

Committee: Strategic Development	Date: 16 th March 2010	Classification: Unrestricted	Agenda Item No:
Report of: Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Simon Ryan		Ref No: PA/09/01220	
		Ward: Millwall	

1. APPLICATION DETAILS

- Location:** 40 Marsh Wall, London E14 9TP
- Existing Use:** Office building (Use Class B1)
- Proposal:** Demolition of existing office building and erection of a 39-storey building (equivalent of 40 storeys on Manilla Street) with three-level basement, comprising a 305 bedroom hotel (Use Class C1) with associated ancillary hotel facilities including restaurants (Use Class A3), leisure facilities (Use Class D2) and conference facilities (Use Class D1); serviced offices (Use Class B1); together with rooftop plant and associated landscaping. The application also proposes the formation of a taxi drop-off point on Marsh Wall
- Drawing Nos/Documents:**
- Drawing nos. 1065-PL-001-A, 1065-PL-098, 1065-PL-099, 1065-PL-100, 1065-PL-101, 1065-PL-102, 1065-PL-103, 1065-PL-104, 1065-PL-105, 1065-PL-106, 1065-PL-150, 1065-PL-160-A, 1065-PL-170-A, 1065-PL-200, 1065-PL-201, 1065-PL-202, 1065-PL-203, 1065-PL-210, 1065-PL-211, 1065-PL-220, 1065-PL-221, 1065-PL-223, 1065-PL-224, 1065-PL-225, 1065-PL-300, 1065-PL-301, 1065-PL-302, 1065-PL-303, 1065-PL-304, 1065-PL-310
 - Design and Access Statement
 - Planning Statement prepared by PC Planning & Development Consultants
 - Sustainable Energy Strategy Report prepared by Mendick Waring Ltd
 - Draft Workplace Travel Plan prepared by JMP Consultants Ltd
 - Transport Assessment prepared by JMP Consultants Ltd
 - Employment Study prepared by Knight Frank
 - Hotel Demand Study prepared by Savills
 - Statement of Community Involvement prepared by Lexington Communications
 - Environmental Statement – Volume I prepared by URS
 - Environmental Statement – Volume II (Townscape & Visual Assessment) prepared by URS
 - Environmental Statement – Volume III (Technical Appendices) prepared by URS
 - Environmental Statement – Non-Technical Summary prepared by URS
 - Informal Cumulative Assessment prepared by URS

Additional Documents

- Verified Views Addendum brochure, dated February 2010
- Technical Traffic & Transport Summary Note, produced by JMP Consultants Ltd, dated 4th February 2010

Applicant:	Marsh Wall Chelsea LLP
Ownership:	<ul style="list-style-type: none">• Mr Kamruz, BAK Investments Ltd• London Borough of Tower Hamlets (area of highway where taxi drop-off is proposed is LBTH controlled)
Historic Building:	No
Conservation Area:	No

2. RECOMMENDATION

2.1 A. Any **direction** by **The Mayor**

- B. The prior completion of a **legal agreement**, to the satisfaction of the Chief Legal Officer, to secure the following:

Financial Contributions:

- a) Employment & Training – Provide **£597,608** towards local business support, improving access employment and training for local residents, Enterprise Team and the Skillsmatch service
- b) Transport Infrastructure Improvements - **£298,000** comprising:
 - £150,000 towards footway and carriageway reconstruction beyond the immediate environs of the site
 - £75,000 towards Mastmaker Road/Marsh Wall junction improvements
 - £20,000 towards the provision of TfL DAISY information boards;
 - £50,000 towards the re-provision of a bus stop; and
 - £3,000 towards the funding of Workplace Travel Plan monitoring
- c) Public Art - Provide **£35,000** towards public art within the local area. This is in line with contributions secured in the Millennium Quarter
- d) Tourism and Olympic Signage - Provide **£1,400** towards the installation of an Olympic sign and the provision of three new gates onto the Thames Path
- e) Open Space Provision – Provide **£40,260** towards the provision of open space in the Borough
- f) St Johns Community Centre, Glengall Grove - **£100,000** towards its repair and maintenance
- g) Olympic volunteering programme - **£30,000**
- h) Tower Hamlets leisure marketing and promotion - **£108,000**
- i) Tower Hamlets business tourism marketing programme - **£30,250**

Non-Financial Contributions:

- j) Car-free agreement
- k) TV reception monitoring
- l) Publicly accessible open space – To maintain access across the new public realm
- m) Code of Construction Practice - To mitigate against environmental impacts of construction
- n) Access to Employment - To promote employment of local people during and post construction, including an employment and training strategy
- o) Social Compact Obligation to Commit Skills - To provide training and skills development for local secondary school children, apprenticeships and developing employment linkages with the community for the duration of occupancy at the site
- p) Servicing Management Plan – To ensure servicing is undertaken in an appropriate manner
- q) Air quality monitoring during construction

- r) Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal

Total financial contribution: **£1,240,518**

- 2.2 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.
- 2.3 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) Permission valid for 3 years
 - 2) Hours of Construction (8.00am to 6.00pm Monday to Friday 9.00am to 5.00pm on Saturdays and not at all on Sunday or Bank holidays)
 - 3) Power/hammer driven piling/breaking (10am – 4pm Monday – Friday)
 - 4) Submission of samples / details / full particulars of materials, glazing, landscaping & external lighting
 - 5) Submission of further details on plant, machinery and ventilation
 - 6) Submission of details of external lift
 - 7) Submission of a Servicing Management Plan
 - 8) Submission of a Construction Management Plan
 - 9) Submission of full Travel Plan
 - 10) Details of heat distribution system to be submitted
 - 11) Details of CHP system to be submitted
 - 12) Details of and commitment to connection of scheme to the Barkantine district heating system
 - 13) BREEAM “Excellent Standard”
 - 14) Hotel Management Plan, ensuring the suites are managed as short term accommodation for a period no longer than 90 days;
 - 15) A minimum of 10% of the hotel rooms and serviced apartments shall be designed to be wheelchair accessible
 - 16) Construction Logistics Plan
 - 17) Scheme of highway works to be submitted (s278 agreement)
 - 18) Development to be carried out in accordance with the approved Flood Risk Assessment and associated mitigation measures
 - 19) Submission of groundwater contamination risk assessment
 - 20) Piling only to be carried out with express written consent of LPA
 - 21) Submission of scheme for disposal of foul and surface water
 - 22) Submission of scheme for the protection and monitoring of groundwater
 - 23) Reuse of materials from existing building
 - 24) Submission of details of wildlife habitat measures on roof
 - 25) Provision of a blue-badge disabled parking space
 - 26) Taxi lay-by to be completed prior to the occupation of the building
 - 27) Details of the highway works surrounding the site; and
- Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal.

Informatives

- 1) Section 106 agreement required
- 2) Section 278 & 72 Highways agreements required
- 3) Contact Thames Water regarding installation of a non-return valve, petrol/oil-interceptors, water efficiency measures and storm flows

- 4) Changes to the current licensing exemption on dewatering
- 5) Contact London City Airport regarding cranes and scaffolding
- 6) Contact LBTH Environmental Health
- 7) Contact Environment Agency
- 8) Section 61 Agreement (Control of Pollution Act 1974) required
- 9) Contact London Fire & Emergency Planning Authority

Any other informative(s) considered necessary by the Corporate Director Development & Renewal

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.
- 3.2 Members indicated that they were minded to refuse the planning application because of serious concerns over:
 - The issue of impact on views from the south of the site
 - The allocation of S106 funding towards highway improvements and footway reconstruction with York stone and granite sets on the south side of Marsh Wall
 - Public transport issues
 - 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 Sections 6.3 and 6.4 of this report.

Changes to proposed scheme and additional information

- 3.4 Since the deferral of the decision, the applicant has sought to address members concerns by providing additional information with regard to the concerns raised upon views from the south of the site and also the provision of coach parking.
- 3.5 The applicant has provided a further views assessment, entitled '40 Marsh Wall Verified Views Addendum'. The document includes a number of verified cumulative views of the proposed development from a number of viewpoints. Copies will be made available within the Members' pack prior to the Strategic Development Committee meeting.
- 3.6 The applicant has also provided a Technical Traffic & Transport Summary Note, produced by JMP Consultants Ltd, which provides further information upon the development's proposed coach, car, taxi and cycle parking arrangements, together with the servicing arrangements.
- 3.7 Members should also note that a revised s.106 package that seeks to provide an additional sum of £100,000 towards mitigating the impacts of the development, taking the total s106 financial contribution to £1,240,518. Further commentary upon the revised s106 package can be found at paragraph 5.2, below.

4.0 ADDITIONAL LETTER OF REPRESENTATION

- 4.1 One additional letter of representation has been received since the December Strategic Development Committee from the Milton Group, who are an adjoining landowner. The letter follows on from earlier representations (as detailed within paragraph 7.4 of the previous report and also within the update report) and states that they are not convinced that the submitted red line site plan accurately represents the true ownership of the site. The letter has since been passed to the applicant, who has contested this claim.

(OFFICER COMMENT: Officers are satisfied that the submitted Ownership Certificate has been correctly completed and this is therefore not a material planning consideration).

5.0 CONSIDERATION OF PROPOSED CHANGES AND FURTHER INFORMATION

Impact on views from the south

- 5.1 As detailed above, the applicant has produced an additional views assessment. This document contains a number of computer generated images which indicate the proposal's impact upon strategic and local views. From the views assessment, it is evident that the proposed building is not significant enough to raise any concerns with regard to views from the south and, in particular, the Greenwich Park Wolfe statue strategic view. The proposed building would be masked by the silhouettes of surrounding approved developments at Riverside South, City Pride, 2 Hertsmere Road (Columbus Tower) and Heron Quays. Furthermore, the proposal is 5 storeys shorter and considerably more slender than the adjacent 22 Marsh Wall, thereby adding visual relief to the emerging cluster of tall buildings in the area and conforming with policy IOD21's requirement for buildings in this area to taper in height to the south. Members are reminded that the GLA have confirmed that the proposal does not raise any concerns in relation to strategic views.

The allocation of s106 funding

- 5.2 Following Members' concerns arising from the December 2009 Strategic Development Committee meeting with regard to the inappropriate allocation of s106 funds, the applicants have sought to address by offering an additional contribution of £100,000 to be distributed towards local employment initiatives.
- 5.3 Further to the above, officers have agreed with the Council's Highways Department to reduce the transport infrastructure improvements contribution from £859,300 to £298,000. As detailed above within section 2.1 of this report, the increased s106 funds have been reallocated, with £597,608 now allocated towards Employment and Training, including local business support, improving access employment and training for local residents, the Skillsmatch service and, in particular, the Enterprise Team. This team 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 needs. A £100,000 contribution has also been allocated to the nearby St Johns Community Centre in Glengall Grove.
- 5.4 Contributions towards the promotion of an Olympics Volunteering Programme have also been included. This contribution would assist the 2012 Unit to actively encourage volunteering for the games from its residents to offer an additional opportunity to experience the games, build on the legacy of the games by building on the significant benefits of volunteering and to further develop the capacity of its third sector by promoting volunteering in local communities in the lead up to the Olympic Games.
- 5.5 Contributions towards promoting and raising the profile of Tower Hamlets to a wider audience and attracting business tourism in the area have also been included. The business tourism sector supports numerous businesses in the borough (restaurants, venues, hotels, bars, retail etc), the promotion of which will retain and increase jobs and capture local spend. Similarly, the proposed contribution towards Tower Hamlets leisure marketing would enable numerous guides to the Borough to be produced, including the Olympics and cultural walks.

Coach Parking Provision and Public Transport Impacts

- 5.6 As detailed above, the applicant has provided a Traffic & Transport Summary Note, which reiterates the proposed coach, car, taxi and cycle parking arrangements, together with the servicing arrangements associated with the development. The Council's Highways Department have been reconsulted and advise that their original comments still stand and no objections are raised.
- 5.7 Members are reminded that the Council's Highways officers have considered site accessibility, parking, s106 requirements including car free development and transport infrastructure improvements, accessible parking for people with a disability, site access to the public highway, servicing/refuse/deliveries, coach parking, visibility splays, cycle parking, pedestrian infrastructure and advise that there are no significant detrimental impacts to consider.
- 5.8 Given the advice above, officers remain of the opinion that parking facilities and public transport impacts are acceptable and that a reason for refusal on this basis would, at best, be difficult to defend on appeal.

6.0 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:
- 6.3 That the Committee resolve to **REFUSE** planning permission:

A. Any direction by the Mayor of London.

For the following reasons:

1. The proposed development, by virtue of its excessive height and bulk, would appear out of character with the surrounding area. 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, DEV27 and IOD21 of the Council's Interim Planning Guidance 2007 which seek to ensure development and tall buildings in particular are of an appropriate design, height, scale and mass.
2. 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.
3. The planning obligations are considered inadequate to mitigate against the impact of the development. As such, the proposal fails to comply with the requirements of Policy DEV4 of the adopted Tower Hamlets Unitary Development Plan (1998) which seeks to secure appropriate planning obligations which are reasonably related to the scale and nature of the proposed development and are necessary for the development to proceed.

6.4 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.

The Council would vigorously defend any appeal.

7.0 APPENDICIES

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

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