

<b>Committee:</b> Strategic Development	<b>Date:</b> 4 <sup>th</sup> October 2017	<b>Classification:</b> Unrestricted
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<b>Report of:</b> Director of Place	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Kate Harrison	<b>Ref No:</b> PA/16/02808
	<b>Ward:</b> Blackwall and Cubitt Town

## 1.0 APPLICATION DETAILS

**Location:** 225 Marsh Wall, E14 9FW

**Proposal:** Full planning application for the demolition of all existing structures and the redevelopment of the site to provide a building of ground plus 48 storey (maximum AOD height 163.08m) comprising 332 residential units (Use Class C3); 810 square metres of flexible community/ office floorspace (use class D1/ B1); 79 square metres of flexible retail/restaurant/community (Use Class A1/A3/D1), basement cycle parking; resident amenities; public realm improvements; and other associated works.

The application is accompanied by an Environmental Impact Assessment.

## 2.0 BACKGROUND

- 2.1 The application for planning permission for the proposed development was considered by the Strategic Development Committee on 17<sup>th</sup> August 2017. The original report and the update report are appended.
- 2.2 The Committee voted against the officer's recommendation for approval and were minded to refuse the application on the grounds of overdevelopment of site due to: height and failure to provide an adequate transition between the higher rise commercial area to the north and the low-rise residential areas to the south and east; density and; impact on infrastructure.
- 2.3 The application was deferred to enable officers to prepare a supplementary report to a future meeting of the Committee setting out proposed detailed reasons for refusal and the implications of the decision. The applicant has not made any changes to the scheme.

## 3.0 COMMITTEE REASONS FOR REFUSAL

### *Height and Density*

- 3.1 The proposal exceeds the maximum London Plan Density Matrix (Policy 3.4) with a density of 3, 354 habitable rooms / hectare (maximum 1100 habitable rooms per hectare). Whilst the policy states the matrix is not to be applied mechanistically and allows for densities exceeding the range, the exceptional circumstances under which this is acceptable are set out in the Mayor of London's Housing Supplementary

Housing Guidance (2016). Amongst other things, local context and character, a schemes overall contribution to 'place making', housing mix, social infrastructure and play space can be taken in to account.

- 3.2 Policy SP12 in the Council's Core Strategy (2010) requires developments to recognise their role and function in delivering placemaking and that the vision for Cubitt Town specifically requires that '*Development should provide transition between the higher rise commercial area to the north and the nearby low-rise residential areas to the south and east.*' Whilst this transition is not defined, the approved Meridian Gate and Dollar Bay developments do provide a transition and also set out site specific reasons to justify their heights.
- 3.3 The proposed development does not demonstrate why the transition in height between Meridian Gate and Dollar Bay is at the appropriate level and as outlined in the officer's report the proposal does cause harm to local views from the north and the south. Furthermore, the application building covers more of the plot size than both of these developments and does not sit in a corner location or at a point where the vista terminates unlike both of these buildings.
- 3.4 A reduced building height would create more of a transition in heights and would therefore create a building more in keeping with the surrounding area and relative to the plot size.
- 3.5 As such, a refusal reason on density and height is considered to be defensible on appeal.

### ***Infrastructure***

- 3.6 With regards to members concerns around infrastructure, officers strongly advise that this should not be included as a reason for refusal as officers do not consider this to be a robust reason for refusal and unlikely to be defensible at appeal.
- 3.7 The Marsh Wall East site allocation does not require the inclusion of any on site community infrastructure. Furthermore, the applicant would make the policy compliant contribution through the Community Infrastructure Levy payment (see paragraph 10.237 and 10.238 of Committee Report) and has committed to a number of additional Section 106 payments including contributions to buses in the area (see paragraph 3.2 of Committee Report).
- 3.8 However, the following reason has been drafted should members seek to refuse the scheme on these grounds:
- 3.9 *The proposed development fails to demonstrate that the proposal would not place unacceptable pressure on the capacity of the existing social infrastructure in the area. Furthermore, the proposal would fail to provide any dedicated social infrastructure for the development itself or the surrounding area. The proposal would therefore be contrary to Policy DM8 in the Managing Development Document (2013).*

## **4.0 IMPLICATIONS OF REFUSING PLANNING PERMISSION**

- 4.1 The officer recommendation has been to grant planning permission but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so. In coming to an alternative view the Committee has to

take into account the provisions of the development plan, any other relevant policies and relevant material considerations.

- 4.2 If planning permission is refused, there are a number of routes that the applicant could pursue: Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
- 4.3 To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning application..

#### **Financial implications - award of costs**

- 4.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- 4.5 Unreasonable behaviour in the context of an application for an award of costs may be either:
- procedural – relating to the process; or
  - substantive – relating to the issues arising from the merits of the appeal.
- 4.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

#### **5.0 RECOMMENDATION**

- 5.1 The additional information has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission remains unchanged.
- 5.2 However if members are minded to **REFUSE** planning permission the following reason is recommended:
- 5.3 *The excessive scale and height of the proposed development within its local context would not be proportionate to the sites position outside of the Canary Wharf major centre and would not maintain the transition in height between Canary Wharf to the north and the lower rise buildings to the south and east. The proposed scale, height and massing would result in a development that fails to present a human scale of development at street level, is too large for the plot size, is overbearing, is unduly prominent in local views and detracts from the low-rise character of the area to the south and east. The proposed development therefore fails to respect the features that contribute to the area's character and local distinctiveness and demonstrates clear symptoms of over development and excessive density. This is contrary to Strategic Objectives SO22 & SO23 and Strategic Policies SP10 and SP12 of the Core Strategy*

*(2010), Policies DM24, DM26 and DM27 of the Managing Development Document (2013) and Policies 3.5, 7.4, 7.6, 7.7 & 7.8 of the London Plan (2016).*