

| | | | |
|---|---|--|-----------------------------|
| Committee: Strategic Development | Date: 18 th January 2007 | Classification: Unrestricted | Agenda Item No: 6 |
| Report of: Corporate Director Development & Renewal | | Title: Planning applications with non-completed legal agreements | |
| Originating Officer: Michael Kiely | | Ward(s): See list of applications in report | |

1. SUMMARY

- 1.1 This report sets out procedures for dealing with old planning applications where the S106 agreement has not been signed in a timely manner. This is now routinely addressed in committee reports for new applications, but it is necessary to address the older cases.

2. RECOMMENDATION

- 2.1 That, in respect of the applications listed in the schedule at section 5 of this report, the Corporate Director Development & Renewal be delegated power to either:
- (a) refuse planning permission; or
 - (b) treat them as being “finally disposed of” under the provisions of Article 25 of the General Development Procedure Order.

3. BACKGROUND

- 3.1 Members will be aware that in recent agendas the recommendations to grant planning permission subject to the completion of a S106 or other legal agreement have also included a further recommendation that delegated powers be given to refuse planning permission if the agreement is not completed within a specified time period – usually 3 months. The main reason for this is that the Council as local planning authority has a duty under the Town and Country Planning Act to grant planning permission in line with the development plan. If there is a significant delay in issuing a decision there will be an increasing possibility that the development plan may have changed and the application needs to be reconsidered. The other reason is to ensure that the Council completes the determination of planning applications in a timely manner.
- 3.2 There is a tendency with some developers to view the decision of the Committee as sufficient for their purposes; they see the planning permission as being “in-the-bag” even though, in law, a planning permission has not yet been issued. This practice can result in a tardy approach to finalising the legal agreement. The new practise of an additional recommendation setting a time limit is designed to eradicate this culture. As can be seen from the table in section 5 below, a high number of quite old applications are in this category.
- 3.3 The purpose of this report is to deal with those applications that predate the current practice of setting a time limit. If the Committee does not pass a new resolution then the original resolution remains in force (ie to grant permission etc) and the applications can stay undetermined on the Council’s “books”. This reflects badly on our performance as a local

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

| | | |
|--|------------------------------------|-----------------------------------|
| Brief Description of background papers: | Tick if copy supplied for register | Name and telephone no. of holder: |
| Application, plans, adopted UDP. draft LDF and London Plan | ✓ | Michael Kiely 020 7364 5257 |

planning authority. This report seeks an amended resolution that enables officers to deal with these old applications.

4. PROPOSED ACTION

4.1 There are two options open to officers in dealing with applications where an agreement is not signed:

1. To refuse planning permission – this will generally only be done where applications are still relatively new and where the conditions in (2) below do not apply.
2. To treat the application as “finally disposed of” under Article 25 of the General Development Procedure Order (GDPO) – this will generally be the approach where the application is relatively old and the applicant no longer has a right of appeal due to the passage of time.

4.2 Under Article 25 of the GDPO, the Statutory Register of all planning applications is divided into two parts, Part I being current applications and Part II being historic applications. Part I is defined as those applications that are “not finally disposed of” (Article 25(3)).

4.3 Article 25(11) sets out criteria for determining whether an application is “finally disposed of”. For these purposes, only sub-paragraph (a) is relevant. This states:

- a) it has been decided by the authority (or the appropriate period allowed under article 20(2) of this Order has expired without their giving a decision) and the period of six months specified in article 23 of this Order has expired without any appeal having been made to the Secretary of State.

4.4 Article 20(2) provides the time periods for decision (or longer period as may have been agreed in writing between the applicant and the local planning authority), while article 23 deals with the period for lodging of an appeal.

4.5 At the end of such periods where no decision or appeal has been made, an application is transferred from the Part I to the Part II register and is “finally disposed of”.

4.6 Therefore with all applications where the period for decision making has expired and no appeal has been made to the Secretary of State, the Council can finally dispose of the application in accordance with Article 25(11) of the Order and take no further action on it. In effect it is deemed withdrawn by virtue of the statutory provisions in the Order.

5. SCHEDULE OF APPLICATIONS

5.1 The following applications have been considered by this Committee and received a resolution to grant planning permission subject to the completion of a legal agreement, but that agreement has not been completed. These applications do not have the current additional resolution to delegate powers to refuse.

| Ref No | Address | Development |
|-------------------|---|--|
| 1999 cases | | |
| PA/99/00610 | Land Bounded by Middlesex St, Goulston St and Whitechapel High St WARD: Spitalfields (pre February 2002 only) | Redevelopment of site to provide (1) a basement plus 12 storey building comprising a 343 guest room hotel, 70 serviced apartments, offices, with retail/restaurant space at ground floor level and health club and parking at basement level; (2) a new five storey building comprising basement car parking, ground floor retail/restaurant accommodation with 10 flats on the upper floors (3) the construction of new link road between Middlesex St and Goulston St; and (4) a new entrance to subway under Middlesex St. |
| 2000 cases | | |
| PA/00/01167 | Hercules Wharf and 44 To 46 Orchard Place, Orchard Place, London, E14 WARD: Blackwall (pre February 2002 only) | Refurbishment and two floor extension of no.46 Orchard Place to provide B1 use, the erection of a 17 storey building (maximum height @ 56 metres Above Ordnance Datum Level) to provide B1 use and 9 live/work units on upper floors (in total creating 7504sqm of B1 space, 183sqm of A1 space and 1755sqm of live/work space) plus the erection of a 10 storey plus basement building (maximum height @ 38 metres AODL) to provide a 22,061 sqm 'Data Centre' together with a total of 127 car parking spaces at basement and ground floor and associated landscaping throughout the site. |
| 2001 cases | | |
| PA/01/01091 | Fitzgerald Lodge 24 Sutton Street, London, E1 WARD: Shadwell (pre February 2002 only) | Demolition of building and erection of 40 one and two bedroom sheltered flats, 18 one and two bedroom shared ownership flats and a day centre. |
| PA/01/01648 | 417 Wick Lane, London, E3 WARD: Park (pre February 2002 only) | Erection of four new blocks - Block 1 being part-two and part-three stories high, Blocks 2,3, and 4 being seven stories high - plus an associated riverside walkway, link to the greenway and landscaping. Use of the new buildings as 35 'live/work' units (sui generis), 5 Class B1 business units, 2 Class A1 retail units, 2 Class A2 financial and professional office units plus 23 parking spaces and 6 delivery bays. |
| 2002 cases | | |
| PA/02/00945 | 74 to 108, Cheshire Street, London, E2 WARD: Weavers (February 2002 onwards) | Demolition of the existing buildings and the redevelopment of the site in the form of a part-three and part-five storey building in connection with its use as 67 flats, 5 live / work units (sui generis), 1 Class B1 unit and 2 Class B1/A1/A2 units and 31 basement car-parking spaces. |

| Ref No | Address | Development |
|-------------|--|---|
| PA/02/01808 | Site A, Bow Lock, Twelvetreces Crescent, London, E14 WARD: Bromley by Bow | Redevelopment comprising in total 300 residential units, 7 live/work units, 140 bedroom hotel and 1900 sq. metres Class B1 (business) floorspace involving the erection of a 12 storey apartment building of 83 flats and a 14 storey apartment building of 97 flats together with 76 parking spaces at lower ground level; an eight storey hotel comprising 140 bedrooms, four meeting suites; a bar/restaurant and two staff flats together with 70 basement parking spaces; a mixed use building ranging from 3-11 storeys comprising 120 flats, seven live/work units, two business units and 147 parking spaces in conjunction with the formation of a roundabout on Twelve Trees Crescent, an access road, riverside walkway and landscaping. |
| 2003 cases | | |
| PA/03/01253 | Suttons Wharf, Palmers Road E2 (Part) WARD: Mile End and Globe Town | Demolition of warehouse at south end of existing cash and carry premises and re-development as follows: new shared private road from Palmers Road; basement - 89 space car park; part ground and part first floors - 15 live/work units and one canalside commercial unit (proposed use, offices or restaurant) with public terrace; remainder of ground and first floors and 7 upper floors - 169 residential units, of which 41 to be 'affordable'; area of landscaping, to be transferred to Meath Gardens to extend public park. |
| 2004 cases | | |
| PA/04/00061 | 107-115 Whitechapel Road, London, E1 WARD: Spitalfields and Banglatown | Demolition of the existing buildings. The erection of a new basement and part-five and part-seven storey building. Use of the new building as a 39 bedroom hotel with ancillary basement restaurant, ground floor 'coffee lounge', retail unit and 5th floor roof garden (Class C1), plus a separate basement and ground floor showroom (sui generis), four residential units at first to fourth floor level with an ancillary communal conservatory and roof garden at fifth floor level (Class C3) - Revised application 1/04/04. |
| PA/04/00482 | 628-634 Commercial Road, London, E14 WARD: Limehouse (February 2002 onwards) | Revised proposal comprising demolition of hostel and redevelopment of site by the erection of a FOUR storey building comprising 2 commercial units for retail (A1 use) and light industrial/office (B1 use) plus 34 self contained flats (21 one bedroom flats, 10 two bedroom flats and 3 three bedroom flats).the proposed amendments include: Setting back of development from pavement edge on three road frontages (Mill Place & Island Row)Reduction of proposed accommodation from 44 to 34 flats. Reduction of floors from seven to four. Reduction of commercial floor space from 181.5 to 167 sum and removal of Ad use. (Revised Conservation Area Consent) |

| Ref No | Address | Development |
|-------------------|--|--|
| PA/04/00774 | Devons Wharf, Leven Road, London, E14 WARD: East India and Lansbury | Erection of a mixed use building to provide 869 sq. metres of commercial floor space and 37 residential flats and associated car parking. |
| PA/04/01131 | Southern Section, Crossways Estate, Rainhill Way, London, E3 WARD: Bromley by Bow | Construction of buildings ranging from three to six storeys to provide 104 dwellings. |
| PA/04/01847 | 63-69 Manilla Street, London, E14 WARD: Millwall (February 2002 onwards) | Demolition of existing vacant warehouse storage and builders office building and erection of part 4, part 7 and part 10 storey building with basement level to provide 5512sqm office floor space, 165 sqm retail floor space and 11 flats consisting of (3 x 1 bed, 6 x 2 beds and 2 x 3 beds) plus 10 car parking bays provision. (Revised version of development permitted under PA/00/1675). |
| 2005 cases | | |
| PA/05/01704 | Bow Baptist Church, 1 Payne Road, London, E3 2SP WARD: Bow East | Redevelopment of the site to include the demolition of existing buildings and erection of a part 6 / part 9 storey building with the retention of the church use at ground floor level and the provision of 35 residential units on the upper floors. |
| PA/05/01778 | 260-268 Poplar High Street, London, E14 WARD: Blackwall and Cubitt Town | Demolition of existing health centre and redevelopment of site comprising the erection of a 6 storey building to create community facilities on the ground floor, and 35 residential flats at rear of ground floor and floors above. |
| PA/05/01781 | 4 Mastmaker Road, London, E14 WARD: Millwall (February 2002 onwards) | Erection of buildings up to 21 storeys in height comprising 190 residential units, retail (Class A1) or food and drink (Class A3/A4) and community uses (Class D1/D2) together with new access arrangements, parking, open space and landscaping. The application is supported by an Environmental Impact Assessment. |
| PA/05/01782 | 1 Millharbour, London, E14 WARD: Millwall (February 2002 onwards) | Erection of two buildings of 48 storeys and 39 storeys to provide 763 residential units, retail (Class A1), food and drink (Class A3, A4), business (B1) and leisure (D2) uses with new vehicular access, parking, open space and landscaping. The application is supported by an Environmental Impact Assessment. |
| PA/05/2066 | 132 St Pauls Way, London, E3 WARD: Mile End East | Erection of four blocks of 6, 7, 9 and 11 storeys (plus basement) to provide a 2,667sq.m. medical centre (Use Class D1) and 36 flats (15x 1 bed, 16x 2 bed and 5x 3 bed) plus 8 off street parking bays and landscaping/communal outdoor space. |
| 2006 cases | | |
| PA/06/00262 | 7-9 Solebay Street, London, E1 WARD: Mile End and Globe Town | Demolition of existing buildings, redevelopment by the erection of a six storey building to provide 188 rooms of student accommodation comprising 36 studio flats and 152 study bedrooms in 3, 4 and 5 bedroom clusters with ancillary kitchen/dining facilities. rooms, administrative offices, cycle storage and landscaping. |

5.2 The Development Committee will consider a similar report.