

UPDATE REPORT OF DIVISIONAL DIRECTOR OF PLACE

Agenda item no	Reference no	Location	Proposal / Title
7.1	PA/14/02928	116-118 Chrisp Street, Poplar London, E14 6NL	Demolish Public House (Class A4) and Former Tyre and Exhaust Centre Building Class B1/B2), Erect Mixed-Use Development Comprising Part 5, Part 10, Part 13 storey residential development comprising 53 Flats (Class C.3) with Ground Floor Commercial Unit (Flexible Permission - Classes A1/A2/A3/A4), and Associated Cycle and Refuse Storage Facilities, Lay Out Amenity Areas and Electricity Sub-Station, Stop Up Existing Accesses, Form New Vehicular and Pedestrian Accesses onto Chrisp Street, and Create 3 Accessible Parking Spaces on Chrisp Street
7.2	PA/15/02526	Land south east of Cuba Street and north east junction of Manilla Street and Tobago Street, E14	Redevelopment to provide a residential-led mixed use development comprising two buildings of up to 41-storeys and 26-storeys. Provision of 434 residential units, 38 m2 of flexible retail / community uses together with public open space and public realm improvements.

Agenda item no	Reference no	Location	Proposal / Title
7.1	PA/14/02928	116-118 Chrisp Street, Poplar London, E14 6NL	Demolish Public House (Class A4) and Former Tyre and Exhaust Centre Building Class B1/B2), Erect Mixed-Use Development Comprising Part 5, Part 10, Part 13 storey residential development comprising 53 Flats (Class C.3) with Ground Floor Commercial Unit (Flexible Permission - Classes A1/A2/A3/A4), and Associated Cycle and Refuse Storage Facilities, Lay Out Amenity Areas and Electricity Sub-Station, Stop Up Existing Accesses, Form New Vehicular and Pedestrian Accesses onto Chrisp Street, and Create 3 Accessible Parking Spaces on Chrisp Street

1.0 UPDATE

Viability Addendum

- 1.1 Over the course of the current application the affordable housing offer was increased from 29% to 34% by habitable room. An Addendum to the Viability Assessment was submitted on 23.06.2017 confirming that further increases to the affordable housing or lower rents would further decrease the scheme's viability, which is already well below the expected return.

Agenda item no	Reference no	Location	Proposal / Title
7.2	PA/15/02526	Land south east of Cuba Street and north east junction of Manilla Street and Tobago Street, E14	Redevelopment to provide a residential-led mixed use development comprising two buildings of up to 41-storeys and 26-storeys. Provision of 434 residential units, 38 m2 of flexible retail / community uses together with public open space and public realm improvements.

1 UPDATE

- 1.1 This report deals with matters that have arisen or correspondence received since publication of the agenda.

2 Drawing list

- 2.1 Drawing 255 2 - East Building Section AA has been replaced by Drawing 255 4.

3 Environmental Impact Assessment

- 3.1 Paragraph 10.270 of the Committee Report advises with following the submission of revised plans in June 2017 (reducing the development by 14 residential units and increasing child & communal amenity space and affordable housing), Aecom provided an Environmental Impact Assessment Statement of Conformity (SoC). The purpose of the SoC is to consider the environmental effects associated with the amendments and whether these are consistent with those reported in the replacement Environmental (ES) work undertaken previously. The SoC concludes that the design changes will not result in any changes to the significance of the residual environmental effects previously identified and no further environmental assessment work is required.
- 3.2 Committee report paragraph 10.271 advises that the council's EIA consultant has been appointed to independently examine the SoC and the Committee will be advised on their findings in an Update Report.
- 3.3 The Council's EIA consultant and the Council's EIA officer concur with the findings of the Statement of Conformity and agree that it is not considered to be 'further information' under Regulation 22 of the EIA Regulations, but instead a clarification document that confirms that the ES remains robust and can continue to be relied upon.
- 3.4 Since the application was submitted, there have been several planning applications submitted which could be considered cumulatively 'reasonably foreseeable'.-
- Skylines Village PA/17/01597;
 - North Quay PA/17/1193;
 - Glengall Quay PA/16/3513;
 - 225 Marsh Wall PA/16/2808;
 - 82 West India Dock Road PA/16/1920; and
 - 54 Marsh Wall PA/16/1637.
- 3.5 Whilst it is important to note these additional cumulative developments, none are considered to be in close enough proximity to the site to require new or additional assessment. The mitigation measures already identified in the Environmental

Statement and could be secured through conditions and section 106 obligations would be sufficient even with the inclusion of these additional schemes.

4 Additional local representations

4.1 Following the publication of the SDC report three further local objections to the application have been received on grounds summarised as follows:

- The development will be a tremendous strain on local services - transport, infrastructure, healthcare, schools, etc that are already under severe pressure,
- The development will exacerbate problems caused by on-going development projects - noise, pollution, lack of access to roads/pavements,
- The plot is very small. The development does not look workable,
- The development is very close to existing developments raising safety concerns about the use of large cranes and other heavy machinery,
- The proximity to existing developments will cause a severe lack of natural light for residents raising health and social well-being issues and loss of privacy,
- Wind concerns,
- The local concentration of developments is severely restricting space, resident's ability to move around and enjoy the area and adversely affecting quality of life,
- Destruction of the local community in Cuba, Tobago and Manilla Streets,
- There does not appear to have been any communication or assessment of the right to light impact on Anchorage Point, 42 Cuba Street. The development will completely block the early to mid-morning sun on our apartment with significant loss of light. Has this been taken into account, is compensation being offered?

4.2 Anchorage Point, 42 Cuba Street, is located on the bank of the river Thames 116 metres from the application site west of Westferry Road. The applicant's Environmental Statement does not assess impact on the natural light that would be received at Anchorage Point concentrating on more directly affected buildings where officers advise conditions would be unacceptable. It is not considered essential to assess impact on Anchorage Point. If planning permission was granted and the scheme constructed, any claim for compensation due to loss of '*Right to light*' would be a private matter between the developer and adjoining land owners and not involve the local authority.

4.3 An additional letter of support has been received from One Love Community, 30 Marsh Wall:

- Provision of a much needed public open space including children's play space currently lacking in the area.
- Provide a range of housing typologies including affordable housing and family units which will help to sustain and enhance a mixed and balanced community.

5 Representations by the applicant

5.1 Since the report to the SDC was published further representations have been received from the applicant's agent. They request that the application be removed from 28th June Committee Agenda prior to a meeting that has been arranged with the GLA on 12th July 2012. They state this would enable:

- A proper review of the recently submitted information which is yet to be considered by Officers;
- A further public consultation exercise to take account of recently submitted changes;
- Further notification under Regulation 22 of the EIA Regulations to meet statutory requirements;
- The correction of any errors and misleading information within the Committee Report; and
- That Officers' recommendations are updated accordingly prior to the application being considered by Committee.

Environmental Statement

- 5.2 The agent is concerned that the correct statutory procedures and due processes have not been followed. To proceed without such further consultation and due process, could make the resulting decision susceptible to legal challenge.
- 5.3 The applicant is concerned that the revisions to the scheme submitted on 17th June 2017 comprising an improved affordable housing offer, slightly revised residential mix and associated play space/ amenity space, have not been publicised under Regulation 22 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Officer's find this claim contradictory given the applicant's EIA Statement of Conformity (SoC) concludes that the design changes do not result in any changes to the significance of the residual environmental effects previously identified and no further environmental assessment work is required. Further, as reported above, the amendments to the application and the SoC have been reviewed by Land Use Consultants Limited and the Council's EIA officer who consider that the Environmental Statement remains robust and can continue to be relied upon.

Submitted drawings and documents

- 5.4 The applicant notes that some of the revised documents have not been uploaded to the Council's website and a further consultation, on receipt of all of these changes, has not been progressed.
- 5.5 Officers note that revised plans promised by the applicant in April did not materialise until 14th June. The revisions made a minor revision to the dwelling mix, reduced the proposed number of residential units from 448 to 434, made minor changes to the layout of the ground floor amenity space, introduced 205 m2 of 0-5 early years child play space at 3rd floor level within the West building and a 120 m2 communal terrace at level 8 in the East building, and increased the affordable housing offer to 35%. The revisions did not alter the amount of development, the siting and size of the buildings or change the external appearance.
- 5.6 The NPPG advises any re-consultation on amendments to an application is at the discretion of local planning authorities. The Council's adopted Statement of Community Involvement (SCI) also adopts a proportionate approach and says:
- "The decision as to whether to consult at all on amended plans will be judged on the individual circumstances of each case (at the discretion of the local planning authority) and will be influenced by the nature and extent of the proposed amendments." (page 58, Section 1.9).*
- 5.7 In this case, officers do not consider the amendments are sufficiently different to require further publicity of the application.

Alleged material errors and misleading information within the Committee Report

Figure 9 of the adopted Managing Development DPD (Building heights and the Town Centre Hierarchy)

- 5.8 The agent contends that the Committee Report (paragraph 10.46) gives undue weight to Figure 9 of the adopted Managing Development DPD (*Building heights and the Town Centre Hierarchy*) and fails to consider the site's local context, which is within a 5-10 minute walk of Canary Wharf Town Centre and fails to recognise the proposals step down from One Canada Square and from the landmark development and Novotel; in particular, the west building will form an appropriate step down in height and scale towards the lower buildings to the south and west.
- 5.9 Officers consider that the site context is properly explained in the Committee Report, MDD Policy DM26 '*Building heights*' and Figure 9 are also correctly reported (paragraph 10.4) as are other applicable development plan policies and guidance within the NPPF and the Mayor's 'Housing' SPG 2016 (*Urban design*' section paragraphs 10.36 to 10.47). It is also considered that the '*Assessment*' of '*Urban Design*' (paragraphs 10.60 to 10.65) professionally inform Members of the urban design issues they should consider.

South Quay Masterplan Supplementary Planning Document.

- 5.10 The agent also alleges that inappropriate weight is given to the South Quay Masterplan Supplementary Planning Document. It is claimed "*an SPD must not contain development management or site allocation policies and guidance contained in an SPD must not conflict with the adopted development plan.*" Reference is made to representations made to Cabinet when the SDP was adopted. It is alleged that the South Quay Masterplan is unlawfully applied as if it were statutory policy throughout the Committee Report on the Cuba Street planning application.
- 5.11 Paragraph 10.19 of the Committee Report clearly explains that South Quay Masterplan is supplementary planning guidance that adopts the land use principles of the statutory Managing Development Document. It does not attempt to vary the development plan. The status of the Masterplan is also set out clearly at paragraph 10.30 and officers are satisfied that the status and content of the SPD are accurately reported to Members.

Assessment of daylight and sunlight impacts

- 5.12 The applicant's agent also contends that the Committee Report contains a:
- 'misleading and erroneous daylight and sunlight assessment' which 'fails to report the impacts accurately and as a result does not provide a balanced view in weighing up the overall planning benefits of the proposed development..' 'Members are being requested to refuse this application based on a report from the BRE dated 17th October 2016, in which the author states they have not visited the site and in this regard, lacks credibility.'*
- 5.13 Officers advise that the report on the application by the Building Research Establishment was based on data provided within the applicant's Environmental Statement. The report to the Council was compiled by the author of the BRE Guidelines and it is disingenuous to cast aspersions on a report that was compiled for information and photographs of the site and surroundings within the Environmental Statement.
- 5.14 The agent repeats that the BRE guidelines should be applied flexibly but fails to elucidate offering no opinion on the degree when reductions in daylight become acceptable.

5.15 The agent also contends:

“Paragraph 10.163 and Figure 17 of the Committee Report is misleading. Firstly, the technical results do not seem to tally with those submitted, and it is understood that the results within Figure 17 have been taken from Table 2 ‘Impact of Proposed Buildings onto Existing Surrounding Dwellings’ within the submitted Environmental Statement, which presented a summary of only those windows that do not pass the VSC guidelines. This is misleading, as it appears to describe the results of only those that failed to meet BRE daylight minimum levels rather than the overall impact.”

5.16 Officers confirm that *Figure 17 of the Committee Report was compiled from data within the Environmental Statement. It reports the highest and lowest VSC occurring at the most affected properties 1, 2, 4 & 6 Manilla Street, 1 Tobago Street and ‘Endeavour House,’ 22 Marsh Wall and the % reductions. It reports the applicant’s own findings that: “Of the windows to the 34 rooms tested, the Impact Assessment Classification for 6 rooms is ‘Moderate Adverse’ and ‘Major Adverse’ for 28 rooms.”*

5.17 The applicant’s agent correctly asserts that Committee report ignores the NSL (no sky line) results. This is because the BRE primary method of assessment is the amount of daylight reaching the face of a window measured by the resultant vertical sky component (VSC).

5.18 Reference is also made to the conclusions of an original independent daylight and sunlight review by Delva Patman Redler which noted *“in a dense urban environment such as this, at least half the room should see direct sky visibility. This is relevant for most of the neighbouring properties tested...the mitigating arguments made by BLDA in relation to NSL and limited options for placing the buildings...are ones that should be taken into account”.*

5.19 Officers note that Delva Patman Redler advised the council on the initial Environmental Statement that had to be entirely replaced. The Building Research Establishment was commissioned to review the replacement ES advising (Committee report paragraph: 10.152).

*“There would be a **major adverse impact** on daylight to rooms in nearby residential properties in 1 Manilla Street, 2-6 Manilla Street, 1 Tobago Street and ‘Endeavour House’ (The Landmark Block 4, 22 Marsh Wall). This is largely due to the proximity, size and height of the proposed West Building. The effect on 1 Manilla Street (Regatta Point) and 1 Tobago Street would be particularly bad; in the cumulative situation with other proposed developments in place, some windows in No. 1 Tobago Street would receive no direct daylight at all. **The loss of light to these properties would be well beyond what would normally be considered acceptable, even in a dense urban environment.**” (Emphasis added).*

5.20 The applicant’s agent contends that:

“The proposed development is of high quality in terms of residential amenity, outlook, aspect, facilities and private and public amenity space. Daylight and sunlight is only one factor in assessing the appropriateness of residential led planning applications including its density, layout and built form. The Mayor’s Housing SPG references ‘amenity’ in general and not ‘daylight and sunlight amenity”.

And,

‘Amenity’ in this location is about much more than simply daylight and sunlight. A proper understanding of amenity will require a balanced consideration of many different factors – including open space, and play space provision, micro-climate (including wind impact), and important public realm improvements, which makes a wider contribution to the South Quay area.”

6 Conclusion

- 6.1 Officers can see no adequate reason why this long delayed planning application should be withdrawn from the Committee agenda. The Committee’s resolution on the application will help inform the applicant’s meeting with the GLA on 12th July 2017 and the Mayor’s decision whether he should direct refusal, take the application over for his own determination; or allow the council to determine the application itself.

7 RECOMMENDATION

- 7.1 Officer recommendation remains that subject to any direction by the Mayor of London, planning permission should be **REFUSED** for the reasons set out in paragraph 3.1 of the report.