

## Planning Committee: Addendum

### London Thames Gateway Development Corporation

#### Agenda Item 3: Addendum

<b>UDC CASE NUMBER:</b>	LTGDC-07-053-OUT & LTGDC-07-123-OUT (Duplicate application)	<b>DATE MADE VALID:</b>	19/03/2007 & 05/06/2007 (Duplicate application)
<b>APPLICATION NUMBER:</b>	07/00293/OUT/LBBB & 07/00591/OUT/LBBB (Duplicate application)	<b>TARGET DATE:</b>	18/06/2007 & 04/09/2007 (Duplicate application)

<b>APPLICANT:</b>	Countryside Properties (London and Thames Gateway) Ltd and Freshwharf Developments Ltd
<b>AGENT:</b>	Gerald Eve
<b>PROPOSAL:</b>	Outline applications for redevelopment of a 4.2 hectare site to provide up to 1,155 residential units (Class C3) (up to 127,125m <sup>2</sup> ); Class A1 (Shops) and/or Class A3 (Restaurants and Cafes) and/or Class A4 (Drinking Establishments) and/or Class A5 (Hot Food Takeaways) (up to 2,861m <sup>2</sup> ); Class B1 (Business) (up to 1,248m <sup>2</sup> ); Class D1 (Non-Residential Institutions)(up to 1,203m <sup>2</sup> ); Class D2 (Assembly and Leisure) (up to 424m <sup>2</sup> ); together with open space and landscaping including riverside walk; highways and transport works; works to river wall; demolition; engineering operations; and associated and ancillary works.
<b>LOCATION:</b>	Fresh Wharf Estate, Barking

#### 1. FINANCIAL APPRAISAL

- 1.1 A meeting was held on 2 November 2007 between the applicant's representatives and LTGDC representatives to discuss the financial appraisal for the proposed development.

- 1.2 The current financial appraisal significantly affects the development's ability to meet the provisions of the Corporation's Planning Obligations and Community Benefit Strategy and to provide an acceptable level of affordable housing. This particularly relates to exceptional costs claimed by the applicant in their financial appraisal.
- 1.3 The applicant's consultant detailed the complex history of the site as regards financial matters and will provide the LTGDC with a written summary which will assist further discussions. Discussions on the financial appraisal are ongoing between the applicant and the LTGDC.
- 1.4 The situation remains that the applicant has failed to meet the provisions of the Corporation's Planning Obligations and Community Benefit Strategy and the affordable housing provision is considered to be inadequate.

## **2. UPDATED RECOMMENDATION**

- 2.1 Alan Cherry, Chairman for Countryside Properties (one of the applicants) has requested that both applications be deferred so that further dialogue can take place on the applications. A copy of Alan Cherry's letter of 7 November 2007 is attached at Appendix 1.
- 2.2 A meeting has now been set up for 15 November 2007 between the applicant, LTGDC, and GLA to discuss the proposed development. Accordingly, the LTGDC is satisfied that the applicant is now willing to discuss the matter further with a view to overcoming the Reasons for Refusal set out in the Officer's Report.
- 2.3 **It is now recommended** that the Committee **refuse one** of the applications on the basis of the Reasons for Refusal set out in the Officer's Report and **defer the second** application to allow the applicant to negotiate further on it with a view to providing an acceptable scheme.

## **3. NOISE ISSUES**

- 3.1 A draft noise report is expected from the LTGDC's noise consultant late on Thursday 8 November detailing noise issues relating to the proposed development. Late information will be circulated to Committee Members if it is available.

**CASE OFFICER:** Adele Williamson

**Appendix 1:** Letter of 7 November 2007 from Alan Cherry with enclosure.

7 November 2007

To:

Lorraine Baldry  
John Biggs  
Alan Clark  
Cllr Sid Kallar  
Michael Keith  
Cllr Conor McAuley  
Atul Patel  
Richard Turner  
Dru Vesty  
John Worthington

London Thames Gateway Development Corporation Board  
9<sup>th</sup> Floor, South Quay Plaza 3  
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E14 9SH

Dear Ladies and Gentlemen

**Redevelopment of Fresh Wharf Estate, Barking**  
**Application References: LTGDC – 07-053-OUT and LTGDC – 07-123-OUT**

As you will be aware, our proposals for the redevelopment of the Fresh Wharf Estate are being reported to your Committee on 8 November.

Our planning application takes forward the redevelopment of the Fresh Wharf Estate which was approved for a mix of retail and commercial uses in December 2000. Significant investment has already been made in bringing forward the employment uses on the South of the Estate.

We submitted an outline application for the further regeneration of the Fresh Wharf Estate in order to obtain your support for the principles of creating a sustainable and mixed and balanced community adjacent to the River Roding. The application provides 1,155 new homes and associated uses including retail, bars, restaurants, business uses and supporting community uses which will benefit both the community that is created and the residents of Barking.

We consider that given its size and location this hugely important site can deliver a step change for Barking and act as a catalyst for regeneration. The proposals will meet the LTGDC's stated aspirations in terms of sustainable regeneration with a emphasis on a mix of uses which will not only provide much needed aspirational homes but also provide job opportunities within a high quality environment enabling the River Roding to be brought back to life as a focus for activity and interest.

A new high quality urban quarter will be delivered which can create its own sense of place and deliver tangible benefits to the wider area. You may be aware that we

commenced discussions regarding the principle of development of this site at the beginning of 2003. Since that time the LTGDC has come in to being and significant changes have been made to the scheme to take on board comments from all the stakeholders involved in this important site. In consultation 87% of the respondents were supportive of our proposals.

It is with great disappointment that I understand that officers have recommended refusal for this scheme to be reported to you on 8<sup>th</sup> November. I enclose a copy of our consultant's response to the draft reasons for refusal. You will note from your officers' report to committee that further dialogue is on-going in respect of certain elements, specifically affordable housing and noise. I am concerned that notwithstanding this further dialogue regarding fundamental issues relating to the scheme, officers are recommending the application for refusal.

I am extremely concerned that given the extent of the consultation that has been carried out, an application which is of strategic importance, that meets the aspirations of the LTGDC and can deliver real tangible benefits within the LTGDC area is being recommended for refusal. We firmly believe that the reasons for refusal are wholly unjustified and that further discussion would enable these issues to be resolved.

There are inherent difficulties in bringing forward complex regeneration schemes in emerging growth areas. I firmly believe that this is a high quality scheme which has significant benefits for Barking. I therefore urge your support for the principles we are seeking to achieve and defer the applications so that further dialogue can take place.

Yours sincerely

**Alan Cherry CBE DL**  
**Chairman**

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## Response to the draft reasons for refusal

- 1 **“The proposed affordable housing provision is considered to be inadequate and contrary to Policy 3A.7 (affordable housing targets) of the London Plan (adopted February 2004) and Core Policy 4.3.6 (affordable housing) of the Barking Town Centre Interim Planning Guidance (December 2004).”**

The overall financial viability of the scheme has been a critical issue from the outset. London Riverside and Barking have relatively low values compared to other areas. The area is in need of regeneration and significant investment in facilities, services and infrastructure in order to create a sense of place and aspirational homes for local residents.

We have submitted an open book appraisal and financial justification statement so that viability constraints can be understood. This has covered both affordable housing and proposed planning obligations (see 4 below).

The quantum of affordable housing proposed is firmly dictated by the viability of the scheme. The London Plan Policy 3A.8 and Core Policy 4.3.6 of the Barking Town Centre Interim Planning Guidance clearly recognise that a lower level of affordable housing provision can be justified on viability grounds.

Policy 3A.8 seeks to achieve the maximum reasonable amount of affordable housing when negotiating residential mixed used schemes having regard to Borough Councils' affordable housing targets, the need to encourage rather than restrain residential development and the individual circumstances of the site. Targets should be applied flexibly taking account of individual site costs, the availability of public subsidy and other scheme requirements.

Paragraph 3.42 states that the Mayor wishes to encourage, not restrain, residential development and Boroughs should take a reasonable and flexible approach on a site by site basis.

The London Plan sets out a strategic target of achieving 50% from all sources of supply, and it is recognised this may vary given site specific considerations.

At no time have officers rebutted the appraisal and financial justification that has been submitted. Whilst this is a fundamental objection the Committee report identifies that further clarification is being sought (paragraph 9.2.17).

2 **“The design of the development is deficient for reasons including:**

- (i) **Failure to provide a detailed application for Blocks N1 and N2, incorporating the Environment Agency land. The lack of a comprehensive scheme for this northern end of the site is considered to result in a poor quality design and environment;”**

The Environment Agency land is outside the ownership of the applicants. Whilst discussions have been held with the Environmental Agency no agreement has been reached. The officer’s report to Committee at paragraph 2.1.8 identifies that the LTGDC is currently in the process of negotiations to acquire this land. We understand that discussions between LTGDC and the Environment Agency have been on going for over a year without resolution. The report suggests that paragraph 9.3.6 that the ownership of this land is immaterial for planning purposes. We dispute this on the basis that an applicant cannot be required to deliver development on a site which is outside the ownership of the applicant. The delivery of this site cannot be delayed or frustrated by the inclusion of this land.

- (ii) **“The applicant has failed to provide a comprehensive scheme in relation to the treatment of the A406 boundary of the site;**

Detailed consideration has been given to the treatment of the boundary with the A406. The applicant is committed to creating an attractive frontage along the A406. A detailed application has been submitted to your Authority for a green screen which includes acoustic attenuation and will significantly enhance the environment.

- (iii) **“It is considered that the impact of the tall building element of the scheme (Block N1) would adversely affect the setting of the Mill Pool area which forms part of the East Street and Abbey Green conservation area and consequently would also adversely affect the setting of the Grade II listed Old Granary building on the eastern side of the Mill Pool”.**

A full townscape and visual assessment has been carried out as part of the application which identifies that the tall building will not adversely affect either the character of the conservation area or adjacent listed buildings. A full separate design principles document has been submitted in respect of the tower element in accordance with EH/CABE Guidance to define principles which ensure a high quality of design. The level of detail proposed is fully compliant with recent planning guidance. A future reserved matters application would be required for the

tall building and the LTGDC would therefore be able to ensure that the tall building was of sufficient design quality.

- 3 “Information relating to the noise climate at the development is deficient for reasons including that the application has failed to provide an example calculation as to what might be required in the design to achieve a “reasonable” internal noise environment as proposed, particularly for Blocks A and B, given the high external noise levels predicted on these facades. The level of clarity regarding proposed noise levels is considered to be unacceptable. The proposal is contrary to PPG24 (Planning and Noise). Policy 4A.14 (Reducing Noise) of the London Plan (adopted February 2004), and Policy H19 (Noise Attenuation) of the London Borough of Barking and Dagenham Unitary Development Plan (1996).”**

Paragraph 9.5.3 of the Officers Report to Committee identifies that discussions are still ongoing between the noise consultants. It should be noted that at paragraph 5.23 of the report it states that a number of conditions relating to noise have been proposed should planning permission be granted, therefore anticipating that this issue can be dealt with by condition. It is also stated at paragraph 9.5.2 of the report that the noise consultant appointed by LTGDC has been asked to advise appropriate barrier measures to mitigate noise from the A406 North Circular Road and his report is awaited. We consider that an appropriate solution can be achieved and it would be inappropriate to refuse the application on these grounds without having first considered this report and enabled the discussions to continue.

- 4 “The applicant has failed to meet the provisions of the Corporation’s Planning Obligations and Community Benefit Strategy which requires a tariff of £6,000 per residential unit and that further portions of the standard charge should be capable of being recovered. “**

The level of planning obligations is a factor of the viability of the scheme. The two are indivisible. Again, at no time have officers rebutted the appraisal and financial justification that has been submitted. An increase in the level of contribution sought would reduce the level of affordable housing that can be achieved. We recognise that there are impacts arising out of the scheme on local infrastructure and where appropriate have offered financial contributions to mitigate these impacts. We have also set out contributions to proposals which will positively enhance the surrounding area. A full package of contributions has been set out in Countryside’s letter dated 16 March to commence discussions on ensuring commensurate infrastructure is provided. Significant investment is being made as part of the scheme in physical and social infrastructure and this must be taken into account when considering the

appropriate level of financial contribution alongside the impact on the level of affordable housing and overall viability. The overall package currently amounts to some £4,242 per unit. The Corporation's Planning Obligations and Community Benefit Strategy is not adopted policy but is currently being consulted upon.

**5 “The applicant has failed to provide sufficient information regarding:**

**a) The quality and quantum of the proposed amenity space for the development;**

We consider that the quality and quantum of the public space represents part of the attraction of the proposal. Public spaces are at a premium and the proposals will open up a large area of space adjacent to the River Roding for the people and residents of Barking, so adding to the supply of this valuable public space. The spaces will be animated through landscape, recreation space and the active commercial uses spilling into the public realm along with a comprehensive public art strategy proposed as part of the application. The areas will provide a space for the residents to congregate and relax, further animating the space. In all the scheme will provide 9,600 sq m of open space in a location which is currently inaccessible to Barking's residents. The play space strategy accords with the Mayor's SPG providing for Children and Young People's Play and Informal Recreation providing both quality and quantity. Natural England and the Environment Agency have positively supported the biodiversity enhancements put forward.

Thirty percent of the site is provided as open space. A hierarchy of amenity space is being provided, ranging from more formal public areas around two squares and a boardwalk to more informal and private spaces, such as communal gardens and private space. All the homes will have access to some form of amenity space and at upper levels the homes will have balconies.

**b) The potential of the riverside location as a source of leisure/recreational uses of the river;**

Careful consideration has been given to the potential of the riverside location as a source of leisure/recreation uses of the river. A Canoe Club already exists on the eastern side of the river. Whilst additional leisure/recreational uses are limited for the western part of the river given the high river wall, a significant quantum of open space provided along side the river as informal recreation space for the residents of Barking. The river walk itself will be activated by a variety of uses including retail space, cafes and restaurants within the northern square and community uses in the southern square. Further animation will be provided by the arts

strategy proposed as part of the application. Moorings are also proposed along the edge of the river walk providing further activity and interest.

**c) The proposed moorings associated with the development;**

As identified above the provision of moorings is considered to assist in activating the riverside walk and they have always been an inherent element of the application. The applicant would be happy to accept a condition that requires these be provided.

**d) How the proposals will promote an inclusive environment;**

An Access Consultant liaised closely with the design team during the formulation of the proposals to ensure that a fully inclusive environment will be achieved. Whilst the application is in outline the access statement submitted with the application identifies the principles that would need to be adhered to as reserved matters applications are brought forward.

**e) How the proposed development will affect any bats on the site;**

A full ecological survey was carried out as part of the environmental survey. The observations on the suitability of the buildings for bat roosts were made during a phase 1 habitat survey. Consistent with standard methodology, trees and buildings were inspected externally using binoculars with crevices, stains etc that would indicate occupation by bats. We would welcome a planning condition requiring that mechanisms are put in place to ensure that relevant legislation is complied with. The comments from Natural England at paragraph 5.15 of the officer's report indicate that they recommend the Authority satisfies itself that the protected species are absent, or if not, mechanisms have been put in place to ensure that the relevant legislation is complied with (e.g. via the submission of construction method statements as a condition of the planning permission). Officers note that this matter can be dealt with by condition if planning permission is granted. (Paragraph 5.15 of the officer's report)

**f) How the southern square will be animated;**

We refer to comments made above. We consider that the significant open space within the squares will benefit the locality. The southern square has been increased in size to enable the aspirations of the authorities to be met through the provision of space for the landing of a bridge which will link into the cultural quarter. The southern square will be animated through a variety of uses creating activity during the day and night.

**g) How the river walk will provide a high quality environment;**

As set out above the river walk will be activated by a variety of uses including retail space, cafes and restaurants within the northern square and community uses in the southern square. Further animation will be provided by the comprehensive art strategy proposed as part of the application. Moorings are proposed along the edge of the river walk providing further activity and interest.