

<b>Strategic Development Committee</b>	<b>Date:</b> 18 February 2016	<b>Classification:</b>	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Development & Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Paul Buckenham		<b>Ref No:</b> PA/15/00641	
		<b>Ward(s):</b> Lansbury	

## 1. APPLICATION DETAILS

**Location:** Land at corner of Broomfield Street and Upper North Street known as "Phoenix Works", London, E14 6BX

**Existing Use:** Site is currently in use as a food wholesaling business

**Proposal:** Demolition of existing buildings on the site and erection of buildings that range in height from 3 to 14 storeys containing 153 units including 28 undercroft and surface car parking spaces and a central landscaped courtyard.

**Drawings:**

P0-001 Rev P3; P1-100 Rev P3; P1-150 Rev P2; P1-300 Rev P3; P1-350 Rev P2; P0-100 Rev P7; P2-000 Rev P8; P2-001 Rev P7; P2-002 Rev P5; P2-003 Rev P5; P2-004 Rev P5; P2-005 Rev P5; P2-006 Rev P5; P2-007 Rev P5; P2-008 Rev P5; P2-009 Rev P4; P2-010 Rev P3; P2-011 Rev P3; P2-012 Rev P3; P2-013 Rev P3; P2-016 Rev P4; P2-100 Rev P8; P2-101 Rev P7; P2-102 Rev P4; P2-103 Rev P4; P2-104 Rev P4; P2-105 Rev P4; P2-106 Rev P5; P2-107 Rev P5; P2-108 Rev P5; P2-109 Rev P4; P2-110 Rev P3; P2-111 Rev P3; P2-112 Rev P3; P2-113 Rev P3; P2-116 Rev P4; P2-150 Rev P7; P2-151 Rev P6; P2-152 Rev P6; P2-153 Rev P6; P2-154 Rev P4; P2-155 Rev P4; P2-156 Rev P4; P2-157 Rev P4; P2-158 Rev P4; P2-159 Rev P1; P2-200 Rev P2; P2-350 Rev P4; P2-351 Rev P5; P2-352 Rev P4; P2-353 Rev P4; P3-110 Rev P4; P3-111 Rev P3; SK-006 Rev P2; FNH414/FD100; 4704704-SK-012 Rev B; P0-200 Rev P1; P0-300 Rev P4; P0-101 Rev P4; P0-102 Rev P4; P0-103 Rev P4; Elevations and Materials; Composition and Detailing; FNH414 SK01;

**Supporting Documents:**

- Planning Statement by Fairview Homes Ltd
- Draft Heads of terms by Fairview Homes Ltd
- Daylight/Sunlight Assessment (including addendums) by CHP
- Design and Access Statement by ColladoCollins
- Lifetime Homes Standard Assessment by Fairview Homes Ltd
- Employment Floorspace Assessment by JLL

- Sustainability Statement by Silver
- Contaminated Land Report by CGL
- Transport Statement (including Travel Plan) by URS/AECOM
- Addendum to Transport Statement dated 12<sup>th</sup> June 2015 by AECOM
- Flood Risk Assessment by URS/AECOM
- FNH 414 PHOENIX WORKS – Method Statement
- Archaeological Desktop Study by CgMs
- Energy Efficiency Statement by Silver
- Air Quality Assessment by MLM
- Noise Assessment by Grant Acoustics
- Statement of Community Involvement by Curtain and Co (and September addendum)
- Landscape Design Strategy by MCA
- Refuse Strategy by ColladoCollins
- Secure by Design Statement by Fairview New Homes Ltd
- Biodiversity Assessment by Aspect Ecology

<b>Applicant:</b>	Fairview Homes Ltd
<b>Ownership:</b>	Fairview Homes Ltd
<b>Historic Building:</b>	None
<b>Conservation Area:</b>	Adjacent to Limehouse Cut Conservation Area

## 2. BACKGROUND

- 2.1 An application for demolition of existing buildings and erection of buildings that range in height from 3 to 14 storeys containing 153 residential units, car parking and central landscaped courtyard was considered by the Strategic Development Committee at their meeting on 8 October 2015. The officer recommendation was to grant planning permission with conditions and planning obligations, subject to any direction by the London Mayor.
- 2.2 The Committee resolved to defer the application in order to undertake a site visit. The site visit took place on Thursday 22 October 2015, with four committee members attending.
- 2.3 The application was considered again at the SDC meeting on 19 November 2015, where the Committee received additional information concerning building heights and daylight and sunlight impacts. The officer recommendation remained the same.
- 2.4 The Committee resolved not to accept the officer recommendation to grant planning permission, resolved that permission should be refused and indicated the following reasons for refusal:
- Overdevelopment of the site;
  - Height, bulk and massing;
  - Impact on neighbouring amenity in terms of daylight and sunlight, particularly the properties at the north of the site;
  - Impact on the towpath;
  - Conflict with the Council's Core Strategy's Vision in respect of the area.

- 2.5 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

### 3. COMMITTEE REASONS FOR REFUSAL

#### Overdevelopment of the site

- 3.1 The residential density of the proposed development would be 1,107 habitable rooms per hectare. The London Plan density range in policy 3.4 and table 3.2 links density to public transport accessibility (PTAL). A range of 200-450 habitable rooms per hectare is given for development with a PTAL of 2. Clearly the density of the development would be significantly above this range.
- 3.2 The London Plan supporting text explains that it is not appropriate to apply the density ranges in Table 3.2 mechanistically and that other factors relevant to optimising housing potential (local context, design, social infrastructure and transport capacity) should be taken into account. The London Plan references the Housing SPG which includes guidance on exceptional circumstances where densities above the density range may be justified:
- “Where proposals are made for developments above the relevant density range they must be tested rigorously, taking particular account not just of factors covered by Policy 3.4 but also other policies which are relevant to exceptionally high density development. These include different aspects of ‘liveability’ related to proposed dwelling mix, design and quality, physical access to services, long term management of communal areas, and the wider context of the proposal including its contribution to local ‘place shaping’ as well as concerns over ‘place shielding’. It is particularly important to take account of its impact in terms of massing, scale and character in relation to nearby uses – design should be exemplary.”*
- 3.3 The development proposals have been rigorously assessed by officers and the original committee report explains that the development meets all of the London Plan, Housing SPG and Local Plan policy indicators of quality and liveability – i.e. dwelling sizes, proportion of dual aspect dwellings, orientation, outlook, internal daylight and sunlight, number of units accessed from each core and access to private or shared outdoor space.
- 3.4 The development also performs reasonably well in terms of its relationship to neighbours i.e. impact on amenity, overlooking, daylight and sunlight impacts (see below) and would provide mitigation for the future impact on social infrastructure through the Community Infrastructure Levy payment and planning obligations.
- 3.5 The site lies in an area that includes a mix of new high density development and lower density, suburban patterns of development. Many of the sites bordering Bartlett park have been redeveloped for high density housing and the Council is progressing a master plan to improve the range and quality of amenities in the park, part funded by planning contributions, to respond to the greater demands placed on this key open space.
- 3.6 The Committee linked the consideration of density to the strategic spatial policies for density and the place-making principles for Poplar set out in the Core Strategy. Amongst other things these principles seek to focus higher density development in and around Crisp Street Town Centre and adjacent public transport nodes and provide for lower and medium density and lower rise family housing around Bartlett Park. This reflects a strategic approach in the Core Strategy which links density to the town centre hierarchy and proximity to town centres (SPO2). Density should increase as the relative size or

importance of the town centre increases and should generally be lower outside of town centres.

- 3.7 Hence if the Committee is minded to include overdevelopment as a reason for refusal, it would need to be on the basis of compromising the application of the London Plan density policies in the context of the spatial vision for Poplar in the Council's Core Strategy.

### **Height, bulk and massing**

- 3.8 The proposals have been amended substantially since they were first submitted, reducing the height of the tower element by two storeys and the height of the building on Upper North Street from nine to seven storeys. The development steps down to four storeys on Broomfield Street. The number of new homes in scheme has reduced from 162 to 152.
- 3.9 The officer view as set out in the original report is that the height and massing of the buildings would be appropriate to their context. The tower height would be comparable to the building opposite at Werner Court and the lower rise elements would be appropriate in terms of height and scale to the canal side, Bartlett Park and Broomfield Street.
- 3.10 The height and scale of the development do not cause substantial harm to amenity as the impact on neighbours' daylight is minimal, there is some impact on sunlight (see below) and there is a generous distance separation between the proposed development and flats opposite across the canal. The open space of Bartlett Park could provide a setting and an opportunity for taller development to frame it.
- 3.11 However the Committee drew attention to the relationship of this development with Limehouse Cut and the views from the towpath and Bow Common Bridge. Whilst the overall scale and massing is broadly comparable with newer developments in the vicinity, the design would not help to break up the perceived mass of the new development along this stretch of the canal. For example, the design of the development opposite (Craig Tower and Werner Court) helps to break down the perceived massing by setting the taller buildings either side of an open space visible from the canal. The proposed development at Phoenix Works presents an unbroken elevation along the boundary with the towpath which starts at four storeys, rising to seven storeys and culminating in the tower at 14 storeys.
- 3.12 Hence if the Committee are minded to include height, mass and bulk as a reason for refusal, it should be linked to consideration of the relationship to the canal towpath, discussed in detail below.

### **Impact on neighbouring amenity**

- 3.13 The November Committee report provides additional detailed information about daylight and sunlight impacts to neighbouring properties and includes comments from the Council's technical advisors.
- 3.14 The report explains that the scheme performs well in terms of effect on daylight to neighbouring properties and whilst there would be reductions in the Vertical Sky Component values, this might be expected for redevelopment of an existing site with low rise warehouse buildings. The Average Daylight Factor tests show that rooms would be generally well lit.
- 3.15 The impact on sunlight would be more severe, particularly at lower levels of Craig Tower, in flats that are generally single aspect. Whilst the BRE guidelines indicate that access to

sunlight is of lesser importance than good daylight, the Committee attached weight to this in their considerations.

- 3.16 A reason for refusal linked to daylight alone could be difficult to defend. A reason linking impact on both daylight and sunlight to the scale of the development proposed may be more sustainable, in the event of an appeal.

### **Impact on the towpath**

- 3.17 The Limehouse Cut and its towpath perform an important function in terms of walking and cycling routes, water based leisure activities, access to open space, relaxing and quiet enjoyment of its setting and heritage along with the provision of natural habitat for wildlife, contributing to local biodiversity. The Canal is part of the Blue Ribbon Network of waterways across London. The London Plan and Tower Hamlets Local Plan contain policies that seek to protect and enhance the value of the blue ribbon network in respect of aspects listed above.
- 3.18 The Limehouse Cut is a designated Conservation Area and the Council as a Local Planning Authority is required to give special consideration to the desirability of preserving or enhancing the character and appearance of the Conservation Area, when making decisions on planning applications. The original report concludes that the development would not harm the character or appearance of the Conservation Area and the Committee did not come to a different view on this matter.
- 3.19 The Committee did however discuss the detailed design relationship between the proposed development and the towpath in respect of the number of balconies and windows overlooking the public space and concerns about how this might impact on the character of the canal and its continued use for walking, cycling and leisure activities. There was also some discussion about the impact on the width of the towpath.
- 3.20 In terms of these concerns, the scheme does not change the width of the towpath at this point and the proposed ground floor boundary wall would align broadly with the current rear walls of the existing buildings.
- 3.21 The Committee report noted that the redevelopment of the site has the potential to move the site's relationship with the canal, bring more activity, overlooking and passive surveillance. The scheme certainly has more architectural merit and visual interest than the existing building.
- 3.22 Nevertheless, the development would result in 20 new projecting balconies facing the towpath from first to fifth floor level in the lower element and a further 7 balconies on the upper floors of the tower. Ground floor units would have outdoor terraces directly adjoining the towpath raised only 0.25 metres above its level and screened with a brick wall and railings to 1.5 metres high.
- 3.23 Taking on board the Committee's concerns officers acknowledge that the scheme does to some extent result in a very tight relationship between the projecting balconies and terraces and the canal towpath which tips the balance between generous overlooking and beneficial surveillance and the quiet enjoyment of the canal. The privacy of the ground floor amenity terraces would also be compromised due to their close relationship with the public towpath which could result in future occupiers seeking to erect further screening to afford greater privacy which would be undesirable in architectural terms.
- 3.24 In conclusion the detailed design of the scheme could threaten the wider policy objectives of the Blue Ribbon Network as set out in the London Plan and Local Plan (Core Strategy

and managing Development DPD) and would not present a satisfactory relationship to the canal towpath.

### **Conflict with the Core Strategy place-making vision for Poplar**

- 3.25 The place-making vision for Poplar is set out in Annex 9 to the Core Strategy (Delivering Place-making). The vision says that *“Poplar will become a more economically active and prosperous place through comprehensive regeneration, new development and housing estate renewal. .... High densities will be located in and around Chrisp Street town centre and ensure it remains the focal point of the neighbourhood. Lower densities and lower rise areas including family housing will be set around an enhanced Bartlett Park.”*
- 3.26 The vision is reinforced by a series of priorities and principles including those described above.
- 3.27 Redevelopment of the site would not in itself conflict with the vision as set out in the Core Strategy and the assessment of the proposals have to be balanced against these principles and other relevant Local Plan policies including those that seek the delivery of housing and re-use of brownfield land.
- 3.28 However, the Committee attached considerable weight to the place-making vision statement for Poplar and arguably a high density development, with taller elements in this location where the PTAL is relatively low would not assist with the delivery of the objective for lower densities and lower rise residential areas and Bartlett Park. It is debatable to what extent recently permitted schemes that have been constructed also contribute to this Vision and some information on comparative densities was provided in the original committee report. Whilst most large scale developments to the south of Bartlett Park and opposite the site on Bow Common Lane also exceed London Plan density ranges, this application proposes development that would be significantly denser than all of these except Stainsby Road and Cotall Street.
- 3.29 Whilst it is difficult to identify substantial planning harm arising from the scale and nature of the development being proposed, the departure from the Core Strategy Vision is a material consideration and the extent to which the proposed development would prejudice the implementation of the policy could be a sustainable reason for refusal.

## **4. IMPLICATIONS OF REFUSING PLANNING PERMISSION**

- 4.1 The officer recommendation has been to grant planning permission but it is the Committee’s prerogative to disagree with that recommendation if there are clear planning reasons for doing so.
- 4.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.
- 4.3 If planning permission is refused, there are a number of routes that the applicant could pursue:
- 4.4 Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.

4.5 To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning application.

4.6 In this case the applicant has indicated that they are likely to pursue both routes in parallel.

#### **Financial implications - award of costs**

4.7 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

4.8 Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

4.9 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

## **5. RECOMMENDATION**

5.1 The additional information has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission remains unchanged.

5.2 However if members are minded to **REFUSE** planning permission the following reasons are recommended:

#### ***Overdevelopment***

- (i) The proposed development would result in overdevelopment of the site, evidenced by the residential density which would substantially exceed the range set out in table 3.2 of the London Plan, without having demonstrated exceptional circumstances and in a location outside of the nearest town centre, not supported by Local Plan policies relating to density. The development would have an overall scale and bulk of development that would be harmful to the visual amenities of the area and harmful to residential amenity of neighbouring properties through loss of daylight and sunlight. The proposed development would therefore conflict with policies 3.4 and 7.;4 of the London Plan (2015), the London Housing SPG (2012), policies SP02 and SP10 of the Core Strategy (Tower Hamlets Local Plan), DM24 and DM25 of the Managing Development Document (Tower Hamlets Local Plan).

#### ***Design and relationship to the canal***

- (ii) The proposed development would result in an unsatisfactory design relationship between the proposed buildings and the Limehouse Cut canal and its towpath, arising from the proliferation of projecting balconies, the proximity of ground floor private amenity terraces and an unbroken elevation that would dominate this section of the canal towpath. The relationship of ground floor residential terraces would not provide

adequate separation to provide a suitable level of privacy for the occupiers of the proposed units. The proposals would therefore adversely affect the special character of the canal and its use and enjoyment by the public for leisure and recreation as part of the London and Tower Hamlets Blue Ribbon Network. The proposed development would conflict with policies 7.4, 7.6 and 7.24 of the London Plan 2015; policies SP04 and SP10 of the Core Strategy (Tower Hamlets Local Plan) and policies DM12 and DM24 of the Managing Development Document (Tower Hamlets Local Plan).

***Place-making vision for Poplar***

- (iii) The proposed high density and high rise development would conflict with the place making vision for Poplar, included in Annex 9 to the Core Strategy (Tower Hamlets Local Plan), which seeks to focus higher density development in and around Chrisp Street town centre; provide lower and medium density, lower rise family housing around Bartlett Park and ensure new buildings are responsive and sensitive to the setting of Bartlett Park, Limehouse Cut and the conservation areas in Poplar.