proposed development (see for example the early commitment to protect existing tenants) and in the important details of the proposal as it emerges.

This decision to approve the submission of the planning application as amended is a stage in the emergence of proposals for Queens Market. The next stage will be for the Council as local planning authority to assess the merits of the proposal. It is clear that s.71 is a material consideration in the determination of the planning application and the Council as local planning authority will consider whether the principle of the redevelopment of the site is compatible with the Council's obligations under s.71 and if so, whether any particular measures (such as the imposition of particular planning conditions) are necessary to ensure the compatibility of any planning permission granted with the Council's obligations under s.71.

Conclusion

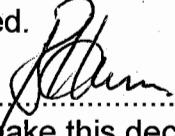


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The Head of Property and Development therefore considers that it is compatible with the Council's obligations under s.71 for this planning application to continue (subject to the amendments which are being submitted).

It is considered that the Council's obligations under s.71 have been taken into account during the process of the emerging proposals (as set out above) and it is acknowledged that section 71 will continue to be relevant to the assessment of any submitted application by the Council as local planning authority.

I agree that the amendments to the planning application as attached may be submitted to the Council and that this planning application (as amended) may proceed to be determined.

Signed  Head of Property and Development
Authorised to make this decision on behalf of Newham Council as landowner.



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