

<b>Committee:</b> Strategic	<b>Date:</b> 12 <sup>th</sup> April 2016	<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> Applications for Planning Permission and Listed Building Consent
<b>Case Officer:</b> Jermaine Thomas	<b>Ref No:</b> PA/14/03594 & PA/14/03595
	<b>Ward:</b> Blackwall & Cubitt Town

## 1. APPLICATION DETAILS

**Location:** Hercules Wharf, Castle Wharf and Union Wharf, Orchard Place, London E14

**Existing Use:** Vacant warehouses/industrial buildings.

**Proposal:** Full Planning Application – PA/14/03594  
Demolition of existing buildings at Hercules Wharf, Union Wharf and Castle Wharf and erection of 16 blocks (A-M) ranging in height from three-storeys up to 30 storeys (100m) (plus basement) providing 804 residential units; 1,912sq.m GIA of Retail / Employment Space (Class A1 – A4, B1, D1); Management Offices (Class B1) and 223sq.m GIA of Education Space (Class D1); car parking spaces; bicycle parking spaces; hard and soft landscaping works including to Orchard Dry Dock and the repair and replacement of the river wall.

The application is accompanied by an Environmental Impact Assessment

Listed Building Consent application - PA/14/03595  
Works to listed structures including repairs to 19th century river wall in eastern section of Union Wharf; restoration of the caisson and brick piers, and alteration of the surface of the in filled Orchard Dry Dock in connection with the use of the dry docks as part of public landscaping. Works to curtilage structures including landscaping works around bollards; oil tank repaired and remodelled and section of 19th century wall on to Orchard Place to be demolished with bricks salvaged where possible to be reused in detailed landscape design.

**Drawing and documents:** See appendix

## 2. BACKGROUND

- 2.1 This application for planning permission and Listed Building Consent was considered by the Strategic Development Committee on 10 March 2016. A copy of the original report is appended.
- 2.2 At the meeting, members of the Committee questioned the timing of this application given the outstanding issues relating to the Orchard Wharf site. It may be premature to make a decision on this application before the High Court had made a decision on an appeal against the quashing of the Compulsory Purchase Order.
- 2.3 The Committee welcomed the inclusion of social housing in the scheme (as set out in the update report) but sought clarity on the percentage of affordable housing that could be provided if for example all of the affordable units were delivered at affordable rents (Borough Framework Rents). The Committee also requested further information on the operation of the proposed affordable housing review mechanism.
- 2.4 The Committee asked for an update on the Greater London Authority's/Mayor of London's position on the scheme.
- 2.5 The Chair proposed and a member seconded a proposal that the planning permission and the listed building consent be deferred for further information and on a unanimous vote, it was **RESOLVED**:
- 2.6 That the planning application and listed building consent be **DEFERRED** at Hercules Wharf, Castle Wharf and Union Wharf, Orchard Place, London E14 for information on the following issues:
- The operation of the viability review mechanism.
  - The viability of the application with different mixes of affordable housing
- 2.7 The Committee also asked that the Greater London Authority be contacted to confirm whether their concerns about the application had been addressed.
- 2.8 In the intervening period, the applicant has undertaken viability scenario testing regarding the affordable rent provisions. The results of the scenario testing have in turn been independently reviewed on behalf of the Council by BNP Paribas. An updated consultation response was received from the GLA. The parameters of a viability review mechanism have been agreed between officers and the applicant.
- 2.9 This report has been prepared to discuss the results of the scenario testing, additional consultation responses and to provide further clarifications.

## 3. ADDITIONAL REPRESENTATIONS

- 3.1 Since the publication of the Committee Report the Council has received additional representation from the Greater London Authority on behalf of the Mayor of London.

- 3.2 The Greater London Authority confirmed 'that officers at the GLA are content that the noise mitigation measures address the concerns raised by the Port of London Authority.
- 3.3 Officers are awaiting confirmation from the GLA that all of the other matters raised in the stage 1 response have also now been addressed.

#### **4. FURTHER INFORMATION**

##### *Orchard Wharf High Court Appeal*

- 4.1 The on-going High Court appeal regarding the neighbouring Orchard Wharf site is based upon an appeal by the PLA following a judicial review decision that quashed the Compulsory Purchase Order made by the Secretary of State. The court proceedings do not relate to the previously refused planning application PA/11/03824 or the subsequent dismissed planning appeal APP/E5900/A/12/2186269.
- 4.2 The application has been assessed on the worst case scenario that the protected wharf could accommodate industrial processes of a scale and nature proposed in the refused application. Hence the outcome of the High Court appeal is therefore not considered to be a material consideration in the assessment of the acceptability of this Planning Application. It would not be premature to determine the application.

##### *Housing mix / Viability*

- 4.3 Members raised concerns regarding the affordability of the Social Target Rent units inclusive of service charge and sought confirmation on whether or not a 27% affordable housing provision is the maximum viable offer which can be secured.
- 4.4 The applicant in response undertook further viability testing to confirm if the securing of Social Target Rent units instead Borough Framework rents for the three and four bedrooms would increase or decrease the level of affordable housing which can be delivered on site.
- 4.5 The Councils independent viability consultants BNP Paribas reviewed the results of the scenarios provided by the applicant.
- 4.6 The first scenario comprised of 3 and 4 bedroom affordable rent units being provided at Social Target Rent Level.
- 4.7 The second scenario comprised of 3 and 4 bedroom affordable rent units being provided at Borough Framework Levels.
- 4.8 BNP Paribas confirmed that the proposed scheme with 3 and 4 bed units provided at Borough Framework Rents would allow for the delivery of a viable scheme with a 27% affordable housing provision.
- 4.9 The delivery of 3 and 4 bed units at Social Target Rent however would result in a deficit of £9.9m when providing a 27% affordable housing provision. In short, the delivery of 3 and 4 bed Social Target Rents and a 27% affordable housing offer is therefore not viable.

- 4.10 The following table also provides a comparison between the affordability of the Social Target Rent Levels units and Borough Framework units. The service charge figure is indicative only, but is based on certain assumptions and pitched at a mid-range of typical service charges in similar large scale developments.

	<b>Affordable rent (incl. service charge) £/week</b>	<b>Social rent £/week</b>	<b>Social rent plus service charge £/week</b>
<b>3 bed flat</b>	£225	£158	£187
<b>4 bed flat</b>	£264	£166	£203

- 4.11 The above table confirms that the delivery of affordable housing units at Social Target Rent with or without a service charge would deliver significantly more affordable for future occupants, than Borough Framework Rents.
- 4.12 In light of the difference in affordability, the applicant has made a decision to provide an affordable housing offer of 27% (based on habitable rooms) and still provide 3 and 4 bedrooms at Social Target Rent level and to bear the commercial risk of doing so.
- 4.13 The resulting affordable housing offer of 27% overall with 3 and 4 bedroom units provided at Social Target Rent level is welcomed in that it would provide the maximum viable amount of affordable housing but with the rents adjusted to improve the affordability level of the larger homes. The proposal is considered acceptable in accordance to London Plan Policy 3.10, Core Strategy Policy SP02 and MDD Policy DM3.

#### *Viability Review Mechanism*

- 4.14 Should the planning applications and listed building consent application be approved, the development would be subject to a viability review clause within the proposed Section 106 Legal Agreement.
- 4.15 The main parameters of the Viability Review Mechanism would include but not be limited to:
- The viability review process will be subject to a trigger, if the development has not substantially commenced (i.e. Superstructure works) within 2 years from the date of the permission/agreement;
  - The viability review will take place at the point at which substantial commencement of the superstructure is later achieved (if after the 2 year period referenced above);
  - The viability review will require an updated viability assessment to be undertaken (on behalf of the developer which would be reviewed independently on the Council's behalf). The updated viability assessment will be based on updated information and evidence available at that time including residential values, build costs etc.;

- If on the basis of the review, it is determined that a greater level of affordable housing could be delivered (above the agreed 27%) then a payment in lieu would be made to the Council;
- This payment will be calculated on the basis of the additional affordable habitable rooms which could be viably delivered. The payment would be capped at achieving a policy compliant level of 50% of habitable rooms as affordable;
- A methodology to calculate per habitable room charge will be identified in the S.106 Agreement (with a separate charge for affordable rent and intermediate). Any additional affordable housing contribution will be calculated on an assumed 70:30 tenure split (affordable rent/intermediate);
- Timing of payments and phasing are still to be agreed between the parties.

4.16 Officers consider that the above parameters of the Viability Review Mechanism would provide an opportunity to ensure that the level of affordable housing overall remains the maximum that could be provided taking into account any changes in costs and values following the grant of planning permission.

## 5.0 CONCLUSION

5.1 All other relevant policies and considerations have been taken into account. **Planning Permission** and **Listed Building Consent** should be **GRANTED** in accordance with the recommendation set out in the original report.