

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STRATEGIC DEVELOPMENT COMMITTEE

HELD AT 7.00 P.M. ON WEDNESDAY, 21 DECEMBER 2016

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Marc Francis (Chair)
Councillor Danny Hassell (Vice-Chair)
Councillor Asma Begum
Councillor Denise Jones
Councillor Helal Uddin
Councillor Andrew Wood (Substitute for Councillor Julia Dockerill, item 4.1 only)
Councillor Md. Maium Miah (Substitute for Councillor Gulam Robbani)
Councillor Shah Alam (Substitute for Councillor Shafi Ahmed)

Other Councillors Present:

None

Apologies:

Councillor Julia Dockerill
Councillor Gulam Robbani
Councillor Shafi Ahmed

Officers Present:

Jerry Bell	(East Area Manager, Planning Services, Development and Renewal)
Marcus Woody	(Legal Advisor, Legal Services, Directorate Law, Probity and Governance)
Gareth Gwynne	(Principal Planning Officer, Development and Renewal)
Nasser Farooq	(Team Leader, Planning Services, Development and Renewal)
Amy Thompson	(West Area Manager, Planning Services Development and Renewal)
Zoe Folley	(Committee Officer, Directorate Law, Probity and Governance)

The agenda order was changed at the meeting to consider agenda item 4.1 (Sainsbury Foodstore, 1 Cambridge Heath Road, London, E1 (PA/15/00837))

before agenda item 3.1 Former Castle Wharf Esso Petrol Station, Leamouth Road, London, E14 0JG (PA/16/01763/A1)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

Councillor Marc Francis declared an interest in agenda item 4.1 Sainsbury Foodstore, 1 Cambridge Heath Road, London, E1 (PA/15/00837) as he had received representations from interested parties, was a former resident of the Collingwood Estate and had served as a Board Member on the Tower Hamlets Homes Board at the same time as, Iain Lawson, one of the registered speakers in objection. However he emphasised that he had not spoken to Mr Lawson or the Collingwood Tenants Residents Association about the application.

2. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

The Committee **RESOLVED** that:

- 1) In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director, Development and Renewal along the broad lines indicated at the meeting; and
- 2) In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director, Development and Renewal is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision
- 3) To note the procedure for hearing objections at meetings of the Development Committee and the meeting guidance.

3. DEFERRED ITEMS

3.1 Former Castle Wharf Esso Petrol Station, Leamouth Road, London, E14 0JG (PA/16/01763/A1)

Update report tabled.

Jerry Bell (East Area Manager, Planning Services) introduced the application for the redevelopment of the former Service Station site with a residential led mixed use development.

It was reported that the application was previously considered at the Committee meeting on 29th November 2016, where Members resolved to

defer the application for a Committee site visit (that took place on the 9th December 2016) and requested further information on:

- The impact of the scheme on schools and health care provision.
- Developments with play space on the upper floor.

It was also reported that due to contractual issues, the applicant had submitted an appeal against non-determination. Therefore, the Committee were now being asked to consider how they would have determined the application should they have the power to determine the application. (Further legal advice on this matter is set out at the end of this minute).

Nasser Farooq (Planning Services, Development and Renewal) gave a presentation on the application reminding the Committee of the site location, the routes to local amenities including the two new routes to Canning Town that would be opened by the time the application was built out (if granted).

Since the last meeting, the plans had been amended to relocate the child play space to the ground floor. This had been achieved by relocating the community space to the roof level. As a result of the changes, the level of play space marginally exceeded the policy requirements. Changes had also been made to covert non residential floor space to a Class D1 community use.

In terms of the school and health care review, the findings indicated that there would be capacity to sustain the development and the population from other anticipated developments, given the plans to increase the capacity of the facilities. Full details of the findings were set out in the Committee report and were summarised at the Committee meeting. Attention was drawn, in particular, to the planned new health practices for the Aberfeldy Estate and the new schools at Wood Wharf and the Bromley Hall Site.

It was also noted that the site falls within an area identified in policy for a high density development.

Officers remained of the view that the application should be granted planning permission.

In response to questions, Officers clarified the plans to provide the additional community use. It was also noted that there would be a Community Infrastructure Levy contribution for health and education facilities amongst other things. It was also reported that Officers had discussed the plans for the new Aberfeldy practice with the providers and it was understood that the increased capacity could accommodate other new developments in the area. Furthermore, it could be a number of years before the application would be occupied and in that time, additional infrastructure would come forward. It was also explained that the review of pupil projections covered a range of factors and the review did take into account the impact from other new developments coming forward. It was also noted that the population projections would be fed into the Local Plan refresh with a view to designating sites for infrastructure where needed.

In relation to the highway safety and air quality issues, consideration was given to these issues at the site visit and it was observed that there were crossings on the nearby highway. It was also considered that the relationship between the application and the highway was not an uncommon feature of developments. Highway Services had not raised any concerns about the development in terms of highway safety. An air quality report was approved by the Air quality specialist.

In view of the concerns about the proximity of the site to busy roads, Councillor Marc Francis proposed that an additional pre commencement condition be added to the application requiring that a traffic safety audit be carried out. On a vote of 4 in favour 2 against and 0 abstentions this was agreed.

Before moving to the voting stage, the Committee received advice from the legal officer about the appeal that had been lodged by the applicant against non - determination due to contractual reasons. The update report stated that due to this, the decision making powers had been transferred to the Planning Inspectorate and if the appeal was subsequently withdrawn, the decision making powers would return back to the Council.

The legal advisor reported that this point needed to be qualified. In normal circumstance where an appeal had been validated by the Planning Inspectorate and was withdrawn before the Inspector had made a determination, it would mean that the application had been finally disposed of. However in this case it was understood that while the appeal had been acknowledged, it had not been validated. Therefore it was uncertain whether a withdrawal of it would mean that the application was finally disposed of or if the Council could recover decision making jurisdiction because the appeal was not validated (albeit had been acknowledged) by the Planning Inspectorate.

In view of this advice, the Committee were invited to accept two resolutions. Firstly, to decide how they would have determined the application should they have had the power to do so. Secondly, to accept a second recommendation allowing for the Officers to issue the decision, acting in accordance with the Committee's resolution, in the event that the Council is capable of recovering decision making powers for the application following a withdrawal of the appeal.

On a vote of 4 in favour, 2 against and 0 abstentions, the Committee **RESOLVED:**

1. That should the Council have the power to determine the application that the Committee would have been minded to **GRANT** the planning application at the Former Castle Wharf Esso Petrol Station, Leamouth Road, London, E14 0JG for the Redevelopment of the former Service Station site with a residential led mixed use development, comprising residential units, together with 295 sqm of D1 floorspace, 81 sqm of

flexible non-residential floorspace (Use Classes A1, A2, A3, B1, D1 and D2), 36 sqm café floorspace (Use Class A3), set across two main buildings including a 24 storey tower with stepped blocks of 20, 17, 11 and 8 storeys, linked by a 2 storey podium at ground level, with a single basement level, landscaping and associated amenities.
(PA/16/01763/A1) subject to:

2. Any direction by the London Mayor
3. The prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure the planning obligations set out in the Committee report.
4. That the Corporate Director, Development & Renewal is delegated authority to negotiate and approve the legal agreement indicated above.
5. That the Corporate Director Development & Renewal is delegated authority to issue the planning permission and impose conditions and informatives to secure the matters set out in the Committee report and a further pre commencement condition requiring the submission of a highway safety audit.
6. Any other conditions considered necessary by the Corporate Director Development & Renewal.

On a vote of 4 in favour, 2 against and 0 abstentions, the Committee **RESOLVED:**

7. That should legal advice determine that the Council is able to recover decision making powers for the application, following a withdrawal of the appeal against non determination, that Officers be delegated to issue the decision acting in accordance with the Committee's resolution.

4. PLANNING APPLICATIONS FOR DECISION

4.1 Sainsbury Foodstore, 1 Cambridge Heath Road, London, E1 (PA/15/00837)

Update report tabled.

Jerry Bell (East Area Manager, Planning Services) introduced the application for the demolition of the existing store and decked car park to allow for a replacement Sainsbury's store along with residential units and associated works.

The Chair invited the registered speakers to address the Committee

Ian Lawson, (Collingwood Tenants Residents Association) and Thomas Antoniwi, (Friends of Trinity Green/East End Preservation Society), spoke in opposition to the scheme. They noted the need for the redevelopment of the site and additional housing, however they objected to the height of the proposal and the harmful effect this would have on the nearby heritage assets and the Conservation Area as well as neighbouring amenity. The development would overpower surrounding buildings that were much lower in height and cause a loss of sunlight and daylight. They also objected to the density of the application (given the size of the site) and the level and affordability of the housing for local residents in particular. They also commented on the strength of the opposition to the application. The speakers then responded to questions of clarification from the Committee about their concerns. In relation to the heritage impacts, it was considered that the development would harm the setting of the historic Trinity Green Almshouses by interrupting the unspoilt skyline, particularly at the east and west of the site, that no other development had done. They also answered questions about their other concerns with the application

Bruno Moore (Sainsbury's) spoke in support of the application. He considered that the impact on the heritage of the area would be less than substantial and the benefits of the scheme would outweigh this. A view shared by the Greater London Authority whose comments had been submitted before the height of the application had been reduced. In response to the Committee questions, he commented on the scope of the applicant's consultation, the changes to the application, the implications of reducing the height any further on the viability of the scheme, Historic England's comments on the height, and the frontage treatment. He also responded to questions about the housing mix (in view of the shortfall of 4 bed affordable units), the shortfall in affordable housing, due in part to the costs of closing the supermarket during the construction phase, and the energy efficiency measures. He also considered that the density of application was an honest response to the site constraints.

Sunil Khosla (Representative of the Whitechapel Market Traders) also spoke in support of the application. He considered that traders welcomed the application given the beneficial effect that it would have on local trade. It would help modernise the local market and bring customers into the area benefiting the local economy. This was especially welcomed with the coming of the new Cross Rail station

Gareth Gwynne, (Planning Officer, Development and Renewal) gave a comprehensive presentation of the application describing the key features of the site and surrounds and the application. He described in some detail the merits of the application (including the high quality design features, the provision of new housing, a new walk way and new public realm). He also described the deficiencies of the proposal in terms of its impact on heritage assets. It was considered that the proposal would cause substantial harm to the setting of the Grade 1 Listed Trinity Green Almshouses and would harm other heritage assets. Therefore in line with policy Officers were

recommending that the planning permission be refused.

In response to questions about the impact of the application on neighbouring properties, it was explained that the committee report contained a detailed analysis of the sunlight and daylight impacts on neighbour properties. However, given that the results were quite typical for a dense urban setting, that the scheme had been carefully designed to minimise such impacts and that the neighbouring properties had design features that could enhance the impacts, Officers considered that such impacts were acceptable for an urban setting. It was also clarified that the application did meet a number of the objections in the Whitechapel Vision Master Plan SPD but notwithstanding this, it was not considered that this would outweigh the adverse impacts. The Whitechapel Vision did identify an opportunity for a landmark building in the approximate location of building 1 but did not identify a landmark building as being necessarily a tall building and specifically not a building of 28 storeys in height.

It was also noted that the affordable housing offer of 25% per habitable room had been independently tested and it was found that this was the most that the scheme could afford. The plans would result in a net loss of on street car parking spaces. However, Highway Services had assessed the plans and found that this was acceptable given the number of surplus spaces in the surrounding streets.

In response to questions about the child play space, Officers explained that while the plans were far from ideal (given the shortfall in the play space for the affordable units), it was not considered that a reason based on this issue could be sustained at appeal given the proximity of the site to nearby parks.

Officers also responded to questions about the landscaping plans, the comments from the heritage bodies, the need to consider each application on its own merits, the public realm improvements and the Community Infrastructure Levy contributions.

Councillor Marc Francis moved that an additional reasons for refusal be added to the recommendations relating to the sunlight and daylight impact on properties in: Albion Yard, Blackwood House, Collingwood House, Grindall House, Kempton Court and 1-6 Key Court. On a vote of 7 in favour, 0 against and 0 abstentions this was agreed.

On a vote of 7 in favour of the Officers recommendation, 0 against and 0 abstentions the Committee **RESOLVED**:

That the planning permission be **REFUSED** at Sainsbury Foodstore, 1 Cambridge Heath Road, London, E1 for the:

Demolition of the existing store and decked car park to allow for a replacement Sainsbury's store (Use Class A1) of 5,766 sqm (net sales area), (11,208 sqm GIA to include a Use Class D1 'explore learning ' facility (118 sqm GIA), 871 sqm (GIA) of flexible retail/office/community floorspace (Use

Class A1, A2, A3, B1 and D1) and 559 residential units (Use Class C3) arranged in 8 buildings, including a 28 storey tower (101.375m (AOD)), an energy centre and plant (2,509 sqm (GIA)) is proposed at basement level with 240 'retail' car parking spaces and 40 disabled car parking spaces for use by the proposed residential units. 2 additional disabled parking bays are proposed at ground floor level at Merceron Street. The creation of an east-west public realm route from Cambridge Heath Road to Brady Street, including further public realm provision and associated highway works to Brady Street, Merceron Street, Darling Row, Collingwood Street and Cambridge Heath Road. (PA/15/00837) for the following reasons as set out in the Committee report subject to any direction by the Mayor of London

1. The proposed development would cause substantial harm to the significance of the Grade I Listed Trinity Green Almshouses, by reason of the introduction of Building 1 which impacts adversely upon the setting of this historic, low scale courtyard arranged set of buildings.

As such, the proposal fails to provide a sustainable form of development in accordance with paragraphs 17, 56 and 61 of the NPPF and fail to be consistent with the guidance set out in Chapter 12 of the NPPF in respect to conservation and enhancement of the historic environment. The proposal is also contrary to policies 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2016), SP10 and SP12 of the Tower Hamlets Core Strategy (2010) and policies, DM24, DM26 and DM27 of the Tower Hamlets Managing Development Document (2013).

2. The proposed development would cause significant, albeit less than substantial, harm to the character and appearance of the Stepney Green Conservation Area, by reason of the height, scale and mass of the proposed development and its impact upon local townscape views from Mile End Road.

As such, the proposal fails to provide a sustainable form of development in accordance with paragraphs 17, 56 and 61 of the NPPF and fail to be consistent with the guidance set out in Chapter 12 of the NPPF in respect to conservation and enhancement of the historic environment. The proposal is also contrary to policies 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2016), SP10 and SP12 of the Tower Hamlets Core Strategy (2010) and policies, DM24, DM26 and DM27 of the Tower Hamlets Managing Development Document (2013).

3. The proposed development would cause significant, albeit less than substantial, harm to the setting and appearance of the Grade II listed Albion Brewery Entrance Building, together with the Whitechapel Market Conservation Area, by reason of the adverse and visually overbearing imposition of the development upon townscape views of Albion Yard Brewery from Whitechapel Road.

As such, the proposal fails to provide a sustainable form of development in accordance with paragraphs 17, 56 and 61 of the

NPPF and fail to be consistent with the guidance set out in Chapter 12 of the NPPF in respect to conservation and enhancement of the historic environment. The proposal is also contrary to policies 7.4, 7.5, 7.6 and 7.7 and 7.8 of the London Plan (2016), SP10 and SP12 of the Tower Hamlets Core Strategy (2010) and policies, DM24, DM26 and DM27 of the Tower Hamlets Managing Development Document (2013).

4. In the absence of a legal agreement to secure financial and non-financial contributions including affordable housing, street market enhancements, highway works, land allocated for Transport for London bike station, employment, skills, training and enterprise, and energy, the development fails to maximise the delivery of affordable housing and fails to mitigate its impact on highways, local retail sector, local services, amenities and infrastructure. This would be contrary to the requirements of Policies SP01, SP02, SP09, SP12, and SP13 of the LBTH Core Strategy, Policy DM1, DM3, DM20, DM21 of the LBTH Managing Development Document and Policies 2.15, 3.11, 3.12, 4.7, 6.3 and 8.2 of the London Plan and the LBTH Planning Obligations SPD 2016.
5. Concerns about the sunlight and daylight impacts on properties in Albion Yard, Blackwood House, Collingwood House, Grindall House, Kempton Court and 1-6 Key Court.

The meeting ended at 9.20 p.m.

Chair, Councillor Marc Francis
Strategic Development Committee