

Committee: Strategic Development	Date: 24th January 2013	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Development & Renewal		Title: Planning Application for Decision	
Case Officer: Mandip Dhillon		Ref No: PA/12/02107	
		Ward(s): Blackwall and CubittTown	

1. APPLICATION DETAILS

Location: Car Park at South East Junction of Preston's Road and Yabsley Street, Preston's Road, London, E14

Existing Use: Car park (surface level only)

Proposal: Full planning application for the erection of two buildings of 7 & 26 storeys comprising 190 residential units (78 x 1 bed; 58 x 2 bed; 50 x 3 bed; 2 x 4 bed; 2 x 5 beds), 134sq.m of gym space at upper ground level, 42 car parking spaces and 244 cycling spaces at basement level, communal open space and associated works.

Drawing Nos: Submission Documents

- Red line boundary plan - drawing no. 1317_102, rev B;
- Site survey information - drawing no. 1317_105, rev B;
- Site location plan - drawing no. 1317_106, rev A;
- Proposed site plan/ landscaping - drawing no. 1317_126, rev G;
- Proposed plans – lower ground/ basement - drawing no. 1317_180, rev D
- Proposed plans – upper ground floor/ podium – drawing no. 1317_0181, rev E
- Proposed plans – first floor - drawing no. 1317_182, rev D
- Proposed plans – second & third floor – drawing no. 1317_183, rev D
- Proposed plans – fourth & fifth floor – drawing no. 1317_184, rev D
- Proposed plans – sixth & seventh floor – drawing no. 1317_185, rev D
- Proposed plans – typical floors – drawing no. 1317_186, rev D
- Proposed plans – penthouse floor plans (24th-25th) – drawing no. 1317_187, rev C
- Proposed plans – roof plan - drawing no. 1317_188, rev B
- Proposed elevation – east - drawing no. 1317_200, rev G
- Proposed elevation – west – drawing no. 1317_201, rev G
- Proposed elevation – north – drawing no. 1317_202, rev G
- Proposed elevation – south – drawing no. 1317_203, rev G
- Proposed contextual drawing – drawing no. 1317_204, rev D
- Proposed sections A-A (drawing no. 1317_210)
- Proposed sections B-B (drawing no. 1317_211)
- Proposed sections E-E & F-F (drawing no. 1317_212)
- Proposed plans – lower ground/ basement energy centre (drawing no. 1317_0125)
- Block A Roof Terrace- drawing no. 1317-0136

- Amenity Areas Plan- drawing no. 1317-0135
- Planning Statement (July 2012) prepared by DTZ;
- Design and Access Statement (July 2012) prepared by RMA Architects;
- Townscape and Visual Assessment (July 2012) prepared by Montagu Evans;
- Transport Assessment and Draft Travel Plan (July 2012) prepared by TTP Consulting;
- Energy Assessment (July 2012) prepared by Hilson Moran;
- Environmental Assessment Addendum (July 2012) prepared by Hilson Moran;
- Sunlight/ Daylight Report (June 2012) prepared by Waterslade;
- Wind Environment Assessment (May 2012) prepared by WSP;
- Flood Risk Assessment prepared (June 2012) by Water Environment;
- Ground Conditions Assessment (June 2012) prepared by Card Geotechnics;
- Arboricultural Impact Assessment (May 2012) prepared by D F Clark Bionomique Ltd;
- TV and Radio Impact Assessment (June 2012) prepared by Leigh Systems;
- Statement of Community Involvement (July 2012) prepared by Telford Homes;
- Viability Assessment (July 2012) prepared by DTZ (Confidential).
- Accommodation Schedule, Amenity Space Calculations Rev D

Applicant: Telford Homes Plc

Owner: Baladine Properties Ltd

Historic Building: N/A

Conservation Area: N/A

2.0 RECOMMENDATION

- 2.1 That the Committee notes the details of this report and officers' advice regarding the appropriate form of the suggested reason for refusal set out at paragraphs 5.19-5.21 following the previous resolution not to accept the officers' recommendation.

3.0 BACKGROUND

- 3.1 This application for planning permission was reported to Strategic Development Committee on 13th December 2012 with an officer recommendation for approval. A copy of the case officers' report and update report containing the summary of material planning considerations, site and surroundings, policy framework, planning history and material planning considerations is attached at Appendix1 & 2 of this report.
- 3.2 After consideration of the report and the update report, the Members resolved not to accept the officers' recommendation and were reminded to refuse planning permission on the following grounds:
- The lack of child play space;
 - The density range in relation to the London Plan 2011; and

- The impact on infrastructure, particularly transport and the adequacy of the S106 obligations to address this.

3.3 In accordance with Rule 10.2 of the constitution and Rule 4.8 of the Development Procedure Rules, the application was deferred to a future meeting of the Committee to enable officers to present a supplemental report setting out reasons for refusal and the implications of the decision. The proposed reasons for refusal and implications are set out at Section 5.0 of this report.

4.0 INFORMATION UPDATE

Child Play Space and Communal Amenity Space Revisions

4.1 Following on from the concerns raised at the committee meeting regarding the communal amenity space and child play space provided on site as part of the proposed development, the applicants have revised their submission with regard to these two elements of amenity space.

4.2 Details of the communal amenity and child play space requirements are set out within paragraphs 8.64-8.69 of the original committee report (Appendix 1). For information purposes, a review of the requirements is set out below:

	LBTH/London Plan/SPG Policy Req't	%	Proposed within scheme
Communal Amenity Space (LBTH policy)	230sq.m	N/A	283sq.m
Child Play Space-Under 4	260 sq.m	39%	263.5sq.m
Child Play Space-Under 5-10	240 sq.m	36%	210sq.m
Child Play Space-Under 11-15	170 sq.m	25%	0
Total	670sq.m		473.5sq.m
Shortfall Child Play Space	196.5sq.m		

4.3 The applicant has amended the ground floor/podium layout to provide an increased area of child play space within the scheme. Whilst the ground floor private amenity space has been reduced for two of the proposed units, the retained private amenity space for each unit is above the policy requirements and is therefore considered to be acceptable.

4.4 As such, the scheme now provides on-site child play space for the Under 4's which accords with London Plan policy requirements. The amendments have also sought to provide 210sq.m of the 240sq.m of 5-10 year old child play space on site, at podium level. Whilst there is a minor shortfall of 30sq.m in the provision of play space for this age group, the London Plan standards do allow for this age group to be accommodated within play areas which are within walking distances. It is therefore considered that on balance, the provision of on-site child play space alongside the provision of local facilities is considered to be acceptable.

4.5 The London Plan standards seek to secure 170sq.m of child play space for 11-15 year olds.

The London Plan standards allow for the play space for this age group (11-15 years) to be accommodated within play areas which are within walking distances. No child play space for 11-15 year olds is provided on site for this age group and it is considered that there are facilities in the local area to accommodate this age group, such as local pocket parks and the East India Dock Basin.

- 4.6 The proposals in December 2012 proposed 200sq.m of communal amenity space at podium level. The proposed development is required to provide 230sq.m based on policy DM4 of the Managing Development DPD (Submission Version 2012) and modifications. The scheme has been revised to provide 283sq.m of communal amenity space on the roof of the taller 26 storey block (Block A). This has been achieved through a reduction of the private terraces within Block A. The retained private amenity space for each unit within Block A remains above the policy requirements and is therefore considered to be acceptable. The communal amenity space provided on-site is now in excess of the policy requirements and considered to be acceptable.
- 4.7 The applicants have submitted documentation and plans which identify land which fronts Yabsley Street at ground floor as communal amenity space. The area of land referred to is not considered to be quality usable communal amenity space and is not therefore counted for the purposes of this application. This area of land is considered to be defensible space which provides access into the new building. Whilst, this area of land is not considered to be of sufficient quality to be included in the communal amenity space calculations, it remains available and accessible to future occupiers to use as they see fit.

Policy Update; Managing Development – Development Plan Document

- 4.8 Following the Examination in Public in September 2012 into the Managing Development – Development Plan Document (MD DPD), the appointed Planning Inspector issued his report on the 17th December 2012, providing an assessment of the soundness of the MD DPD in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended).
- 4.9 A number of modifications have been requested prior to the adoption of the MD DPD to ensure the document is consistent with the National Planning Policy Framework (NPPF). Some of the modifications requested have implications for this planning application and are set out below:
- Affordable Housing- Policy DM3
- 4.10 The current planning application at Yabsley Street proposes affordable rent units at POD levels (paragraph 8.58 of Appendix 1) which are units considered to be more affordable to local borough residents. The Inspector's Report noted that the imposition of maximum percentages for affordable rent levels (based on the POD levels set out in Table 2 of Policy DM3) does not constitute an appropriate element in a planning policy for the whole borough and is in conflict with the NPPF and out of general conformity with the London Plan.
- 4.11 In light of the Inspectors Report and its findings, a future "call in" by the GLA or a future appeal, could well result in the developer securing affordable rented units with rent levels at up to 80% of local rents, as opposed to the current proposed offer of POD rent level housing.

5 CONSIDERATION OF REASONS

- 5.1 Members raised three areas of concern on which they resolved that they were minded to refuse this application. The following are suggested reasons for refusal based on these concerns, followed by officer's comments and advice pertaining to each of the proposed reasons.
- 5.2 Officers are recommending that only two reasons for refusal should be carried forward by

Members when refusing the application (as set out in paragraph 5.19-5.21). These two reasons for refusal are a combination of all concerns raised by Members at the previous Strategic Development Committee.

Comments on Members Suggested Reasons for Refusal

Reason 1

- 5.3 The proposal fails to deliver on-site child play space for the age groups 11-15 years contrary to Policy 3.6 of the London Plan 2011 and the Mayor of London SPG Shaping Neighbourhoods: Play and Informal Recreation, saved Policy OS9 of the Unitary Development Plan 1998, Policy SP02 of the Core Strategy 2010 and Policy DM4 of the Managing Development DPD (Submission Version 2012) with modifications.

Officer's Comments

- 5.4 Members indicated that the lack of child play space on-site would be detrimental to the future occupants of the proposed development, in light of the scale of development in the local area.
- 5.5 The applicants have amended their scheme to incorporate a greater provision of child play space and communal amenity space, as detailed in paragraphs 4.1-4.3 of this report. As a result of these amendments, the 0-4 child play space requirements would be met in full on-site, the 5-10 child play requirements would be a minor shortfall and there would be no provision for the 11-15 year old age group. It is noted that guidance states that the 11-15 year old child play space can be accommodated off site, in local pocket parks, or the East India Dock Basin.
- 5.6 In addition to the increase in child play space on-site, revised plans have also been provided which indicate an increase in communal open space at the application site, for use by all proposed residents.
- 5.7 Given the above amendments, officers consider that a refusal of permission based on the lack of child play space for 0-10 year olds would be extremely difficult to defend on appeal. The scheme however provides no on-site child play space for the 11-15 year old age group which is considered a sustainable reason for refusal.

Reason 2

- 5.8 The proposal exceeds the density standards set out within the London Plan and represent overdevelopment of this brownfield site contrary to Policy 3.4 of the London Plan 2011, Policies SP02 of the Core Strategy 2010, Policy HSG1 of the Interim Planning Guidance 2007 and the National Planning Policy Framework.

Officer's Comments

- 5.9 Members indicated that they considered the proposed density of development, which is proposed as 2,103 habitable rooms per hectare to be an overdevelopment of the site, where the London Plan, Policy 3.4 indicates a density level of 1,100 habitable rooms per hectare for a site within this type of area of accessibility (PTAL 5).
- 5.10 As stated in the substantive report, high density normally indicates an overdevelopment of the site where it would result in shortfalls in one or more of the following areas:
- Access to sunlight and daylight
 - Sub-standard dwelling units
 - Increased sense of enclosure

- Loss of outlook
- Increased traffic generation
- Detrimental impacts on local social and physical infrastructure
- Visual amenity
- Lack of open space; or
- Poor housing mix

- 5.11 This is considered to be a suitable reason for refusal if it can be shown that the density of development results in one or more of the unacceptable impacts identified above. The only areas where Members indicated their concerns related to the lack of child play space and the impact on transport infrastructure.
- 5.12 With regards to child play space and as outlined above, the applicants have now amended the scheme and the only area where there is a material deficiency relates to the provision of child play space for 11-15 year olds. The scheme generates 17 children of the age group 11-15 years and therefore a requirement of 170sq.m amount of play space is required which the scheme fails to deliver.
- 5.13 With regards to transport infrastructure, Members were concerned that the existing transport infrastructure is at capacity and that the proposal would add additional pressure that cannot be mitigated through the planning obligations secured.
- 5.14 Officers recommend that Members amend Reason 2 to reflect the concerns Members previously highlighted in respect of impact of the proposed development, which officers interpret to be child play space and transport infrastructure. This reason for refusal is summarised at paragraph 5.20.

Reason 3

- 5.15 The proposed development, by virtue of its failure to make adequate planning contributions towards services and transport infrastructure, would result in a detrimental impact on local services and infrastructure contrary to saved Policy DEV4 of the Unitary Development Plan 1998, Policy IMP1 of the Interim Planning Guidance 2007, Policy SP13 of the Core Strategy 2010, the Planning Obligations SPD 2012 and policy 8.2 of the London Plan 2011.

Officer's Comments

- 5.16 The application was supported by a viability toolkit. The Councils undertook an independent review of the assessment and through the course of the negotiations, it was established that £826,408 of planning obligations were available, alongside 35% affordable housing in order to deliver a viable scheme.
- 5.17 Members indicated that the impact on local services and in particular transport infrastructure was not considered to be adequately mitigated by the S106 package offered. It should however be noted that the development will be liable for a CIL payment of approximately £564,305, which is itself a contribution towards transport infrastructure.
- 5.18 Whilst officers consider that the viability of the proposal has been robustly tested by independent consultants, this is considered to be a sustainable reason for refusal.

SUGGESTED REASONS FOR REFUSAL

- 5.19 If the Committee is still minded to refuse the application, subject to any direction by The Mayor of London, officers consider that the appropriate reasons for refusal should read:

Reason 1

- 5.20 The proposals exceed the density standards set out within the London Plan and represent overdevelopment of this brownfield site which results in a lack of child play space for 11 to 15 year olds and an unacceptable impact on the capacity of the local transport infrastructure contrary to Policies 3.4, 3.6, 6.1 and 6.18 of the London Plan 2011, Policies SP02, SP08 and SP09 of the Core Strategy 2010, saved Policies T10, T16, T18 and OS9 of the Unitary Development Plan 1998, Policies DEV17 and HSG1 of the Interim Planning Guidance 2007, Policies DM4, DM20 and DM22 of the Managing Development DPD (Submission Version) with modifications, the Mayor of London SPG Shaping Neighbourhoods: Play and Informal Recreation and the National Planning Policy Framework.

Reason 2

- 5.21 The proposed development, by reason of its failure to make adequate planning obligations to mitigate against the unacceptable impact on transport infrastructure, would result in an overdevelopment of this site contrary to Policies 3.4 and 8.2 of the London Plan 2011, saved Policy DEV4 of the Unitary Development Plan 1998, Policy IMP1 of the Interim Planning Guidance 2007 and Policies SP02 and SP13 of the Core Strategy 2010 and the Council's Planning Obligation Supplementary Planning Document 2012 and as a result is not considered to provide a sustainable form of development in accordance with the National Planning Policy Framework.

IMPLICATIONS OF THE DECISION

- 5.22 Following the refusal of the application the following options are open to the Applicant. These would include (though not be limited to):
1. The applicant could appeal the decision and submit an award of costs application against the Council. Planning Inspectorate guidance on appeals sets out in paragraph B20 that:

"Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council".
 2. 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 of CIL Regulations 2010 (Regulation 122)
 3. A future "call in" by the London Mayor or a future appeal should it be successful, might result in the developers being able to provide affordable rented housing at up to 80% of market rents across this site, as opposed to the current proposed offer of POD rent level housing currently negotiated.

- 5.23 Whatever the outcome, your officers would seek to defend any appeal.

6.0 CONCLUSION

- 6.1 All relevant policies and considerations have been taken into account. Whilst officers remain satisfied that planning permission for this proposed development should be granted, Members are directed to the draft reasons for refusal and officers comments, viewed alongside the previous report and update report presented to the Strategic Development Committee on 13th December 2012 (see Appendices 1 and 2) and determine the planning


application as appropriate.

7.0 APPENDICES

- 7.1 Appendix One - Committee Report to Members on 13th December 2012
- Appendix Two – Update Report to Members on 13th December 2012

Planning Application Site Map PA/12/02107




 Planning Application Site Boundary

 Locally Listed Buildings

 Land Parcel Address

 Consultation Area

 Statutory Listed Buildings

0 15 m




1:4,000

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.

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