

<b>Committee:</b> Strategic Development Committee	<b>Date:</b> 21 November 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Planning Appeal – Strategic Development Committee
<b>Case Officer:</b> Pete Smith	

## 1. PURPOSE

- 1.1 Over the last 2 to 3 years, officers have regularly reported details of town planning appeal outcomes to the Development Committee, outlining the range of planning considerations that are being taken into account by the Planning Inspectors, appointed by the Secretary of State for Communities and Local Government. All Members of the Council receive a regular monthly email update of appeals received by the Council.
- 1.2 Occasionally, a case determined by either the Development or Strategic Development Committee is the subject of an appeal and it is considered useful if Members of Strategic Development Committee are advised of appeal outcomes relating to applications which were the subject of Strategic Development Committee consideration.
- 1.3 A record of appeal outcomes will also be helpful when compiling future Annual Monitoring Reports.

## 2. RECOMMENDATION

- 2.1 That Committee notes the details and outcomes of the Poplar Business Park appeal as outlined below.

## 3. APPEAL DECISION

- 3.1 The following appeal decisions has recently been received by the Council.

**Application No:**

**PA/11/03375**

**Site:**

**Poplar Business Park, Prestons Road E14**

**Proposed Development:**

**Demolition of existing buildings and redevelopment of the site to provide a mixed use scheme of between 3 and 22 storeys comprising 8,104 sq metres business accommodation (Use Class B1), 392 residential units (Use Class C3), associated parking and landscaping.**

**Council Decision:**

**REFUSE PLANNING PERMISSION (Strategic Development Committee)**

**Appeal Method:  
Inspector's Decision**

**PUBLIC INQUIRY (SoS decision)  
ALLOWED**

- 3.2 In view of the significance of the issues raised by this appeal, the Secretary of State for Communities and Local Government recovered the appeal for his own determination, with the Planning Inspector providing a recommended course of action.
- 3.3 The planning application was refused by the Strategic Development Committee (April 2012) for two related reasons; inadequate provision of affordable housing and lack of contributions towards education and healthcare.
- 3.4 The level of affordable housing reported to the Strategic Development Committee was 25% by habitable room which equated to 87 units (58 affordable rent units at POD and 24 intermediate units). The total S106 contributions negotiated and secured at the time were £1,763,861. The negotiated educational and healthcare contributions were £652,520 and £136,000 respectively.
- 3.5 At an early stage of the appeal proceedings, the appellants offered to pay the full Planning Obligations SPD contributions for healthcare and education contributions which meant the second reason for refusal fell away.
- 3.6 The Council's main case was that the scheme was more viable than the appellants claimed it to be and was therefore able to afford additional affordable housing. The main items of contention were the sales values of the residential units and the method of construction procurement. The appellant argued that the method of procurement would be via a main contractor which would include allowances for the main contractor's Preliminaries and Overheads & Profit (OHP). The Council argued that it was more likely that a volume house builder or joint venture would procure the construction which would operate on a lower percentage for preliminaries and would not require an allowance for profit (other than the standard profit level agreed in the toolkit.)
- 3.7 There were two other points of contention which were the costs estimated in achieving Code for Sustainable Homes Level 4 and the cost of connecting services and drainage. However, these were smaller items compared to the two main points above.
- 3.8 The Secretary of State found favour with the Council's argument in regard to sales values but did not agree with the Council's judgement on the procurement route. He also concluded that there was insufficient evidence presented to prove the case as regards the costs to achieve Sustainable Code Level 4 and the drainage/services connection.
- 3.9 Two unilateral agreements were submitted by the appellant, which provided two different levels of affordable housing. One was at 12.5% affordable housing provision, on the assumption that the Inspector would agree with all of the appellant's viability evidence. The other was set at 20% affordable housing provision, on the assumption that the Inspector would agree that 12.5% was unreasonable and failed to maximise the affordable housing on-site.
- 3.10 The Secretary of State felt that the scheme could deliver in excess of 12.5% affordable housing and he did not feel that increasing the affordable housing level to 20% would inhibit delivery.

- 3.11 In his decision letter, the Secretary of State noted that the Council did not have evidence of a 5 year housing supply which therefore pointed towards a strong presumption in favour of the development. At the time of the public inquiry, the Council had not provided sufficient evidence, in the form required by the National Planning Policy Framework, to confirm a 5 year deliverable housing supply. This evidence has now been published in accordance with National Planning Policy Framework which can now be used to counter claims that the Borough is not able to meet its 5 year housing supply targets
- 3.12 To conclude, the appeal was ALLOWED on the basis of a 20% affordable housing level by floor area (21%by habitable room) – a total of 71 units (47 affordable rent and 24 intermediate) and a S.106 package of £2,646,222; an additional £882,361 compared to the scheme reported to Strategic Development Committee. Notwithstanding this, the level of affordable housing was less than that offered by the developer when the case was determined by the Strategic Development Committee in April 2012.