

Committee: Strategic	Date: 8 th October 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Nasser Farooq	Ref No: PA/14/03195- Full Planning Permission
	Ward: Canary Wharf

1. APPLICATION DETAILS

Location: Two Sites:
Site 1 Land at 3 Millharbour and
Site 2 Land at 6, 7 and 8 South Quay Square, South
Quay Square, London

Existing Uses: A number of low-rise buildings, including a print works, an engineering company and a vacant Audi sales yard on Millharbour and the Great Eastern Enterprise Commercial Centre (totalling approximately 4,692 sqm of floorspace) and a cleared site to the north on Millharbour East.

Proposal: The demolition and redevelopment with four buildings:
Building G1, a podium with two towers of 10 - 38 storeys and of 12 - 44 storeys;
Building G2, a four floor podium with two towers of 34 and 38 storeys inclusive of podium;
Building G3, a tower rising to 44 storeys; and
Building G4, a four floor podium with a tower of 31 storeys inclusive of podium.

The development proposes:
1,513 new homes in a mix of units and tenures (private, social-rented and intermediate);
a new primary school with nursery facilities;
further education uses (total D1 floorspace 13,525 sqm with a fall back that 4,349 sqm of this floorspace could also be used in full or part as D1 or D2 leisure floorspace, if necessary);
5,820 sqm of flexible commercial floorspace (B1/D1/D2/A1/A2/A3 and/or A4);
two new public parks including play facilities, a new north-south pedestrian link and landscaping including works to conjoin the plots into the existing surrounding urban fabric;
387 car parking spaces (for residential occupiers, blue

badge holders and for a car club); cycle parking; management offices; service road and associated highway works; and other associated infrastructure including the diversion of the Marsh Wall sewer.

Additional Drawings/ Documents	0204_SEW_MW_1106 01
	0204_SEW_MW_1107 01
	0204_SEW_MW_1108 01
	0204_SEW_MW_1109 02
	0204_SEW_MW_1110 02
	0204_SEW_MW_1111 02
	0204_SEW_MW_1112 02
	0204_SEW_MW_1207 02
	0204_SEW_MH_1303 01
	0204_SEW_MW_1304 01
	0204_SEW_6006 01
	0204_SEW_MH_6303 01

Millharbour Village West G2 Alternative Scheme
Revision 1
Statement of Environmental Impact Assessment (EIA)
Validity Addendum
Millharbour Village – Briefing Note
Response to tentative Highways Reason for Refusal
0204 Millharbour Village Accommodation Schedule

2. BACKGROUND

- 2.1 This application for planning permission was considered by the Strategic Development Committee on 4th June 2015. A copy of the original report is appended.
- 2.2 The Committee deferred the application in order to visit the site, to better understand the proposals and their effect on the surrounding area.
- 2.3 A site visit was carried out on 13th July 2015 and the application was presented to Strategic Development Committee on 21st July 2015. A copy of the deferred report is also appended.
- 2.4 At the Strategic Development Committee of 21st July 2015, members were minded NOT TO ACCEPT officer recommendation for the following reasons:
 - Insufficient provision of affordable housing and the affordability of the family sized intermediate units.
 - Lack of supporting infrastructure to accommodate the density of the scheme in particularly the additional car parking and servicing from the development.

- 2.5 In the intervening period, the applicant has amended the proposal to remove the 19 three bed intermediate units and replace them with a selection of studio, one and two bedroom units, all within the intermediate tenure.
- 2.6 This report has been prepared to discuss the implications of the reasons for refusal and to discuss amendments carried out by the applicant following discussions to the scheme.

3. PROPOSED REASONS FOR REFUSAL

1. The proposed development by providing 26.7% affordable housing fails to represent a sufficient level of affordable housing. The proposal also includes a number of unaffordable intermediate units, as such; the proposed development is contrary to policies 3.11 and 3.12 of the London Plan (2015), policy SP02 of the adopted Core Strategy and policy DM3 of the Managing Development Document (2013)

2. The proposed development by virtue of its excessive density would fail to provide a sustainable form of development and have an unacceptable impact on the local highway network. As such, the proposal would be contrary to the Development Plan, in particular policies 3.4, 3.5, 6.3, 7.4, and 7.7 of the London Plan (2015), policies SP02, SP10 and SP12 of the Tower Hamlets' Core Strategy (2010) and policies DM4, DM24 and DM26 and Site Allocation 17 of the Tower Hamlets' Managing Development Document that taken as a whole, have an overarching objective of achieving place-making of the highest quality, ensuring that tall buildings are of outstanding design quality and optimise rather than maximise the housing output of the development site.

3. In the absence of a legal agreement to secure Affordable Housing and financial and non-financial contributions including for Employment, Skills, Training and Enterprise and Energy, the development fails to maximise the delivery of affordable housing and fails to mitigate its impact on local services, amenities and infrastructure. This would be contrary to the requirements of Policies SP02 and SP13 of the LBTH Core Strategy, Policy DM3 of the LBTH Managing Development Document and Policies 3.11, 3.12 and 8.2 of the London Plan and the Planning Obligations SPD.

4.0 CONSIDERATION

- 4.1. It is the professional view of officers that the above reasons for refusal could be defended at appeal; however there are a number of constraints that could affect a successful outcome. These are set out below:

Affordable Housing

- 4.2. Comments were raised by members with regard to the lack of affordable housing within the scheme. Policy SP02 of the Core Strategy requires developments to provide 35-50% affordable housing, however this is subject to viability and whether the scheme can afford that percentage of affordable housing.
- 4.3. London Plan (2015) policy 3.12 (Negotiating affordable housing) requires any negotiations on site to take into account their individual circumstances including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.
- 4.4. In this case the applicant has submitted a viability assessment that concludes that the development can only viably deliver 26.6% affordable housing. The assessment has included further information requested by the Council via its independent assessor and has demonstrated the maximum level of affordable housing has been provided within the development. This has been independently tested on behalf of the Council and the conclusions found to be sound. As such, given this is the maximum affordable housing that the scheme can provide, a refusal reason based upon the low proportion of affordable housing within the scheme would be challenging to successfully argue on appeal.
- 4.5. In relation to the affordability of the three bedroom intermediate units, this matter was addressed in the deferred report to SDC on 21st July 2015. In summary, officers considered that the 19 three bed intermediate units would be affordable in line with the GLA affordability criteria.
- 4.6. Notwithstanding this, the applicant has agreed to amend the scheme to omit the 19 family sized intermediate units. This is discussed further within the following section of this report.

Lack of supporting infrastructure

- 4.7. The second reason for refusal is based on a lack of supporting infrastructure to accommodate the density of the development in particular in relation to car parking and servicing.
- 4.8. The application as presented to members previously proposed 1500 new residential units (the implications of the increase in units following amendments to the mix are discussed in the following section). Based on the Managing Development Document car parking standards, a total 486 car parking spaces could be provided and they would be considered policy compliant. This equates to 0.32 spaces per residential unit.
- 4.9. In this instance, the applicant is proposing 244 car parking spaces of which 233 would be designated residential spaces (0.15 spaces per unit). This is

significantly below the maximum level of parking that would be allowed by policy. As such, whilst the density proposed within this application is above the maximum level stated within the London Plan, it is difficult to suggest the increase in density above the London Plan Matrix has had a consequential impact on the level of parking.

4.10. It is also important to note, the level of car parking proposed within this development whilst being below the maximum level for the density proposed, is also below the maximum level of parking that would be allowed within a scheme that meets the density threshold.

4.11. Lastly, the sites already contain 100 car parking spaces. As such, it may be difficult to justify the refusal of 1500 residential units and other associated benefits based on a net gain of 144 car parking spaces. Officers consider an appropriate balance between the number of units and car parking has been struck.

4.12. In relation to servicing, both Millharbour East and Millharbour West have been designed to accommodate servicing on site. This is the approach advocated by Council officers as it seeks to minimise servicing directly from the Councils Highways. Both locations are supported by officers, in particular the location on Millharbour East which is the subject of the concerns raised.

4.13. With Millharbour East being a rectangular block, four potential options exist to locate the servicing:

1) Dock side (Millwall Inner Dock)

This is perpendicular from the Millharbour which is the nearest LBTH highway. It would involve creating a path for vehicles to turn onto the dockside potentially impeding the public realm proposed by the development.

2) Between G1 and the Millharbour East Park

The proposed development has been designed to a pocket park which provides direct access to residential units within G1. To create a new servicing route in this location would not only impede the retail uses which are currently designed to front onto the park, but potential result in a smaller park.

3) Directly from Millharbour

If servicing was to take place directly from Millharbour, it could result in vehicles backing up onto Millharbour which is a scenario that highways officers would be unlikely to support.

4) Service between Pan Peninsular

Off the four options, officers consider this to be the most logical and appropriate solution. The servicing entrance itself is located nearer to the dockside which minimises any potential disruption to the local highway network.

4.14. In terms of impact from servicing, it is important to note that Millharbour East is smaller of the two car parks and has 92 spaces for residential units,

Millharbour West on the other hand has 141 spaces. As such, the level of usage for the stretch of private road is likely to be infrequent.

- 4.15. The applicant's transport consultant has provided the following table outlining the likely usage during peak hours:

Table 3: Predicted Residential Arrivals and Departures from the Basement Car Parks

Hour Commencing	Millharbour East		Millharbour West	
	Arrive	Depart	Arrive	Depart
07:00	2	5	3	7
08:00	7	14	10	20
09:00	4	6	6	9
16:00	5	5	7	8
17:00	7	5	11	7
18:00	11	6	16	8

- 4.16. These figures are based on greater car usage at the proposed site, than what was measured at two adjoining sites as shown in the following table:

Table 4: Comparison of Parking Provision and Vehicular Trips Rates

Development	Number of Units	Car Park Spaces per Unit	Cars Departing	Departure Rate per Unit
Indecon Court	427	0.407	12	0.0281
Pan Peninsular	762	0.320	30	0.0394
Millharbour Village	1,500	0.153	61	0.0407

- 4.17. As such, whilst members have raised concerns over car parking and servicing, the information provided by the applicants Transport Consultant has been reviewed by both TfL and the boroughs Transportation and Highways Team and considered acceptable.
- 4.18. As advised previously, a service management plan is recommended by condition, and should members not be satisfied with this, a condition requiring a layby to be provided can also be secured.
- 4.19. Lastly, in relation to social infrastructure it is important to note, whilst the scheme does exceed the density range within the London Plan matrix, it proposes significant levels of social infrastructure which would not only benefit this development but also the broader location.
- 4.20. This includes two generously sized pocket parks and the provision of three educational uses, including a new state primary school. There is no obligation within the site allocation to provide this infrastructure and as such, these represent a strong benefit from the proposal.

Third Reason for Refusal

- 4.21. Whilst the third reason was not requested by members, it is recommended to safeguard the Council's position, to secure the requested s106 obligations include affordable housing, should the applicant choose to appeal the decision.

5.0 AMENDMENTS TO THE SCHEME

- 5.1. Following committee, at the request of officers the applicant has agreed to consider amendments to the scheme to address members concerns.
- 5.2. Following consideration of various options, the applicant has agreed to omit the 19 three bedroom intermediate units from the scheme and sought to replace them with a mixture of studios, one bedroom and two bedroom units.
- 5.3. The resulting change to the development is shown in the following tables:

	Studio	1 bed	2 bed	3 bed	4 bed	Total
Open market	153	367	471	181	3	1175
Affordable Rent	0	32	52	146	10	240
Intermediate	1	23	42	19	0	85
TOTAL	154	422	565	346	13	1500
Total as %	17	47	63	38	1	

Table 1: scheme as presented to committee

	Studio	1 bed	2 bed	3 bed	4 bed	Total
Open market	153	367	471	181	3	1175
Affordable Rent (Borough Framework Rent)	0	32	52	0	0	84
Affordable Rent (Social Target Rent)	0	0	0	146	10	156
Intermediate	8	42	48	0	0	98
TOTAL	161	441	571	327	13	1513
Total as %	18	49	63	36	1	

Table 2: Scheme as proposed

- 5.4. As a result of the changes the number of units increase by 13, however the overall number of habitable rooms falls by 13.
- 5.5. The number of habitable rooms per hectare falls from 1785 to 1779, whilst the number of units per hectare increases from 647 to 652.
- 5.6. Due to the loss of 13 habitable rooms within the Intermediate sector the percentage of affordable housing within the development has fallen slightly from 26.7% to 26.4%
- 5.7. The following table shows the resulting mix against policy requirements.

		affordable housing						market housing			
		Affordable rented			intermediate			private sale			
Unit size	unit size	Total units	scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %
studio	STUDIO	161	0	0	0%	8	8	0%	153	13	0%
1 bed	1 BED	441	32	13	30%	42	43	25%	367	31	50.00%
2 bed	2 BED	571	52	22	25%	48	49	50%	471	40	30.00%
3 bed	3 BED	327	146	61	30%	0	0	25%	181	15	20%
4 bed	4 BED	13	10	4	15%	0	0		3	0	
5 bed	5 BED	0	0	0	0%	0	0		0	0	
6 bed	6 BED	0	0	0		0	0		0	0	
Total		1513	240	100%	100%	98	100%	100%	1175	100%	100%

- 5.8. With the changes in the Intermediate sector to omit the three bedroom units, the scheme fails to provide any Intermediate family sized units against a policy target of 25%.
- 5.9. The increase in intermediate units, results in a mix of 71:29 between rented and intermediate and ensures the proposal better complies with the Councils Housing mix target of 70:30.
- 5.10. As the overall number of units has increased the demand for private amenity space has increase by 13sqm. Communal open space is calculated by the number of dwellings within a proposed development. 50sqm is required for the first 10 units with an additional 1sqm required for each additional unit. Therefore, the required amount of communal amenity space for the development would be 1543sqm.
- 5.11. A total of 1934sqm of communal amenity space is provided within the development, and this is located within the four blocks at podium or roof level terraces.
- 5.12. In relation to child play space, the proposed loss of the intermediate three bedroom units, results in a reduction in child playspace requirements from 4504sqm to 4403sqm. In any event, the proposed child play space of 5068sqm exceeds both figures.

Rent Levels

- 5.13. In addition, following committee the applicant has clarified that the viability report undertaken by the applicant has considered the three and four bedroom units within the scheme as social rent as opposed to borough framework rents. As such, the proposed development delivers 146 three bedroom and 10 four bedroom units at social target rents. Given, this is factored within the applicants viability report this does not have any further impact on the viability of the scheme.
- 5.14. For ease of reference the following are the rent levels considered within the application.

	Weekly Borough Framework Levels for E14 Postcode (INCLUSIVE of Service Charges)	Weekly Social Target Rents
1 bed	£224	
2 bed	£253	
3 bed		£148
4 bed		£155

- 5.15. Whilst the housing mix has changed, and the lack of three bed intermediate units move away from policy, officers do not consider this change to materially affect the scheme to an extent that would change officers recommendation to committee .

6.0 IMPLICATIONS OF THE DECISION

- 6.1. Following the refusal of the applications the following options are open to the Applicant. These would include (though not be limited to):
- 6.2. A future “call in” by the London Mayor. There is a chance the scheme could be called in by the London Mayor, given the level of support within the stage 1 response from the GLA.
- 6.3. A “call in” 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. Similarly, the developer may elect to either renegotiate planning obligations previously agreed or prepare a unilateral undertaking for a subsequent appeal which could potentially result in a lesser S.106 planning obligations package (both in terms of financial and non-financial obligations negotiated by your officers).
- 6.4. The applicant could appeal the decisions 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”

- 6.5. 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). Whilst officers consider that the obligations sought do meet those tests, the decision will ultimately fall to the Inspector and so there is the possibility at least that he/she may form a different view.
- 6.6. Whatever the outcome, your officers would seek to robustly defend any appeal

7.0 RECOMMENDATION

- 7.1 Officers do not wish to change their original recommendation to **GRANT PLANNING PERMISSION**, subject to conditions and the completion of a s106 legal agreement.