

Committee: Strategic Development	Date: 6th March 2012	Classification: Unrestricted	Agenda Item No: 7.2
Report of: Director of Development and Renewal		Title: Application for Planning Permission	
Case Officer: Elaine Bailey		Ref No: PA/11/03548	
		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: Site is currently cleared and vacant (former Currie and Dunkeld Site)

Proposal: Erection of three blocks between 4 and 10 storeys on the corner of Abbott Road and East India Dock Road to provide 342 new residential units, 352 sqm of new retail floorspace (A1 and A3), a marketing suite of 407 sqm, semi-basement and ground floor parking, cycle parking, landscaped public open space and private amenity space and other associated works.

This proposal constitutes Phase 1 of the Outline Planning Application (ref: PA/11/2716) for the wider development of Aberfeldy – application.

Drawing Nos: Phase 1 Overall Masterplans & Sections

000 P2 (Phase 1 Detailed Planning Application)
001 P7 (Site Masterplan);
002 Rev P5 (Site Masterplan – colour);
003 Rev P2 (Section A – A);
004 Rev P2 (Section B – B);
005 Rev P2 (Section C – C);
006 Rev P2 (Section D – D);

**LOCAL GOVERNMENT ACT 2000 (Section 97)
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT**

Brief Description of background paper:	Tick if copy supplied for register	Name and telephone no. of holder
Application case file, plans, adopted UDP, London Plan, adopted Core Strategy 2010		Development Control 020 7364 5338

007 Rev P2 (Section E – E);

200 Rev P1 (Site Elevations);

Specific Block A

100 Rev P6 (Block A – Ground & 1st Floor Plans);
101 Rev P6 (Block A – 2nd & 3rd Floor Plans);
102 Rev P6 (Block A – 4th & 5th Floor Plans);
103 Rev P6 (Block A – 6th & 7th Floor Plans);
104 Rev P6 (Block A – 8th & 9th Floor Plans);
105 Rev P5 (Block A – Roof Plan);

210 Rev P4 (Block A – Elevations);
211 Rev P4 (Block A – Elevations);

260 Rev P1 (Block A – Rendered North Elevation);
261 Rev P1 (Block A – Rendered South Elevation);
262 Rev P1 (Block A – Rendered Elevations);
263 Rev P1 (Block A – Rendered Sections);

Specific Block B

120 Rev P6 (Block B Ground and 1st Floor)
121 Rev P6 (Block B 2nd & 3rd Floor)
122 Rev P6 (Block B 4th & 5th Floor)
123 Rev P6 (Block B 6th & 7th Floor)
124 Rev P6 (Block B 8th & 9th Floor)
125 Rev P6 (Roof)

220 Rev P5 (Block B – Elevations);
221 Rev P5 (Block B – Elevations);

270 Rev P1 (Block B Rendered A13 Elevation)
271 Rev P1 (Block B Rendered A13 Elevation)
272 Rev P1 (Block B Rendered North Elevation)
273 Rev P1 (Block B Rendered West Elevation)
274 Rev P1 (Block B Rendered Elevations)
275 Rev P1 (Block B Rendered South Elevation B)

Specific Block C

139 Rev P6 (Block C Basement)
140 Rev P6 (Block C Ground Fl)
141 Rev P6 (Block C 1st Floor)

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142 Rev P6 (Block C 2nd Floor)
143 Rev P7 (Block C 3rd Floor)
144 Rev P6 (Block C 4th Floor)
145 Rev P6 (Block C 5th Floor)
146 Rev P6 (Block C Roof)

230 Rev P5 (Block C - Street Elevations)
231 Rev P5 (Block C – Courtyard Elevations);

280 Rev P1 (Block C Rendered South Elevation Street)
281 Rev P1 (Block C Rendered North Elevation Street)
282 Rev P1 (Block C Rendered South Elevation Courtyard)
283 Rev P1 (Block C Rendered Southwest Elev Courtyard)
284 Rev P1 (Block C Rendered North Elevation Courtyard)

Documents:

AVD1 Application Form;
AVD2 Scale Site Plan;
AVD3 Planning and Design Statement and Statement of Community Involvement (Phase 1);
AVD4 Access Statement (Phase 1);
AVD5 Plans and Drawings;
AVD6 Supplementary Environmental Statement Non-Technical Summary (Phase 1);
AVD7 Supplementary Environmental Statement (Phase 1); AVD8 Supplementary Environmental Statement Annexes (Phase 1);
AVD9 Energy Statement (inc. pre-assessment) (Phase 1); AVD10 Financial Statement and S106 Heads of Terms.

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

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 including draft National Planning Policy Framework, and has found that:
- 2.2 Through the provision of a new residential led mixed use development, which comprises Phase 1 of the wider regeneration plans for Aberfeldy, the scheme will maximise the use of previously developed land, and will significantly contribute towards creating a sustainable residential environment in Poplar Riverside, in accordance with the objectives of 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, Policies SP02 of Core Strategy (2010); DEV3 of the Unitary Development Plan (1998); and Policy DM3 of Managing Development DPD (proposed submission version) 2012.
- 2.3 On balance, the benefits of regenerating Aberfeldy to create 342 additional homes for the Borough including affordable family homes and new improved community and social infrastructure (which will come forward in later phases) 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 to be acceptable on balance and in accordance with Saved Policies DEV53 and DEV54 of the UDP (1998) 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 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.
- 2.5 The urban design, layout, building height, scale and bulk and detailed design are considered 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.
- 2.6 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 28% for Phase 1) and the proposed mix of units are considered acceptable, as they will contribute towards the delivery of new affordable homes and will also contribute towards achieving an improved mix in tenure across the wider Aberfeldy estate, 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 draft 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.

- 2.7 On balance, the development will provide acceptable internal space standards and layout considering the site constraints. As such, the scheme is in line with the London Housing Design Guide (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).
- 2.8 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.
- 2.9 On balance, and considering the site constraints and urban context, it is not considered that the proposal will not 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 can be achieved 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.
- 2.10 Sustainability matters, including energy are considered to be acceptable and in accordance with policies 5.2 and 5.7 of the London Plan (2011), policy SP11 of the Core Strategy (2010) and policy DM29 of the Managing Development DPD (proposed submission version) 2012 which seek to promote energy efficient and sustainable development practices.
- 2.11 Whilst the proposed S106 package fall significantly short of the Council's requested amount, particularly for a development of this scale, officers accept the applicants offer in light of the viability constraints demonstrated through this proposal. The provision of 28% affordable housing in Phase 1 (including appropriate review mechanisms to capture additional affordable housing) alongside streetscene improvements, education contribution and the provision of new on site health facility in later phases, the package is considerable acceptable. Furthermore and in consideration of the wider benefits that this application will bring 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. 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:
- a) To provide a minimum of 28% of the residential accommodation across Phase 1 as affordable housing measured by habitable rooms (with necessary review mechanism to assess the capacity of the Phase to provide additional affordable housing prior to

construction).

- b) 20% skills match and local labour.
- c) Commitment to utilising employment and enterprise, an in house training and skills initiative in order to maximise employment of local residents (*unresolved at the time of writing this report*).
- d) A financial contribution of £308k towards leisure and community facilities if the proposed replacement community centre is not delivered by a specific date completion of Phase 4.
- e) A contribution of £93,429 to mitigate against the demand of the additional population on educational facilities in Phase 1.
- f) A contribution of £160k towards health facilities of the onsite health facility is not delivered by a specific date or /completion of Phase 4.
- g) A contribution of £3k towards Travel Plan monitoring.
- h) The completion of a car-free agreement (existing tenants not subject to car and permit free agreement).
- i) S106 Monitoring fee (2%)
- j) 20% skillsmatch
- k) Any other planning obligation(s) considered necessary by the Corporate Director Development & Renewal.

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

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

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

'Compliance' Conditions –

- Timing – within 3yrs
- In accordance with approved plans
- Lifetime Homes Standards
- Maximum building heights
- 10% Wheelchair units
- Code for Sustain Homes Level 4
- BREEAM Excellent
- Secured by Design standards
- 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 and temp energy centre
- Compliance with plan submitted to London Fire and Emergency Planning Authority.

'Prior to Construction' Conditions:

- Drainage Strategy
- Contamination – investigation and remediation
- Archaeology
- 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
- 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 planting scheme
- Tree survey and protection plan
- PV plan
- Ground surface materials and boundary treatment details
- Wind assessment and mitigation
- Shop front and signage detail
- Details of public realm, lighting and street furniture proposed for public plaza.
- Temp use ground floor of Phase 1 for marketing suite
- Sample of all external materials
- Car parking layout and space provision
- Cycle storage and parking details
- Noise insulation and ventilation measures
- Detail of plant extract equipment
- Details of all brown and green roofs including biodiversity measures
- Lighting scheme and CCTV details
- Storage of waste and recycling

Site Wide 'Prior to Occupation' Conditions:

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

Informatives:

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

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 on London, the prior completion of a legal agreement, the 21 day consultation period with the Health and Safety Executive and the imposition of various planning conditions.
- 4.2 Immediately after finalising the 16 February 2012 Strategic Development Committee agenda, a meeting with the Health and Safety Executive (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 2012 meeting.
- 4.3 Since the finalisation of the 16 February 2012 report, Employment and Enterprise have had 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 as part of this report.
- 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 Committee Report is attached as Appendix 1.

5.0 ADDITIONAL LETTERS OF REPRESENTATION

- 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 re-iterates 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.

