

Decision Level: Strategic Development Committee	Date: 16 th March 2010	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Development & Renewal		Title: Planning Application for Decision	
Case Officer: Jerry Bell		Ref No: PA/09/965	
		Ward(s): Whitechapel	

1. APPLICATION DETAILS

Location: Former Goodmans Fields, 74 Alie Street (Land north of Hooper Street and east of 99 leman Street, Hooper Street) London

Existing Use: Offices (vacant)

Proposal: Redevelopment to provide four courtyard buildings of 5-10 storeys incorporating 6 buildings of 19-23 storeys, erection of a 4 storey terrace along Gower's Walk, change of use to residential, and construction of an additional storey to 75 Lemman Street. Overall scheme comprises 754 residential units, student accommodation, hotel, primary care centre, commercial uses, public open space, landscaping, car parking and associated works. (AMENDED DESCRIPTION)

Note: the application is supported by and Environmental Statement.

Drawing Nos: 0722A P0001; P0002; P0003; P0004; P0005; P0006; P0099A; P0100B; P0101A; P0102B; P0103A; P0104A; P0105A; P0106B; P0107A; P0108C; P0109B; P0110B; P0111B; P0112B; P0113B; P0115B; P0116B; P0117B; P0118B; P0119B; P0120B; P0121B; P0122B; P0123B; P0128B; P0130A; P0160C; P0161B; P0162C; P0162B; P0163A; P0164B; P0165C; P0166A; P0167B; P0168C; P0169C; P0170D; P0171C; P0172A; P0173A; P0174A; P0175B; P0176C; P0177; P0178; P0179; P0180; P0181A; P2500; P2501; P2502; P2503; P2505; P2506; P2508; P2509; P2510A; P2511; P2512A; P2513A; P2515; P2516; P3500A; P3501A; P3502A; P3503A; P3504A; P3505A; P3508A;

4723/C/SK002RevI02

07/2472-TS1; TS2; TS3; TS4; TS5; TS6; TS7; TS8; TS9; TS10; TS11; TS12; TS13

07/2517-MBS-B

2537/B-2; G-1; G-2; 1-1-REVA; 1-2-REVA; 2-1-REVA; 2-2-REVA; 3-1-REVA; 3-2-REVA; 4-1-REVA; 4-2-REVA; 5-1-REVA; 5-2-REVA; 6-1-REVA; 6-2-REVA

2723/E2; E3; S1; S2; S3

2472/KEYPLAN; E1; E2; E3; E4; E5; E6; E7; E8; E9; E10; E11; E12;

E13; E14; E15; E16; E17; E18

ELEV16.DWG; 1-4.DWG

TOWN371(08)1002R04; 5000R01; 5001;R04; 5003R04; 5004R03;
5005R03; 5006R03; 5007R03; 5008R03; 0023R01

SK01; SK01A (x10 Individual dwgs)

Documents:

Submission 29 May 09

Environmental Statement Vol1

Environmental Statement Vol2

Environmental Statement Vol3 Heritage, Townscape and Visual
Assessment

Environmental Statement Vol3 appendices

Environmental Statement Vol4 Transport Assessment

Environmental Statement Vols 5a & 5b technical appendices

Planning Statement

Design and Access Statement Vols 1 & 2

Statement of Community Consultation

Sustainability and Quality of Life Statement

Energy Statement

S106 heads of terms

Further information 04 August 09 to address Mayor's Stage 1

LVMF photographic images 1808-0529 v090731; 2705 v090710; 2805
v090723B

Roamer animation and stills

Supporting tower plan 0722A P0005

Further information 14 August 09 to address LBTH comments

Arup dwg 123182-00, 123182-00-019

Further information 15 October 09 to address LBTH Comments

Updated schedules ref Nos. 0722A 10.01 AA rev F; 10.01AG rev B x 5
dwgs

Updated Environmental Statement Vol1 (for regulation 19)

Updated Environmental Statement Vol6 (for regulation 19)

Further information December 2010 to address LBTH Comments

Updated Environmental Statement Vol7 (supplement and Non-
Technical Summary)

Applicant: Mourant Property Trustees Ltd and Mourant & Co. Trustees Ltd as
Trustees of the Omega No. 3 Property Unit Trust
Owner: Berkley Homes, Berkley Gemini Ltd, LBTH, EDF, AHL City Quarter
Trading Limited
Historic Building: No
Conservation Area: No

2. RECOMMENDATION

2.1 That the Committee resolve to **grant** planning permission subject to:

A. Any **direction** by **The Mayor of London**

- B. The prior completion of a **legal agreement** to secure the following planning obligations:
- Affordable housing - **36%**
 - Public realm improvements - **£600,000**
 - Sustainable transport - **£339,300**
 - Open space - **£699,200**
 - Local youth, sport and culture - **£1, 909,325**
 - Education - **£1,468,698**
 - Healthcare - **£1,060,786 plus shell and core plus peppercorn rent for 3 years**
 - Local business support, employment and training, Enterprise team and the Skillsmatch service - **£1,164,640**
 - Public art - **£100,000**

 - **Total - £7,341,949**

Other contributions:

- Car free agreement for residential units with no parking spaces.
- Provision of a Travel Plan framework and monitoring.
- Provision of a car club on site including: a)The undertaking and costs associated with establishing a Car-Plus accredited car club on site which includes 2 cars and 2 parking bays reserved exclusively for this purposes; b) the undertaking and costs of any supporting service requirements of the car-club operator in providing the car club at this site; c) The promotion of the car club to occupiers;
- PCT shell and core to NHS specification
- PCT peppercorn rent for 3 years
- TV reception mitigation measures
- Air quality monitoring during construction.
- Commitment to participate in Council's local labour in construction initiatives.
- Considerate contractor scheme.

(For avoidance of doubt and as per advice in the 'transport' section of the appended report, s278 agreement pursuant to the Highway Act 1980, is a matter with financial obligations which is completely separate and in addition to the s106 planning agreement set out in this report)

That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above. If by the date nominated in the Planning Performance Agreement the legal agreement has not been completed, the Corporate Director development & Renewal is delegated power to refuse planning permission.

That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

Conditions:

- 1) Time limit for Full Planning Permission
- 2) Development in accordance with the approved plans
- 3) Final plan of phasing to be agreed
- 4) Detailed design treatment: elevations, balconies, PCT skylights, connection at roof level between 75 leman street extension and the building to the south; extract vents/bicycle pavilion
- 5) Frosted glass for communal space windows adjacent private amenity space at first floor
- 6) Restriction on class A3/A5 use to ground floor areas where future extract ventilation has been shown as specified on the plans
- 7) Full vent details and detailed plans including A3 & A5 and basement
- 8) Provide for not more than 199 car spaces (of which at least 29 to be accessible), 64 motorcycle spaces, 29 motor scooter spaces
- 9) Details of electric charging points in accordance with the ES Vol1 & 6 to be submitted

- prior to commencement
- 10) Provide 132 cycle spaces at ground level and elsewhere, 1928 in basement as shown on the approved basement and ground floor plans, giving total of 2068 spaces
 - 11) Details of the means by which access to the basement will be restricted and controlled in the interest of safety, security and minimising crime and terrorist threat per Metropolitan Police Crime Prevention Officer
 - 12) CHP plus other measures per ES for renewable, sustainable and efficient measures to be incorporated, maintained and utilised for the lifetime of the development
 - 13) Low carbon and renewable technologies to be operated and retained for lifetime of the development
 - 14) Code for sustainable homes
 - 15) BREEAM for non-res C3 uses
 - 16) Lifetime homes and 10% wheelchair housing
 - 17) Surface water control
 - 18) Basement access controls and management
 - 19) Landscaping details and management plan incl. bat and bird box provision
 - 20) Secured by design statement and certification
 - 21) Details of design of ecological (green) roof
 - 22) Full details of the CHP plant including emissions and their mitigation
 - 23) Microclimate mitigation incl. roof terraces
 - 24) Juliet balconies for all units that do not already benefit from a Juliet or private amenity space unless otherwise agreed in writing
 - 25) Mechanical ventilation and enclosure of balconies on Alie and Leman Streets to address noise and air quality
 - 26) Glazing to address NEC D
 - 27) Wind mitigation measures as per ES to be constructed and maintained for life of development
 - 28) Further wind testing of final landscape design
 - 29) Amended servicing management plan to be agreed in writing
 - 30) Waste and recycling storage in accordance with submitted documents
 - 31) Construction environmental management plan as recommended in ES Ch5
 - 32) Construction logistics plan
 - 33) Final travel plan including consideration of all uses
 - 34) Archaeology
 - 35) Development in accordance with the FRA
 - 36) Hours of construction
 - 37) Hours of piling
 - 38) Wheel cleaning equipment
 - 39) Contamination including Gas monitoring program and notice/inspection of remediation works per contamination officer
 - 40) Program of archaeology
 - 41) Scheme of highway improvements (s278)
 - 42) Access to garden behind PCT limited to daylight hours
 - 43) Cycle routes through the development
 - 44) Public walking and cycling access across the site in perpetuity
 - 45) Public access to open space in perpetuity
 - 46) Any additional conditions as directed by the Corporate Director Development and Renewal

Informatives

- 1) construction crainage per London City Airport
- 2) Precautionary advice per National Grid
- 3) Surface water drainage is developer's responsibility per Thames Water
- 4) Stormwater attenuation via on or off-site storage per Thames Water
- 5) Manhole requirements for connection to public sewer per Thames Water
- 6) No groundwater removal per Thames Water
- 7) Prior approval from Thames Water required for discharge to public sewer

- 8) Petrol/oil interceptors per Thames Water
- 9) Fat trap per Thames Water
- 10) Diversion of Thames Water infrastructure is at the applicant's expense
- 11) Advice in respect on minimum water pressure per Thames Water
- 12) Separate notification and approval for perm highway works and temp highway works during construction per Traffic Management Act 2004 and TFL.
- 13) Consideration of the following matters relevant to the Building Regulations per Building Control:
 - Advice not intended as a complete review or assessment
 - Notice of demolition prior to commencement
 - Section 20 application under the London building Act applicable
 - Attention should be paid to Party Wall Act
 - Fire service access including shafts in accordance with B5 requirements
 - Fire mains in accordance with section 15
 - Consideration of means of escape and dead end distances in respect of Requirement B1
 - Hotel corridor ventilation
 - Alternative means of escape or sprinklers for 4 storey houses
 - Separate routes of escape for each use
 - Single staircase buildings not to be connected to the basement
 - Building separation distances
 - Fire compartmentation between buildings
 - Solid waste storage and collection
 - Means of access to comply with Part M
 - Safe cleaning of windows in accordance with Approved Document N
- 14) Consideration of increasing provision of facilities for people with a disability in the hotel per Access officer
- 15) Soil cap and geotextile membrane for private gardens per contamination officer
- 16) Construction noise to address BS5228 and COPA section 61 per env. Health
- 17) D1 stack height calculation for domestic emission per env. Health
- 18) Dust monitoring methodology per construction mgt plan to be agreed in advance with env. Health
- 19) Future detailed floorplan design to consider separate kitchen and living rooms in social rent tenure to satisfy housing need per Housing
- 20) Archaeological design project per English Heritage(arch)
- 21) Efficient water use per Environment Agency
- 22) Construction crainage per London City Airport
- 23) Contact Env. Health Commercial regarding construction phase, operational phase, notifications regarding working with Asbestos, Notification of Cooling Towers and Evaporative Condenser Regulations 1992, establishment for special treatments, exemptions, animal establishment related legislation
- 24) Contact LFEPA regarding fire fighting main access, domestic sprinklers and basement storage
- 25) Section 61 agreement to agree construction methodology per Control of Pollution Act 1974 per environmental health
- 26) Precautionary Guidance of National Grid

3. BACKGROUND

- 3.1 This application for planning permission was reported to Strategic Development Committee on 15th December 2009 with an officer recommendation for approval. A copy of the case officers report containing the Summary of Material Planning Considerations, Site and Surroundings, Policy Framework, Planning History and Material Planning Considerations is attached at Appendix 1.

3.2 Members indicated that they were minded to refuse the planning application because of concerns over:

- The overdevelopment of the site as manifested particularly in the number of towers and the height of the proposed buildings.
- Excessive massing of the perimeter buildings and their impact on surrounding properties. Inadequacy of coach and other vehicular parking facilities.

3.3 Members' resolved to defer making a decision to allow officer's to prepare a supplemental report setting out the reasons for refusal and the implications of the decision. The proposed reasons for refusal and implications are set out at Section 6.2 and 6.3 of this report.

Changes to the proposed scheme

3.4 Since the deferral of the decision, the applicants have sought to address members concerns by introducing changes to the scheme.

3.5 The changes involve the removal of 1-2 storeys from the north west and north east perimeter blocks, resulting in the loss of 18 market units (This corresponds to the loss of 8 x 1 bedroom units, 6 x 2 bedroom units and 4 x 3 bedroom units) and 14 hotel rooms. The total number of residential units proposed is now 754. The number of affordable units remains the same at 252 with a 71:29 social to intermediate split, but the overall percentage of affordable units has increased from 35% to 36%. The number of hotel rooms has decreased from 351 to 337 rooms.

3.6 Members should also note that a revised s.106 package that seeks to provide an additional sum of £2,000,000 towards mitigating the impacts of the development

4 ADDITIONAL CONSULTATION RESPONSES

4.1 A total of 1793 neighbouring properties within the area shown on the map appended to this report were re-notified about the application and invited to comment. The application has also been re-publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses:	0	Objecting:	0	Supporting:	0
No of petitions received:	0				

4.2 Additional responses were received from the following Statutory and Non-Statutory consultees.

Natural England

No comment

Greater London Authority

No objections, previous comments stand

Thames Water

Thames water has re-provided their previous comments and an informative as requested is indicated on the appended report.

LBTH Housing

No objection as the quantum of affordable housing remains unaffected.

5 CONSIDERATION OF PROPOSED CHANGES

The overdevelopment of the site as manifested particularly in the number of towers and the height of the proposed buildings.

- 5.1 Although there have not been any amendments to the height and number of towers, an indication of overdevelopment would be excessively high densities
- 5.2 The application site has a Public Transport Accessibility Level (PTAL) 6a. Therefore density ranges are as follows:
 - Mayor's London Plan: 650-1100 habitable rooms per Hectare (central zone)
 - LBTH IPG: 650-1100 habitable rooms per Hectare (central)
- 5.3 The scheme is equivalent to **799 habitable rooms per hectare** based on the total site area of 2.9Ha and for scheme comprising of a total of 2318 habitable rooms. If the area occupied by the hotel and student housing is removed as suggested in the Planning Statement, the scheme is equivalent to 995 habitable rooms per hectare based on a site area of 2.33Ha.
- 5.4 Members are reminded that the GLA considers that the density successfully maximises the site's potential in accordance with Policy 3A.3 of the London Plan; and that the density sits comfortably within the ranges provided by the London Plan and the Councils Interim Planning Guidance
- 5.5 The height of the towers have already been reduced through negotiation with officers and is similar in height to other recently consented schemes in the area. This includes 61-75 Alie Street where a 28 storey tower was approved in March 2008 and Aldgate Union at a height of 22 Storeys approved in August 2007. It should be noted that the maximum height this schemes seeks to achieve is 23 storeys. Also, the development is in one of the two clusters in the Borough (the other being Canary Wharf) where tall buildings are acceptable. Members are reminded that CABI support the height of the towers, whilst English Heritage and Historic Royal Palaces (responsible for the protection of the Tower of London) raise no objections.
- 5.6 In relation to the number of towers, officers consider that the slimline nature of the towers reduces their impact whilst CABI welcome the function they serve in announcing the site.

Excessive massing of the perimeter buildings and their impact on surrounding properties.

- 5.7 The amendments to the north west and north east blocks would see the blocks reduce in height from the current 7 to 6 storeys and from 10 to 8 storeys respectively along Alie Street. This is considered to be a successful attempt to address members concerns over the impact of the development on the surrounding area.

This reduction will have no adverse impact on amenity, highways and the affordable housing provision. It is likely to increase the amount of daylight and sunlight received by the adjacent properties in Alie Street and is more sympathetic to the existing scale of buildings.

Given that the scale and bulk of the building primarily manifests itself in the perimeter blocks, this reduction in height is welcomed and it is considered that this addresses members concerns.

Inadequacy of coach and other vehicular parking facilities.

- 5.8 Members are reminded that the Councils Highways officers have considered site accessibility, parking, s106 requirements including car free development and a car club, accessible parking for people with a disability, site access to the public highway, servicing/refuse/deliveries, visibility splays, cycle parking, pedestrian infrastructure and advise that there are no significant detrimental impacts to consider.
- 5.9 Given the advice above, officers remain of the opinion that parking facilities are acceptable and that a reason for refusal on this basis would, at best, be difficult to defend on appeal.

Other Considerations

Affordable Housing

- 5.10 The revisions include the reduction in the number of residential units. The level of social rented and intermediate units remains the same. The revised scheme sees the number of private sale reduced from 520 units to 502 which means that the quantum of affordable increases from 35% to 36% by habitable room.

Planning Contributions

- 5.11 Government advice and the policy framework that governs planning contributions can be found at paragraph 8.141 of Appendix 1.
- 5.12 Following extensive negotiation with the developer's consultant, the Council's consultant confirmed that, in their professional opinion that viability was an issue. As such, the Council is not considered to be in a position to seek further contributions to those identified in the heads of terms at paragraph 3.1 (b) of Appendix 1 to this report. However, the applicants have sought to address members concerns in relation to the overdevelopment of the site, the resultant density, and the impact that this density has on local services and infrastructure. In so doing, they have offered an additional contribution of £2million to be distributed between towards youth, sport and culture services, employment and training and public art.
- 5.13 Some of this contribution would support projects that would look at onsite activity to research the barriers to work, working with community champions and local residents to identify aspirations and link the wants and needs of locals into existing services available as well as designing new purpose made training and skills services which meet the individual community need.

Environmental Impact Assessment

- 5.14 The application has been re-screened to consider whether it is necessary for a new EIA to be submitted. The screening has indicated that no new EIA needs to be submitted under Regulation 14 of the Environmental Impact Regulations 1999 and that the existing EIA will suffice. However, the applicant has submitted a supplement to the Environmental Statement accompanied by a Non-Technical summary. Both documents have been reviewed and officers consider that no new adverse impacts have been identified.

6. Conclusions

- 6.1 All other relevant policies and considerations have been taken into account. Planning permission should be approved for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS appended to this report and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

6.2 However, if Members are minded to refuse the application, **subject to any direction by the Mayor of London** the following suggested reasons for refusal are as follows:

1. The proposed development, by virtue of its excessive height and bulk, would appear out of character with the surrounding area. The proposal fails to relate to the scale of nearby buildings in Alie Street and Leman Street. As a result, it is considered that the proposal would be out of keeping with the existing urban form. The proposal is therefore contrary to policies 4B.1, 4B.8, 4B.9, and 4B.10 of The London Plan 2008, policies DEV1, DEV2 and DEV3 of the Unitary Development Plan 1998 and policies CP48, DEV1, DEV2 and CON2 of the Council's Interim Planning Guidance 2007 which seek to ensure development is of appropriate design.
2. The proposed development would result in unacceptable loss of daylight and sunlight to nearby residential properties and as such is contrary to saved policies DEV1 and DEV2 of the adopted Tower Hamlets Unitary Development Plan 1998 and policies DEV1 and DEV2 of Council's Interim Planning Guidance (2007): Core Strategy and Development Control, which seek to ensure development does not have an adverse impact on neighbouring amenity.
3. The proposed development would result in unacceptable traffic and parking impacts and as such is contrary to Policies 2A.1, 3A.7, 3C.1, 3C.2, 3C.19, 3C.20 of The London Plan (Consolidated 2008), PPS1, PPG13, Policy ST25, ST28, ST30, T16, T18, T19, T21 of the LBTH UDP 1998, Policies DEV17, DEV18, DEV19 of the LBTH IPG 2007 which seek to ensure the proposal does not impact on the local road system.

6.3 Implications of the decision

Following the refusal of the application there would be a number of possibilities open to the Applicant. These would include (though not be limited to):-

1. Resubmission of an amended scheme to overcome reasons for refusal;
2. The applicant could appeal the decision and submit an award costs application against the Council.
3. There are two financial implications arising from appeals against the Council's decisions. Firstly, whilst parties to a planning appeal are normally expected to bear their own costs, the Planning Inspectorate may award costs against either party on grounds of "unreasonable behaviour." Secondly, the Inspector will be entitled to consider whether proposed planning obligations meet the tests set out in the Secretary of State's Circular 05/2005 and are necessary to enable the development to proceed.
4. The Council would vigorously defend any appeal.

APPENDICIES

Appendix One - Committee Report to Members on 15^h December 2009

Appendix Two – Addendum Report to Members on 15th December 2009