

# STRATEGIC DEVELOPMENT COMMITTEE

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Tuesday, 12 April 2016 at 7.00 p.m.

Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove  
Crescent, London, E14 2BG

## SUPPLEMENTAL AGENDA

**This meeting is open to the public to attend.**

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7.2 Update report

PAGE NUMBER(S)	WARD(S) AFFECTED
1 - 18	

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# Agenda Item 7.2

LONDON BOROUGH OF TOWER HAMLETS

STRATEGIC DEVELOPMENT COMMITTEE

12 April 2016

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## UPDATE REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

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### INDEX

Agenda item no	Reference no	Location	Proposal / Title
5.1	PA/15/02527	34-40 White Church Lane And 29-31 Commercial Road, London, E1	Demolition of existing buildings at 34-40 White Church Lane and 29-31 Commercial Road and erection of a ground floor plus 18 upper storey building (75.5m AOD metre) with basement to provide a flexible use commercial space (B1/A1/A3 Use Class) at ground floor and 42 residential units (C3 Use Class) above with basement, new public realm, cycle parking and all associated works.
5.2	PA/14/03494 PA/14/03495	Hercules Wharf, Castle Wharf and Union Wharf, Orchard Place, London E14	<p>Demolition of existing buildings at Hercules Wharf, Union Wharf and Castle Wharf and erection of 16 blocks (A-M) ranging in height from three-storeys up to 30 storeys (100m) (plus basement) providing 804 residential units; Retail / Employment Space (Class A1 – A4, B1, D1); Management Offices (Class B1) and Education Space (Class D1); car parking spaces; bicycle parking spaces; hard and soft landscaping works including to Orchard Dry Dock and the repair and replacement of the river wall.</p> <p>The application is accompanied by an Environmental Impact Assessment</p> <p>Listed Building Consent application - Works to listed structures including repairs to 19th century river wall in eastern section of Union Wharf; restoration of the caisson and brick piers, and alteration of the surface of the in filled Orchard Dry Dock in connection with the use of the dry docks as part of public landscaping. Works to curtilage structures including landscaping works around bollards; oil tank repaired and remodelled and section of 19th century wall on to Orchard Place to be demolished with bricks salvaged where possible to be reused in detailed landscape design.</p>

6.1	PA/15/01231	120 Vallance Road & 2-4 Hemming Street, London, E1	<p>Demolition of existing buildings at 120 Vallance Road and 2-4 Hemming Street and erection of two buildings to provide 1,311 sqm (GEA) of commercial space, 152 residential units and new public realm, landscaped amenity space, cycle parking and all associated works.</p> <p><u>Amended Description:</u></p> <p>Demolition of existing buildings at 120 Vallance Road and 2-4 Hemming Street and erection of two buildings to provide 1,311 sqm (GEA) of commercial space, 144 residential units and new public realm, landscaped amenity space, cycle parking and all associated works</p>
7.1	Tower Hamlets Ref: PA/15/02216 GLA Ref. D&P/1200B&C/JPC	Westferry Printworks, 235 Westferry Road, E14 8NX	<p>Demolition of existing buildings and structures and the comprehensive mixed use redevelopment including buildings ranging from 4 - 30 storeys in height (tallest 110 m. AOD) comprising: a secondary school (Class D1), 722 residential units (Class C3), retail use (Class A1), flexible restaurant and cafe and drinking establishment uses (Classes A3/A4), flexible office and financial and professional services uses (Classes B1/A2), Community uses (Class D1), car and cycle basement parking, associated landscaping, new public realm and enabling work.</p> <p>The application is accompanied by an Environmental Impact Assessment and represents EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Both the Council and the Mayor of London as local planning authority must take the environmental information into consideration in formulating their decision.</p>

<b>Agenda Item number:</b>	5.1
<b>Reference number:</b>	PA/15/02527
<b>Location:</b>	34-40 White Church Lane And 29-31 Commercial Road, London, E1
<b>Proposal:</b>	Demolition of existing buildings at 34-40 White Church Lane and 29-31 Commercial Road and erection of a ground floor plus 18 upper storey building (75.5m AOD metre) with basement to provide a flexible use commercial space (B1/A1/A3 Use Class) at ground floor and 42 residential units (C3 Use Class) above with basement, new public realm, cycle parking and all associated works.

**1.0 Agenda Item 5.1 (White Church Lane) is withdrawn from the Agenda**

- 1.1 The decision was taken after the applicant agreed to enter into further negotiations with officers and is preparing amended drawings that seek to address the reasons of refusal given by Members at March Strategic Development Committee (SDC). These amendments will be re-consulted upon with the application targeted to return to the June SDC.

<b>Agenda Item number:</b>	5.2
<b>Reference number:</b>	PA/14/03594 & PA/14/03595
<b>Location:</b>	Hercules Wharf Castle Wharf And Union Wharf, Orchard Place, London, E14
<b>Proposal:</b>	<p>Demolition of existing buildings at Hercules Wharf, Union Wharf and Castle Wharf and erection of 16 blocks (A-M) ranging in height from three-storeys up to 30 storeys (100m) (plus basement) providing 804 residential units; Retail / Employment Space (Class A1 – A4, B1, D1); Management Offices (Class B1) and Education Space (Class D1); car parking spaces; bicycle parking spaces; hard and soft landscaping works including to Orchard Dry Dock and the repair and replacement of the river wall.</p> <p>The application is accompanied by an Environmental Impact Assessment</p> <p>Listed Building Consent application - Works to listed structures including repairs to 19th century river wall in eastern section of Union Wharf; restoration of the caisson and brick piers, and alteration of the surface of the in filled Orchard Dry Dock in connection with the use of the dry docks as part of public landscaping. Works to curtilage structures including landscaping works around bollards; oil tank repaired and remodelled and section of 19th century wall on to Orchard Place to be demolished with bricks salvaged where possible to be reused in detailed landscape design.</p>

## 1.0 Additional Consultation responses (Statutory / Non Statutory)

### Port of London Authority

- 1.1 The PLA and their noise specialists Sharps Acoustics LLP (SAL's) following a review of the committee report, acknowledge that it is clear that it is only with drafting and imposition of appropriate conditions that such certainty (of compatibility) would be secured.
- 1.2 The PLA acknowledge that the Councils Environment Health Officer and Council consider that the applicant has adequately responded to the PLA's noise concerns (see paragraphs 8.79 to 8.84) and sought clarification of how this was reached.
- 1.3 The PLA welcomes the acknowledgement by Waterman that the character of noise must be accommodated with a correction or penalty prior to the selection of glazing systems. It is noted that the predicted façade noise level has been increased by +5dB (+3dB for the potential distinctiveness of the concrete operations against the residual acoustic environment and +2dB for the potential for a just perceptible tonality from the ships generator). In terms of the noise assessment, the PLA now considers that the correct assessment has been undertaken.
- 1.4 The Council's committee report is silent on the issue of fixing (which) windows shut and this must be addressed in the report to committee on 12 April 2016 and where

windows are to be fixed shut there must be a condition requiring those windows to be locked with keys held only by on-site management.

- 1.5 The PLA must have the opportunity to review and discuss with its noise consultant SAL the conditions which have been discussed and agreed between the applicant and the Council.
- 1.6 The Council should consider and address in its report to Committee on 12 April 2016 additional non-physical measures to ensure an appropriate relationship between the safeguarded wharf and Leamouth South is maintained with regards to easement and covenants.
- 1.7 The proposed conditions do not include prior to commencement conditions as set out in paragraph 3.5 of the committee report. A concern remains to how the air quality measures can be secured.
- 1.8 It should be confirmed whether any consideration has been given to the need for temporary mitigation as a result that block K which screens the development from the remainder of the site is not constructed until phase. 3.

Officer's response

- 1.9 The approved plans/documents confirm which windows would be fixed and the management of the fixed windows would be secured by condition.
- 1.10 The raised concept of the easement and covenant are not planning considerations.
- 1.11 The PLA acknowledge that the correct noise assessment was undertaken. Officers concluded that the PLA's initial concerns regarding noise were addressed and the design and positioning of receptors was acceptable based upon the findings of the work undertaken by independent specialist noise consultants on behalf of the Council.
- 1.12 The proposed wording of the noise conditions would be drafted so that their discharging requires consultation with the PLA. This approach would ensure that the PLA are involved in the decision making process and also mitigates a requirement for the PLA to review any conditions prior to determination.
- 1.13 A pre-commencement condition regarding air quality will be added to the list of conditions. The securing of a condition which requires consultation with the PLA will allow ensure that the PLA outstanding air quality concerns are addressed prior to commencement of the development.
- 1.14 With regards to temporary mitigation, an additional condition would be attached to any decision which requires further mitigation measures to be provided in the event that Orchard wharf commence operations prior to the development of block K. The requirements of the condition would be assessed in consultation with the PLA.

**Greater London Authority**

- 1.15 The GLA have provided an updated post stage 1 response which is summarised below:

*Principle of development:*

- 1.16 Tower Hamlets Council have undertaken as requested independent verification of noise, air quality and transport reports so that the development does not compromise the operation of Orchard Wharf. Overall sufficient information has been provided for the land use proposals to be viewed as acceptable in relation to the London Plan.

*Protection of wharves:*

- 1.17 Post stage 1 it is evident that the applicant has undertaken substantial work to mitigate the impacts of a potential operational wharf. As requested, Tower Hamlets Council have undertaken independent verification of noise, air quality and transport reports so that the development does not compromise the operation of Orchard wharf. Tower Hamlets Council's independent noise specialist have concluded that the applicant's assessment demonstrated that future industrial use of Orchard Wharf could be safeguarded through adequate sound insulation treatment of the residential facades of the proposed Leamouth South development.

*Density:*

- 1.18 At stage 1 it was accepted given the delivery of the City Island site and the developments coming forward in Canning Town to the north of the Leamouth site and to the south in Greenwich Peninsula, the character of this site can reasonably be regarded as being a central location in regards to density. This was because this part of London has undergone enormous change and investment and the density proposed is broadly in keeping with these changes and future planned development proposals.

*Housing mix:*

- 1.19 At stage 1 an issue was raised that the proposed housing mix provided for 14% 3-4 bed units and 52% suits/1 bed units. The applicant as requested has revised its design and plans by combining units to create a more balanced housing mix as a result the scheme has been reduced by 30 units from 834 to 804. The percentage of studio and one bed units has been reduced to 49.9% and the number of three beds has increased slightly to 14.5%. These changes are welcome and the GLA have accepted the steer from Tower Hamlets Council that the housing mix meets with local needs.

*Affordable housing:*

- 1.20 At stage 1 initial the affordable housing offer was 20% and this was supported by an affordable housing viability assessment. Tower Hamlets Council have, as requested at stage 2, had the viability report independently reviewed and the final offer has increased to 27% (by habitable room) or 153 intermediate/ affordable rent units. The applicant has also provided a full dwelling mix for the affordable units which include a reasonable proportion of family units and this aspect of the development is compliant with the London Plan.

*Play space:*

- 1.21 As requested at stage 1 the applicant has provided a playspace strategy and the detailed work on the child yield using the Mayor's *Shaping Neighbourhoods: Play and Recreation SPG (2012)*. These findings have been related to its play space strategy. The applicant has, as requested, set out how doorstep playable space will be met for occupants of blocks G, H and I this is through an additional 55sqm doorstep play. The issues raised at stage 1 have been resolved in full.



*Urban design:*

- 1.22 Since stage 1 the applicant, as requested, has provided more detail on how off site these linkages and routes can be enhanced and delivered. These issues have been addressed in an addendum to its design & access statement and the applicant has evolved ideas to improve the underpass between Leamouth South and City Island and in turn linking to the new bridge to the Canning Town DLR & underground Station. It has also set out details of route options to East India DLR and an alternative route to Canning Town DLR & underground station. The applicant has also ensured a suitable landing area for a further new bridge across the River Lea.
- 1.23 At stage 1 the design was generally supported, but given the very high density of the scheme officers were concerned about a number of aspects of its massing and residential quality. The applicant has since responded to concerns in relation to the massing and the number of units per floor from a single core. Blocks B, C, E and F have been reduced in height and the floorplans revised to reduce the number of units per floor; the height of the northern section of Block J has been reduced to allow more light into the courtyard and efforts have been made to ensure blocks H and I integrate with Trinity Buoy Wharf.

*Access:*

- 1.24 The applicant has responded in full to comments provided in relation to Lifetime Homes, public realm/landscaping and residential unit design. A total of 10% wheelchair accessible units are peppered across scheme and this aspect of the scheme is compliant with the London Plan.

*Energy:*

- 1.25 The applicant has provided further update work on its energy strategy and the energy issues are very close to resolution.

Officer response

- 1.26 The Greater London Authority post stage I comments confirm that all previously raised issues have now been addressed with the exception of Energy.
- 1.27 The GLA also advise that the outstanding energy issue is very close to resolution.
- 1.28 Given the fact, the Council's Sustainability officer raises no objection to the proposed development and only the GLA are raising such a concern. It is considered appropriate and reasonable for the GLA's outstanding energy to be addressed as part of the GLA's stage II referral.
- 1.29 The requirement for the GLA to address their energy concern therefore does not impact on the recommendation of these applications.
- 1.30 Officers also acknowledge that the GLA confirms that the proposed scheme is compatible with both the neighbouring Orchard Wharf and Trinity Buoy Wharf sites.

**Save Britain's Heritage**

- 1.31 A objection to the current proposal for new residential development affecting this important site. The proposals constitute gross over development of the site and

will spoil the setting of the important group of listed structures. The listed lighthouse is the only one on the Thames.

- 1.32 The three tall blocks of flats proposed completely overshadow and dwarf the much smaller historic buildings, and will make a mockery of a delightful group of historic buildings, which have been successfully brought back to life and regularly used, enjoyed by a great many people.
- 1.33 The banks of the Thames, and associated rivers like the Lea, constitute one of the most important scenic panoramas in the capital. Among them are many much loved landmarks great and small and too much insensitive development has already been allowed. The present application damages not only an important group of historic buildings but the wider scenic attraction and character of London as a whole.

Officer response

- 1.34 As discussed in detail within the committee report, the proposed development is designed to appropriately respond and preserve the setting of the Trinity Buoy Wharf lighthouse, listed caisson and all other listed structures within the immediate vicinity.
- 1.35 Historic England and the Councils Conservation officer also did not raise any objections to the proposed scheme.

**2.0 Additional Consultation responses (Neighbours)**

- 2.1 11 additional objections have been received since the publication of the deferral report which are summarised below:
- Overlooking
  - Loss of light / Overshadowing
  - Loss of privacy
  - Loss of outlook
  - noise pollution
  - blight future development on the Western edge of TBW
  - Impact on land use of Trinity Buoy Wharf
  - Over development of the site
  - impact on character of area
  - impact on local services
  - Wind and Micro-climate
  - Impact on listed structures
  - Air quality
  - Loss of view

Officer response:

- 2.2 The received objections are a material consideration in the assessment of the planning application and listed building consent.
- 2.3 The implications of the above matters and concerns however have all been previously assessed as part of the planning application and listed building consent, as evidenced in the 10 March 2016 Committee Report and 12 April 2016 Deferral Report.
- 2.4 Officers therefore conclude that the proposed planning application and listed building consent are therefore still acceptable.

2.5 Further discussion on the above matters is also provided in the clarifications section of the report below.

### 3.0 Clarifications

#### *Proximity to Trinity Buoy Wharf / Development Potential / Compatibility of use*

- 3.1 The separation distance between the proposed Block I and the Proving House is 2.25m above ground floor level and for the majority of the ground floor level. The element of the property which is subject to a 0.5m separation distance is where there is a small protrusion to the rear of a proposed commercial unit at ground floor level. The protruding single storey element constitutes a small segment of the building, serves a commercial use and does not have any windows facing Trinity Buoy Wharf.
- 3.2 Block I does however comprise balconies which do project from the side elevation and consequently reduce the separation distance to 1.45 m.
- 3.3 It was considered necessary to identify the 2.25m separation distance in the committee report, as this is the distance between the Proving house and the main east facing elevation of the building and more importantly the elevation which would comprises of habitable room windows which face Trinity Buoy Wharf.
- 3.4 It is acknowledged that the separation distance is limited, as stated in the committee report (very close proximity). Nevertheless, officers remain of the opinion that the existing commercial uses (artist workshops) can still operate in such close proximity to the proposed dwellings.
- 3.5 The development would not significantly impact on the development potential of Trinity Buoy Wharf. The western edge of Trinity Buoy Wharf would be the only part of the site impacted upon and thus the development potential of the remainder and majority of the neighbouring site would be safeguarded.
- 3.6 Officers are of the opinion that impact on the development potential of the western edge of Trinity Buoy Wharf would not outweigh the strategic and regeneration benefits of the proposed development.

#### *Ownership of Trinity Buoy Wharf*

- 3.7 The London Borough of Tower Hamlets is the freeholder of Trinity Buoy Wharf.
- 3.8 The Council's Assessment Management Service acknowledge that some of the new buildings are close to the boundary with existing buildings but from an asset management perspective they probably don't impact on the asset value of our ownership.
- 3.9 The site is identified as long term holding which may at some time be suitable for redevelopment.
- 3.10 The Council's Assessment Management Service in light of the above raised no objection to the development.

#### *Impact on listed structures*

- 3.11 The proposed development would have the potential to impact on the setting of the listed buildings and listed structures.
- 3.12 The proposed development was therefore considered against the two key statutory tests.
- 3.13 The assessment of the applications had special regard to the desirability of preserving listed building or their settings (s16 of the Planning (Listed Buildings and Conservation Area) Act 1990), as evidenced in paragraphs 8.368 to 8.381 of the 10 March 2016 Committee Report.
- 3.14 The analysis concluded that no harm would be caused by the restorative in nature works.
- 3.15 As part of the assessment of the acceptability of the planning application and listed building consent, officers (including the Conservation officer) applied considerable weight to the requirement of s66 of the Planning (Listed Buildings and Conservation Area Act 1990 which states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
- 3.16 With regards to the assessment of harm, officers can confirm that the proposed development was considered to have less than substantial harm on the setting of the various listed structures.
- 3.17 In accordance with the paragraph 134 of the NPPF the following assessment was therefore undertaken: *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*
- 3.18 Despite the fact that the development would result in less than substantial harm, considerable weight was still given to the resulting harm in the assessment of the application to ensure that the setting of the listed buildings and structures was preserved.
- 3.19 On balance, officers concluded that the proposed benefits of the development (housing, affordable housing and employment) and wider regeneration benefits outweighed the less than substantial harm to the listed building structures.
- 3.20 The proposed development would therefore be acceptable with regards to heritage matters.

#### **4.0 Update on Affordable Rent Housing**

- 4.1 The applicant has confirmed in writing that the affordable housing offer exists in the following two forms:
- 1 27% affordable housing offer with all affordable rent units provided at borough framework level rents; or
  - 2 27% affordable housing offer with the 1 and 2 bed affordable rent units provided at Borough Framework level and 3 and 4 beds at Social Target Rent.
- 4.2 The Councils Viability Consultant BNP Paribas have confirmed that it would be unreasonable and contrary to best practise for the applicant to be required to absorb

the £9.9m deficit (which is a result of providing Social Target Rent 3 and 4 bedrooms) in order to secure more than a 27% affordable housing provision, in the event 3 and 4 bedroom units were reverted back Borough Framework rent levels.

## **5.0 Additional Conditions**

### *Pre-commencement condition*

- Air quality measures in consultation with PLA

### *Compliance condition*

- Further mitigation measures in consultation with the PLA

## **6.0 Additional / Revised Drawings**

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900\_PLA Mitigation Document

## **7.0 RECOMMENDATION**

- 7.1 Officers' original recommendation to GRANT planning permission and listed building consent remains unchanged.

<b>Agenda Item number:</b>	6.1
<b>Reference number:</b>	PA/15/01231
<b>Location:</b>	120 Vallance Road & 2-4 Hemming Street, London, E1
<b>Proposal:</b>	<p>Demolition of existing buildings at 120 Vallance Road and 2-4 Hemming Street and erection of two buildings to provide 1,311sqm (GEA) of commercial space, 152 residential units and new public realm, landscaped amenity space, cycle parking and all associated works.</p> <p><u>Amended Description:</u></p> <p>Demolition of existing buildings at 120 Vallance Road and 2-4 Hemming Street and erection of two buildings to provide 1,311 sqm (GEA) of commercial space, 144 residential units and new public realm, landscaped amenity space, cycle parking and all associated works</p>

## 1.0 Additional Consultation responses (Statutory)

### Greater London Authority

- 1.1 The GLA have confirmed that in terms of design, it is noted that the height has dropped however, the recommended through route east to west from Surma Close has not been provided.
- 1.2 The Energy matter also remains the only outstanding matter post stage I.

### Officer response

- 1.3 The Greater London Authority post stage I comments confirm that all previously raised issues have now been addressed with the exception of Energy.
- 1.4 Given the fact, the Council's Sustainability officer raises no objection to the proposed development and only the GLA are raising such a concern. It is considered appropriate and reasonable for the GLA's outstanding energy to be addressed as part of the GLA's stage II referral.
- 1.5 The requirement for the GLA to address their energy concern therefore does not impact on the recommendation of this application.
- 1.6 Officers (including the urban design officers) concluded that a new link to Surma Close was not required and therefore was not sought as part of the development proposals.

## 2.0 Additional / Revised Drawings

Updated Landscape Strategy

## 3.0 RECOMMENDATION

- 3.1 Officers recommendation to GRANT planning permission remains unchanged.

<b>Agenda Item number:</b>	7.1
<b>Reference number:</b>	Tower Hamlets Ref: PA/15/02216 GLA Ref: D&P/3663
<b>Location:</b>	Westferry Printworks, 235 Westferry Road, E14 8NX
<b>Proposal:</b>	<p>Demolition of existing buildings and structures and the comprehensive mixed use redevelopment including buildings ranging from 4 - 30 storeys in height (tallest 110 m. AOD) comprising: a secondary school (Class D1), 722 residential units (Class C3), retail use (Class A1), flexible restaurant and cafe and drinking establishment uses (Classes A3/A4), flexible office and financial and professional services uses (Classes B1/A2), Community uses (Class D1), car and cycle basement parking, associated landscaping, new public realm and enabling work.</p> <p>The application is accompanied by an Environmental Impact Assessment and represents EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Both the Council and the Mayor of London as local planning authority must take the environmental information into consideration in formulating their decision.</p>

## 1 Typographical error

- 1.1 The GLA's reference on the front piece of the main Committee Report should be as above.

## 2 Review of Environmental Statement

- 2.1 The March 2016 revisions to the submitted Environmental Statement have now been reviewed by The Temple Group for the Council. The Review includes ES Chapter 17 'Sailing' and the clarifications provided by the applicant. The Temple Group advise:

*"Clarification confirms that massing revisions represent the only likely effective measure to mitigate the impact upon sailing quality. Furthermore, a number of massing alternatives have been assessed and demonstrate that, in general, improvements to the degree of sailing quality would be difficult without repositioning and reorienting the tallest buildings".*

- 2.2 Separate detailed technical reviews of the Wind and Sailing assessment have been undertaken by Temple's sub-consultants BMT Fluid Mechanics. BMT advise that there are no accepted criteria for the assessment of "sailing quality", in terms of wind conditions and no criteria to define the significance associated with a beneficial or an adverse impact. In the absence of significance criteria, Southampton University (for the applicant) have employed an approach that is analogous to that undertaken for environmental assessments of the availability of daylight and sunlight, and the impact associated by the introduction of a new development. In the absence of agreed criteria, BMT agree that this seems to be a reasonable and practical approach, if not ideal.

- 2.3 In short, BMT raise concerns that the change in sailing quality has been calculated in a manner that is not entirely consistent with the daylight / sunlight analogy and the 20% 'allowable threshold' that has been applied. The effect of this will be that, to some extent, the relative changes to sailing quality reported are likely to have been under reported – both where they are reported to be adverse and beneficial. BMT recommend that the results be revisited.

### 3 Additional representation by the applicant

- 3.1 By letter dated 11<sup>th</sup> April 2016, DP9 (agents for Northern and Shell Investments No. 2 Ltd) commented on the report to the Committee:

#### Reasons for Refusal

##### Site design principles and microclimate

- 3.2 DP9 contend that whilst there will be a change in the sailing conditions in the north-west portion of the dock (when winds have a northerly component) no significant effects were identified for the rest of the dock.

- 3.3 The agent also states:

*"The applicant has also tested 5 different layout and massing options to determine whether a different design approach to the site could result in a reduction in impact on the sailing conditions of the dock. The results indicate that some improvements in sailing quality can be achieved with a significant realignment of buildings but these are not considered to be so materially different to warrant a different design approach. Indeed, those which deliver the most benefit to the sailing conditions would not be acceptable in urban design and townscape terms as well as present other amenity challenges."*

- 3.4 Officer advice: DP9's comments fail to provide assurance that the proposed development would result in satisfactory sailing conditions at the Docklands Sailing and Watersports Centre, or that the currently proposed design, in terms of layout and height is the sole solution to the redevelopment of the site.

##### Affordable Housing

- 3.5 Having reviewed BNP Paribas' report (for the Council), DP9 considers the report is not in accordance with adopted policy, guidance or established best practice principles of undertaking financial viability appraisals and includes a number of factual errors. DS2 (Viability consultant to the applicant) has prepared a rebuttal to the BNP Paribas report that is reported at Section 4 below with officer comments.

##### Housing mix and choice

- 3.6 DP9 advise:

*"During pre-application discussions with the Council no objections were raised in relation to the mix of intermediate housing provision. Following the submission of the application a formal consultation response from the LBTH Housing Strategy Group advised that there was "an over provision of intermediate three beds and larger". Typically from our experience in the Borough three bedroom or larger intermediate units are generally not supported from an affordability perspective."*



- 3.7 DP9 explain that the original application proposed family sized intermediate units. Whilst the Local Plan requires 25% of intermediate homes to be provided as 3 bedroom units, the scheme was amended by deleting the large family size intermediate units for the following reasons:
- Concerns over the affordability of large intermediate units for Shared Ownership in high value locations such as Docklands;
  - Responding to concerns raised by the GLA in relation to the large 3 and 4 bedroom intermediate units with regard to affordability.
- 3.8 In the case of 3 Millharbour, Members had concerns over the affordability of the three bedroom shared ownership homes that were subsequently deleted before permission was granted.
- 3.9 Given the concerns about the affordability of larger 3 bedroom+ intermediate units, officers agree that Refusal Reason 3 in the main Committee Report should not be progressed.

#### Outline application

- 3.10 Paragraph 10.107 of the main Committee Report advises that the school element of the planning application should be treated as an application for outline planning permission, with proposed Conditions 1 and 2 requiring the submission of full details of the school.
- 3.11 Section 5 below '*The School*' reports that further comments on the application have been received from the Council's Education Development Team that now advises: "*The design and layout of the proposed school are broadly acceptable.*"
- 3.12 The application has been submitted in full and, given such comments from the Education Development Team, it is accepted that there is sufficient detail submitted regarding the school to enable that aspect of the application to be determined and Recommended Conditions 1, 2 and 3 at Appendix 1 of the main Report are unnecessary.

#### Barkantine Energy Centre

- 3.13 DP9 explains that discussions have been held with EDF, the operators of the Barkantine energy centre, concerning the potential for future expansion of the energy centre onto the application site, and the potential for the proposed Westferry Printworks development to connect to the district heating network. DP9 add that the applicant has agreed with the GLA that should planning permission be granted, a section 106 obligation could require continuing to work with the Barkantine to establish a future connection to the district heating network.
- 3.14 In relation to the main Committee Report paragraph 10.170, DP9 has supplied a note assessing how the Westferry Printworks development would affect air dispersion from the Barkantine energy centre. Based on this analysis the applicant considers that the proposed buildings would have a limited effect on the dispersion of fumes from the Barkantine stack.
- 3.15 Officers consider these comments provide no reason to alter recommended Conditions 13 and 14 at Appendix 1 of the main Committee Report requiring the submission and approval of an updated district heating strategy and a full analysis of the impact of the development on the Barkantine Energy Centre.

### Proposed conditions

- 3.16 As stated above, DP9 say Conditions 1 and 2 are not acceptable as full details of the school have been submitted as part of the planning application. This is accepted. Condition 3 becomes superfluous as the arrangements for the delivery of the school would form part of any section 106 agreement.
- 3.17 The applicant contends that proposed Condition 43 (staggered school hours) is unacceptable being not enforceable and would be unlawful. It is claimed that the applicant, or the future school provider, is not in control of the opening hours of Arnhem Wharf Primary School, and therefore the Westferry School hours should not be dictated by them.
- 3.18 Officers disagree with these assertions, conditions controlling hours being a common planning tool to mitigate difficulties. Such a condition was adopted by the Development Committee on 16<sup>th</sup> December 2015 in granting planning permission for the construction of a new primary school in Saundersness Road, E14.

### **4 Affordable Housing Viability**

- 4.1 Gerald Eve has been commissioned by the GLA to review the applicant's Viability Appraisal (by DS2) and the PNP Paribas Review for the Council. To date, the Council has not been supplied with the Gerald Eve Review.
- 4.2 Late yesterday (11<sup>th</sup> April) DS2 supplied the Council with the applicant's response to the BNP Paribas viability report. It is understood this was supplied to the GLA some time ago. DS2 reassert that the maximum affordable housing offer is 11% compared to the PBN Paribas assessment of 36%.
- 4.3 Given the absence of the Gerald Eve review, and the lack of time to assess the latest DS2 submission, no reason is seen to alter Recommendation 2 that the Mayor should refuse planning permission because the affordable housing offer is not financially justified.

### **5 The School**

- 5.1 The Council's Education Development Team has provided the following additional comments:
- *The design and layout of the proposed school are broadly acceptable.*
  - *We would want to secure section 106 terms like those for London Dock which allows the Council to take a long lease on the site and commission the construction of the school.*
  - *The local authority would commission a school provider in accordance with the legislation with the intention that the school is for the local community*
- 5.2 Given these additional comments, recommended Conditions 1, 2 & 3 at Appendix 1 of the main Committee Report are no longer required.

### **6 Waste Policy and Development**

- 6.1 'Internal consultation' paragraph 8.69 and 'Material Planning Considerations' paragraph 10.120 of the main Committee Report say comments on the submitted Waste Strategy will be provided in an Update Report.

- 6.2 The Council's Technical Officer (Waste) now advises that given this is an application for full planning permission, it should be supported by a detailed operational waste strategy appropriate to the scale of the development.
- 6.3 It is advised that the lack of detail submitted not only fails to address the waste storage and collection methodology (i.e. whether compacted containers, wheeled bins, our underground refuse service is proposed), but also fails to detail the number of containers, their size & capacity, collection and vehicles required.
- 6.4 The main consideration is that large developments in the borough are being asked to consider compacted containers, collected centrally with a roll-on, roll-off vehicle which the Council are investing in through future contracts. This would be something the developer should strategically consider at this stage for a scheme of the proposed scale and density. Regardless of this, the details submitted leave many unknowns. Accordingly, it is recommended that a condition and an informative requiring the submission and approval of a waste strategy are imposed on any planning permission that the Mayor may grant. This should take account of the revised capacity requirements to be adopted in the future Local Plan and Waste Supplementary Planning Document.

## 7 Planning obligations - Heads of Agreement

- 7.1 The Mayor of London's representation hearing is scheduled for 27<sup>th</sup> April 2016.
- 7.2 Paragraph 3.2 of the main Committee report recommends, without prejudice, that should the Mayor decide to grant planning permission this should be subject to the prior completion of a legal agreement with the developer to secure planning obligations set out under Heads a) to x).
- 7.3 By letter dated 5<sup>th</sup> April 2016, the GLA informed the Council that solicitors (Ashhurst) had been instructed to commence work on a section 106 agreement. Before agreeing any planning obligation the Mayor must consult the Council. Regardless of the decision of members in respect of the application itself; officers seek authority from the Strategic Development Committee to both negotiate and, in the event that the Mayor decides to grant planning permission, to enter into a section 106 agreement for the proposed development. This includes negotiation to secure the delivery of the maximum viable amount of affordable housing on site in accordance with the requirements of the Development Plan.
- 7.4 The applicant's agent contends that the Obligations p) and q) within the recommended section 106 Heads are unacceptable as follows:

*Obligation p – The use of the MUGAs is outside the control of the applicant, and will be dependent on the school provider. At this stage it is not clear whether the school provider would be willing to accept this clause and therefore it should be removed.*

And

*Obligation q – The application includes the provision of a health centre, however at this time no end user of this space has been identified. The space will be marketed for a health centre, however the obligation as proposed is unacceptable as flexibility needs to be provided in relation to this unit, should there be no requirement for a GP Surgery*

7.5 Both the MUGAs and the Health Centre are important parts of the development. It is considered that there should be an obligation that they are provided and operated as a public benefit although the precise terms would need to be agreed as part of section 106 undertakings.

**8 RECOMMENDATION**

8.1 Officers recommendation that the Committee resolves to inform the Mayor of London that were it empowered to determine the application for planning permission the Council would have **REFUSED** permission is unchanged **SAVE** that:

1. Refusal Reason 3 '*Housing Mix and choice*' is not progressed.
2. Conditions 1, 2 and 3 are deleted from Appendix 1 (Recommended conditions).
3. The following Condition and Informative are added to Appendix 1 to secure a Waste Strategy for the development:

**Additional condition**

8.2 Prior to development other than demolition commencing on site, full details of a site Waste and Recycling Strategy for operational waste, including residential and commercial waste, shall be submitted to the local planning authority and approved in writing. The approved strategy shall be implemented in accordance with the approved details.

**Additional Informative**

8.3 The provision for residential waste storage should accord with the following capacities:

Number of Bedrooms	Suggested Minimum capacity			
	Refuse	Dry recyclables	Compostable waste	
			Without Garden	With garden
1	70	50	23	100
2	120	80	23	100
3	165	110	23	200
4	215	140	23	200

**Planning obligations - Heads of Agreement**

8.4 To grant officers authority to negotiate and, in the event that the Mayor of London decides to grant planning permission, enter into a section 106 agreement for the proposed development.