

Committee: Strategic Development	Date: 6thMarch 2012	Classification: Unrestricted	Agenda Item No: 7.1
Report of: Director of Development and Renewal		Title: Application for Planning Permission	
Case Officer: Elaine Bailey		Ref No: PA/11/02716	
		Ward: East India and Lansbury	

1.

APPLICATION DETAILS

The application site falls wholly within the planning functions of the London Thames Gateway Development Corporation (LTGDC). London Borough of Tower Hamlets is a statutory consultee on this application.

This report therefore provides an officer recommendation which is intended to form the basis for the Borough's observations to LTGDC. The Strategic Development Committee is requested to consider the endorsement of this recommendation only.

Location: Aberfeldy Estate, Abbott Road, London, E14

Existing use: Existing residential development including parade of shops, health centre, community centre and associated uses along Aberfeldy High Street.

Site also includes a partly cleared site in the south eastern corner of the site (referred to as former Currie and Dunkeld Site)

Proposal: Outline planning application (all matters reserved) for the mixed-use redevelopment of the existing Aberfeldy estate comprising:

- Demolition of 297 existing residential units and 1,990 sqm of non-residential floorspace, including shops (use class A1), professional services (use class A2), food and drink (use class A3 and A5), residential institution (use class C2), storage (use class B8), community, education and cultural (use class D1); and
- Creation of up to 1,176 residential units (Use Class C3) in 15 new blocks between 2 and 10 storeys in height plus 1,743sqm retail space (Use Class A1), professional services (Use Class A2), food and drink (Use Classes A3 and A5) and 1,786 community and cultural uses (Use Class D1) together with a temporary marketing suite (407sqm),

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energy centre, new and improved public open space and public realm, semi-basement, ground and on-street vehicular and cycle parking and temporary works or structures and associated utilities/services.

Application is also supported by an Environmental Statement under the provisions of the Town and Country Planning (EIA) Regulations 1999.

The application seeks approval (with all matters reserved).

Drawing Nos: Location Plan 001; AVO2 Site Boundary 002 P2; Existing Car Park Layout 003; Demolition Plan 004; Development Zones and Building Dimensions 005; Development Zones and FFLs 006; Elevations 007; Elevations 008; Elevations 009; Principal Public Realm Areas 010; Street Sections – Main Streets 011; Street Sections – Side Streets 012; Street Sections – Squares 013; Street Sections – Linear Park 014; Locations of Semi – Private Communal Courtyards and Private gardens 015; Development Zone Car park level 016; Predominant Land Use at Ground Level 017; Predominant Land Use at Typical Upper Level 018; Ground Level Road/Route Network 019; Pedestrian & Vehicular Access 020; P2 (Outline Planning Application)

Documents:

- AVO1 Application Form
- AVO2 Scale Site Plan
- AVO3 Development Specification
- AVO3a The Design Code
- AVO4a Design and Access Statement
- AVO4b Masterplan Access Statement
- AVO5 Regulatory Plans
- AVO6 Planning and Regeneration Statement
- AVO7 Statement of Community Involvement
- AVO8a Environmental Statement Non-Technical Summary
- AVO8b Environmental Statement
- AVO8c Environmental Statement Annexes
- AVO9 Transport Assessment
- AVO10 Gas Holder Risk Assessment
- AVO11 Energy Statement
- AVO12 Financial Statement and S106 Heads of Terms
- AVO13 Sustainability Statement
- AVO14 Retail Statement

Design Code - dated 19 Jan 12

Waste & Refuse Strategy submitted 19 Jan 12

AVO10 and AVO10B OPA Risk Assessment (dated 26th Oct + update

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dated 19th Jan);
AV07 Copy of OPA Statement of Community Involvement; AV09 Annex
P Transport Assessment;

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Applicant: Poplar HARCA and Willmott Dixon Homes Ltd

Owners: Schedule attached to Cert B of planning application form.

Historic buildings: None within application site, however Balfron Tower (listed) is situated opposite the application site to the west.

Conservation areas: None.

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

- 2.1 Officers have considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan 1998, (Saved policies); associated Supplementary Planning Guidance, the London Borough of Tower Hamlets adopted Core Strategy (2010), Managing Development DPD (proposed submission version) 2012; as well as the London Plan (2011) and the relevant Government Planning Policy Guidance, and has found that:
- 2.2 The scheme will provide for the regeneration of Aberfeldy estate through the provision of a new residential led mixed use development. The scheme maximises the use of previously developed land, ensures that there will be no net loss of housing (including affordable housing) and will significantly contribute towards creating a sustainable residential environment in Poplar Riverside in accordance with the objectives Policy 3.4 the London Plan (2011) the Lower Lea Valley Opportunity Area Planning Framework (2007); Leaside Action Area Plan (2007), LAP 7 & 8 of the Core Strategy and Policies SP02 of Core Strategy (2010); DEV3 of the Unitary Development Plan 1998; and DM3 of Managing Development DPD (proposed submission version) 2012.
- 2.3 On balance, the benefits of regenerating Aberfeldy to create additional homes for the Borough including affordable family homes and new improved community and social infrastructure is considered to outweigh the potential risk associated with the proximity of the site to the existing Poplar gasholders at Leven Road. As such, the development is considered acceptable on balance in accordance with Saved Policies DEV53 and DEV54 of the UDP and Policy DM30 of the Managing Development DPD (proposed submission version) (2012) which seeks to resist new developments in close proximity to hazardous installations where it would be a significant threat to health and the environment.
- 2.4 The relocation of Aberfeldy's Neighbourhood Centre, together with the consolidation and enhancement of the existing retail provision is considered acceptable and in line with Policy 2.14 of the London Plan (2011), SP01 of the Core Strategy (2010) and Policy DM2 of the Managing Development DPD (proposed submission version) 2012 which together seek to protect and enhance the Boroughs retail hierarchy and ensure adequate provision of supporting retail activity.
- 2.5 The proposed replacement and upgrading of existing social and community facilities are supported in line with Policy SP03 of the Council's Core Strategy (2010) and Policy DM8 of the Managing Development DPD (proposed submission version) 2012 which together seek to protect existing community facilities and deliver new high quality facilities in accessible locations.
- 2.6 On balance, transport matters, including parking, access and servicing, are considered acceptable and in line with policies T16 and T19 of the Council's Unitary Development Plan (1998), policy SP08 and SP09 of the Core Strategy (2010) and DM20 and DM22 of the Managing Development DPD (proposed submission version) 2012, which seek to ensure developments minimise parking and promote sustainable transport options.

- 2.7 The indicative layout, building height, scale and bulk as set out in the parameter plans are acceptable and in accordance with Chapter 7 of the London Plan (2011); saved policies DEV1, DEV2 and DEV3 of the Council's UDP (1998), Policies SP10 and SP12 of the Core Strategy (2010) and Policy DM23 and DM24 of the Managing Development DPD (proposed submission version) 2012 which seek to ensure buildings and places are of a high quality of design and suitably located.
- 2.8 In light of the overall site constraints, particularly the proximity of the site to the existing gasholders and the tested viability constraints, the proposed affordable housing offer (at 26% and including a phased review mechanism) and mix of units is considered acceptable, as it will contribute towards the delivery of new and replacement affordable homes to a better quality and standard and will also contribute towards achieving an improved mix in tenure across Aberfeldy, in line with Policies 3.8-3.12 of the London Plan (2011) and Policies SP02 of the Core Strategy (2010) and Policy DM3 of the Managing Development DPD (proposed submission version) (2012) which seek to maximise the delivery of affordable homes in line with strategic targets whilst having regards to site constraints and viability.
- 2.9 On balance the indicative plans indicate that the proposal can provide acceptable space standards and layout. As such, the scheme is in line with the London Housing Design Guide (Interim Edition, 2010), Policies 3.5 of the London Plan (2011), saved Policy HSG13 of the UDP (1998) and Policy SP02 of the Core Strategy (2010), Policy DM4 of the Managing Development DPD (proposed submission version) 2012 and the Council's Residential Standards SPG (1998).
- 2.10 The quantity and quality of housing amenity space, communal space, child play space and open space is considered acceptable and in line with saved policy HSG16 of the Council's Unitary Development Plan (1998), policy SP02 of the Core Strategy Development Plan Document (2010), and of DM4 of the Managing Development DPD (proposed submission version) 2012 which seek to improve amenity and liveability for residents.
- 2.11 On balance, and considering the site constraints and urban context, it is not considered that the proposal will give rise to any significant adverse impacts in terms of loss of privacy, overlooking, over shadowing, loss of sunlight and daylight, and noise upon the surrounding residents. Also, the scheme proposes appropriate mitigation measures to ensure a satisfactory level of residential amenity for the future occupiers. As such, the proposal is considered to satisfy the relevant criteria of saved policy DEV2 of the Council's Unitary Development Plan (1998), policy SP10 of the of the Core Strategy (2010) and DM25 of the Managing Development DPD (proposed submission version) 2012, which seek to protect residential amenity.
- 2.12 Sustainability matters, including energy, are acceptable and accord with policies 5.2 and 5.7 to 4A.7 of the London Plan (2011), policy SP11 of the Core Strategy (2010), policy DM29 of the Managing Development DPD (proposed submission version) 2012 which seek to promote sustainable development practices.
- 2.13 Whilst S106 package fall significantly short of the required amount for a development of this scale, officers accept the applicants offer in light of the viability constraints identified in this proposal. The provision of 26% affordable housing across the site, (including appropriate review mechanisms to capture future surplus affordable housing) alongside the onsite provision of new health facilities, the package is considerable acceptable. Furthermore and in consideration of the wider benefits that this application will deliver in terms of creating a much improved community for Aberfeldy, the proposed S106 package is considered acceptable in line with Regulation 122 of Community Infrastructure Levy 2010, Government Circular 05/05, saved policy DEV4 of the Council's Unitary Development Plan (1998), policies SP02 and SP13 of the Core Strategy Development

Plan Document (2010), which seek to secure contributions toward infrastructure and services required to facilitate proposed development.

3.0 RECOMMENDATION

3.1 That Committee resolve to **formally support** the application for the reasons set out above, subject to:

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

B. The prior completion of a **legal agreement** to secure the following planning obligations:

3.3 a) To provide a minimum of 26% of the residential accommodation across the site as affordable housing measured by habitable rooms including replacement and comprising a minimum 5-10% on the uplift alone, with necessary review mechanism to assess the capacity of each phase to provide additional affordable housing prior to construction).

b) A commitment to utilising employment and enterprise, training and skills initiatives to maximise employment of local residents (*not yet resolved at the time of writing this report but officers are aiming to resolved this by Feb 16th Committee*).

c) A commitment to the provision of a new replacement Community Centre on site or the payment of a £380k financial contribution to Council if not delivered by completion of Phase 4/specific date.

d) A contribution of £311k to mitigate against the demand of the additional population on educational facilities.

e) A commitment to the provision of a new Health Centre on site or a payment financial contribution if facility is not delivered by completion of Phase 4/specific date.

f) A commitment to the streetscene, environmental improvements and general public realm enhancements through to the value of £416k

g) A commitment to the provision of public art on site to the value of £50k.

h) £3k towards Travel Plan monitoring.

i) A commitment towards wayfinding (schedule of works to be submitted).

j) The completion of a car-free agreement (existing tenants not subject to car and permit free agreement).

k) S106 Monitoring fee (3%)

l) 20% skills match

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

3.4 **C.** A 21-day consultation period with the Health and Safety Executive.

3.5 That the Corporate Director Development & Renewal is delegated power to engage with LTGDC and the applicant to negotiate the legal agreement indicated above.

3.6 That the Corporate Director Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:

Wide 'Compliance' Conditions –

- Timing – within 3yrs
- In accordance with approved plans
- Phasing plan
- Maximum floor areas
- Maximum no. of units (1176)
- Minimum playable space
- Min amount of private amenity space
- Min amount of communal amenity space per phase
- Minimum floor areas for Community Centre
- Min floor area for Health Centre
- Min floor area for faith centres
- Lifetime Homes Standards
- Maximum building heights
- 10% Wheelchair units
- Code for Sustain Homes Level 4
- BREEAM Excellent
- Secured by Design standards
- Compliance with Mayor's internal space standards
- Maximum parking ratio and no. of spaces (356)
- Min no. of car club spaces
- Min. No of disabled
- Min no. electric charging spaces.
- Min no. of cycle spaces
- In accordance with approved FRA
- Hours of construction
- Bird nesting (City Airport)
- Flight path, crane height, lighting (City Airport)
- Consultation with National Grid
- Tree replacement
- Compliance with site wide energy strategy
- Compliance with plan submitted to London Fire and Emergency Planning Authority.
- Highway works to include incorporation of cycle path

Site Wide 'Prior to Construction' Conditions:

- Drainage Strategy
- Contamination – investigation and remediation
- Archaeology
- Green roof plan
- Access strategy including details of all public access ramps
- Landscape and public realm masterplan
- Construction Environment Management Plan
- Construction Logistics Plan
- Waste Management Strategy
- Air Quality Management Plan
- Site Flood Emergency Plan
- Fire and Emergency detail (travel distance)
- Thames water foundation and piling details (Thames Tunnel)

- Thames water (minimum pressure head and flow rates)
- Thames water (drainage plans for all phases)
- Car park Management Plan
- Tree survey and protection plan
- PV plan
- Ground surface materials and boundary treatment details
- Wind assessment and mitigation
- Shop front and signage detail (Phase 1, 3, 4)
- Details of public realm, lighting and street furniture proposed around A12 subway entrance in Phase 4.

Site Wide 'Prior to Occupation' Conditions::

- Delivery and Servicing Plan
- Hours of Operation for non residential uses.

Individual Phase Conditions:

- Temp use ground floor of Phase 1 for marketing suite
- Limit over size of retail floorspace in Phase 1
- Details of retail floorspace for units in Phase 3/4
- Sample of all external materials (Phase 1-6)
- Minimum private and communal open space (Phase 1-6)
- Car parking layout and space provision (Phase 1-6)
- Cycle storage and parking details (Phase 1-6)
- Daylight and Sunlight compliance (Phase 1-6)
- Noise insulation and ventilation measures (Phase 1-6)
- Detail of Plant extract equipment (Phase 1, 3, 4)
- Updated retail impact statement to assessment (Phase 4)
- Details of all brown and green roofs including biodiversity measures (Phase 1-6)
- Lighting scheme and CCTV details (Phase 1-6)
- Hours of operation for faith uses (Phase 3)
- Details of Playable space, play equipment and street furniture (Phase 1-6)
- Storage of waste and recycling (Phase 1-6)

Reserved Matters Applications for Each Phase:

- Compliance with Outline Application
- Approval of Reserved Matters relating to (i) Layout, (ii) Scale, (iii) Access, (iv) Appearance, (v) Landscaping.

Informatives:

- S106 required
- S278 required
- Consultation with Building Control
- Thames Water Advice

3.7 The application is considered to contain sufficient information in relation to the above.

4. BACKGROUND

- 4.1 A report covering this proposed development was included on the agenda for the 16 February 2012 Strategic Development Committee, with a recommendation to formally support the application for the reasons set out above, subject to any direction by the Mayor of London, the prior completion of a legal agreement, the 21 day consultation period with the Health and Safety Executive (HSE) and the imposition of various planning conditions.
- 4.2 Immediately after finalising the 16 February 2012 Strategic Development Committee agenda, a meeting with the HSE was finally confirmed (scheduled for 21 February 2012) to discuss its initial comments on the proposed development and in particular, its concern over the proximity of the proposed development to the existing gasholders. Your officers considered it prudent to withdraw the report from the 16 February 2012 agenda, so that officers might report back to Members on the outcome of this 21 February meeting.
- 4.3 Since the finalisation of the 16 February 2012 report, Employment and Enterprise have undertaken further discussions with the applicant regarding its commitment to utilise employment and enterprise, training and skills to maximise employment opportunities for local residents. The outcome of these discussions is outlined below.
- 4.4 As indicated above, officer's recommendation is as previously confirmed to formally support the application (which will need to be formally determined by the London Thames Gateway Development Corporation). It is understood that the case is due to be considered by the LTGDC Planning Committee on the 8 March 2012. It is clearly important for the Council to make its views known, so they can be formally reported to the LTGDC (as the determining authority).
- 4.5 A copy of the previous 16 February 2012 Committee Report is attached as Appendix 1.

5.0 ADDITIONAL LETTERS OF REPRESENTATION/SUBSEQUENT HSE MEETING

- 5.1 Since the publication of the previous report, the Council has received a formal response from the HSE. The Poplar Gasholder site on Leven Road contains three gasholders and is designated as a major hazard site by virtue of the storage of hazardous substances. Since the earliest iterations of these proposals, LTGDC, the GLA and the Council have identified the schemes proximity to the gasholders as being a significant constraint to development in this area and that the design of the development should take this into account.
- 5.2 The letter from the HSE (dated 16 February 2012) provides further views on the health and safety risks associated with the proximity of the development to the existing gasholders. It also deals with potential mechanisms to deal with the health and safety risks through the use of "Grampian" conditions. The letter requests that officers reconsider their recommendations in the light of comments contained within the 16 February letter (which is attached to this report as Appendix 2). The most recent letter reiterates that both applications (outline and detailed applications) should be refused on grounds that there are sufficient safety grounds for planning permission to be refused. The HSE goes on to advise that the level of risk to occupants of the proposed development would be a serious concern.
- 5.3 The letter then refers to the potential use of "Grampian" conditions – relating to the potential decommissioning of the gasholders. The letter refers to the Ofgem Website on which National Grid Gas has published a business base for supplying gas over future

years, which states that they initially intend to decommission all their gasholders before April 2013 and then demolish them over the next 13 years (2026). The HSE had previously required the use of Grampian conditions to be attached to both planning permissions, which would have prevented occupation of any part of the development until the Hazardous Substances Consent (HSC) for the Poplar Gasholder Station had been formally revoked by the Council as the Hazardous Substances Authority. The letter advises that if Grampian conditions, which would prevent the occupation until the Hazardous Substances Consent has been revoked, were attached to any planning permission, the HSE would withdraw its formal advice against the applications.

- 5.4 The letter then comments on relevant sections of the 16 February 2012 Strategic Development Committee report. The letter raises disappointment that officers did not seek an explanation of the HSE advice for these cases before preparing these important aspects of these reports. There is also concern raised that the applicant's safety consultant applied the Case Societal Risk (SRI) methodology in a way which was misleading and incompatible with HSE's Comparison Values. The HSE concludes that the consultant's reports do not provide a sound basis for informed decision-making by the Council.
- 5.5 The letter also confirms that the HSE does not accept an occupancy rate of only 2 people per unit – and advises that over 3 people per unit should be taken as the level of occupation appropriate for Phase 1 (the detailed planning application). The letter also goes on to say that an HSE request to “call in” the application for consideration by the Secretary of State should not be treated as a material planning consideration – as this will be considered if/when the planning authority has resolved to grant planning permission. The letter emphasises that the HSE's formal representations, as delivered through PADHI, is a matter which the Council is legally required to take into account. This response requires the most careful consideration; not merely the Council officers' interpretation of the HSE's call-in criteria. Depending on the exact nature and type of development involved, HSE advises against development with an SRI value exceeding 2,500 (significant risk) but advises against almost all proposed development with an SRI value exceeding 35,000 (substantial risk). The proposed SRI would significantly exceed these levels.
- 5.6 The letter also refers to previous case law which determined that on technical matters, local planning authorities, whilst not bound to follow the advice from statutory bodies such as the HSE, should nevertheless give great weight to a statutory body's advice when determining a planning application. Finally the letter questions the reliance given to the third party assessments of risk (provided by Renaissance Risk) which relied on work undertaken by Atkins. The letter refers to public inquiries which questioned the work undertaken by these organisations and whether the recognised HSE zones should be revised. The letter re-affirms the view that the applicants' consultant has applied the HSE Case Societal Risk (SRI) methodology in a way that is misleading and incompatible with the HSE Comparison Values and do not provide a sound basis for informed decision making.
- 5.7 The 21 February meeting with the HSE went ahead as planned and it was made clear by the HSE that it will not modify its position in respect of the health risks associated with both the outline and detailed planning applications. The HSE also advised that if the Council/LTGDC was minded to grant planning permission, it would hold an officers case conference with a decision made on whether to report the matter to the HSE Board recommending that the HSE seek to request a “call-in”.
- 5.8 There was discussion on the occupancy assumptions (which feed into the eventual SRI calculation) and there was some HSE acceptance that the 2001 census provided a lower occupancy level (which resulted in a SRI of around 650,000 for Phase 1). The HSE did not agree with the applicant's phased calculation approach – which was included in the

16 February Report.

- 5.9 At this meeting, the applicant advised that the HSE's suggestion of a Grampian condition to be imposed on Phase 1 would not be acceptable (in terms of development risk). HSE suggested that negotiation takes place with National Grid to negotiate a variation or revocation of the existing Hazardous Substances Consent. Only then will the HSE consider removing their objection to the applications on health and safety grounds. Members should be made aware that any change or revocation of a Hazardous Substances Consent could leave the Council liable for compensation. Efforts are being made to meet up with National Grid, prior to the application being determined by the LTGDC (scheduled for the 8th March 2012).

6.0 FURTHER DISCUSSIONS ON EMPLOYMENT AND TRAINING

- 6.1 Paragraph 9.257-9.261 of the 16 February 2012 Strategic Development Committee report outlines the various "in kind" obligations to ensure that a proportion of local residents of Tower Hamlets benefit from the construction jobs and that a proportion of the goods and services procured during the development should be achieved by businesses in Tower Hamlets. Since that time, officers of Employment and Enterprise have been in further dialogue with the applicant and agreement has now reached in terms of the form of the "in kind" employment and training opportunities/measures. Specific heads of terms are attached to this report (as Appendix 3).

7.0 RECOMMENDATION

- 7.1 It is recommended, save for the more detailed heads of terms in respect of the employment and training clauses of the S.106 Agreement, that the Council should continue to support the application.
- 7.2 Whilst It is appreciated that the HSE objections (serious health and safety risks associated with the close proximity of the Leven Road gas holders to the proposed development) represent a significant material consideration, your officers are satisfied that they have adopted a robust and balanced assessment of the various planning merits associated with the proposed Estate Regeneration scheme. On the basis of the information provided by all parties, it is your officers' view that the various benefits presented by this scheme outweigh the potential risk associated with the gasholder proximity.

