

Planning Committee Report

London Thames Gateway Development Corporation

Report Concerning Two Appeal Decisions: Trad Site, Bromley by Bow and Concorde House, Caxton Street North, Canning Town

Report of the Director of Planning

1. Summary

- 1.1 Two appeal decisions were issued on 22nd November and 6 December 2007 in respect of the Trad site at Bromley by Bow and Concorde House, Caxton Street North, Canning Town. Both appeals were dismissed and whilst the scale of the two proposed developments was very different, the support of the Secretary of State and the Planning Inspectorate for the approach adopted by the Corporation on both sites is welcomed. For the Trad site, key issues were comprehensive development and prematurity, housing need, quality of design, noise, light, amenity space, impact on nearby Conservation Area and level of S106 contributions. For Caxton Street the focus was on loss of commercial space, whether the location was a suitable residential environment, density and design, amenity and internal space standards, affordable housing and level of S106 contributions.
- 1.2 The details of, and comments on, the two decisions are set out in Section 2 of this report. The two decision letters are appended to this report – the full Inspector's report for the Trad site is not included because of its length. Members of the Committee are asked to note the contents of this report.

2. Analysis

Trad Site

- 2.1 The scheme involved 530 residential units and 1335 sq metres of commercial floorspace in a range of uses. Heights ranged from 6 to 19 storeys.

Comprehensive Development and Prematurity

- 2.2 The Secretary of State agreed with the Inspector that the Lower Lea Valley Opportunity Area Planning Framework ("OAPF") is an important Supplementary Planning Document in establishing the context for land use change in this locality and setting out the main structural elements of the plan proposals, including a neighbourhood centre. She found that some

form of mixed use development, with a significant element of high density housing, would be appropriate for the Site, but that the clear direction of policy is for more than just housing at this key location. The emphasis on residential development in the Proposed Development breaches this policy objective and would not fully comply with its policy intentions.

- 2.3 Aitch (the appellants) had put forward their own "Indicative Urban Planning Framework" ("IURF") in an attempt to show that the proposed Scheme could be brought forward without prejudicing the comprehensive development of the area. However, the Secretary of State agreed with the Inspector that the IURF has several flaws and its implementation in a piecemeal fashion through the development of sites based on current land holdings would fail to secure the regeneration strategy envisaged.
- 2.4 The Secretary of State agreed with the Inspector that LTGDC has the powers and means of implementation to secure the comprehensive redevelopment sought in the Bromley by Bow area. In particular, in his report the Inspector said "I have no doubt that the LTGDC has the determination and power to intervene to secure the appropriate development of the area of the Thames Gateway for which they are responsible. ... it is clear from papers taken to the Corporation's Board that initiatives are underway for preparation of a detailed vision for the area and a means of implementation."
- 2.5 In conclusion, both the Secretary of State and the Inspector found that the Proposed Development would prejudice the effective redevelopment of the area, thereby prejudicing the effective implementation of the broad strategy of the London Plan to secure the regeneration of this important part of the Lower Lea Valley through a mixed use development. The Inspector said that the Proposed Development would prevent the development of a neighbourhood centre focussed on the station, as sought by the OAPF, a strategy document that should be afforded very considerable weight.
- 2.6 Furthermore, although the Secretary of State acknowledged the advice of PPS1 that prematurity should not be the sole grounds for refusal, she agreed that the other disadvantages of the Scheme cumulatively add up to significant harm.

PPS3 and Housing need

- 2.7 The Secretary of State agreed with the Inspector that, although it cannot be shown that a 5 year housing supply exists as required by PPS3: Housing, the intensely developed nature of the London Borough of Tower Hamlets and the high rate of land use change make it difficult to identify known cleared or potential redevelopment sites many years in advance. The fact that a 5 year housing supply cannot be demonstrated is a material consideration in favour of the Scheme.
- 2.8 However, this must be balanced against the evidence suggesting that the new increased housing requirement is likely to be met. The benefit from

the 530 dwellings proposed should not be given undue emphasis compared with other factors. The Secretary of State considered it necessary to assess the Scheme in relation to the other objectives of PPS3 such as the objective of achieving high quality housing. These are summarised further below.

Quality of design

- 2.9 The Secretary of State agreed with the Inspector that the constrained nature and awkward shape of the site present undoubted obstacles to achieving a good design for any freestanding development. She said that whilst the proposed elevations of the blocks would be of a high enough standard of architectural quality to meet the design guidance in PPS1: Delivering Sustainable Development, other aspects of the design give cause for concern.
- 2.10 The Secretary of State agreed with the Inspector that:
- 2.10.1 the uninspired entrance to the scheme was a cause for concern;
 - 2.10.2 the overall appearance of the site would be very cramped with a dark, oppressive environment at the heart of the scheme;
 - 2.10.3 a development of less bulk and smaller scale at the riverside would be a more appropriate design response.
- 2.11 They concluded that due to the very high density of building on such a constrained site, the scheme would conflict with the requirements in the London Plan with regard to requiring a high quality of density.

Noise

- 2.12 At the inquiry, the main parties agreed that internal noise levels could be attenuated to acceptable levels through use of double glazing and keeping windows shut. The Inspector said that whilst the orientation of the blocks compounds the problem of noise, it would not be justified to refuse permission on noise grounds alone. Nevertheless, he said it is a far from ideal situation.
- 2.13 The Inspector then considered the external noise levels and particularly the noise created by the railway to the south of the site and the railway bridge. One of the proposed buildings (Building C) is very close to that railway. The Inspector found that some attenuation to just about acceptable noise levels could be achieved through noise barrier fencing to the lower flats and the play area. However, the relevant noise limits would be breached in respect of the south facing balconies of Building C. Further, the café terrace would suffer even more, because of its proximity to the bridge.
- 2.14 The Secretary of State agreed with the Inspector that these drawbacks are further evidence of the site constraints leading to a design that does not fully meet all required standards.

Light

- 2.15 The Secretary of State noted that a substantial number of rooms would receive little or no expectation of sun as a direct result of placing the buildings on an east-west axis. Also, there would be a small number of gardens and roof terraces that would fail to meet the relevant guidelines. Although this situation is far from ideal, the Secretary of State agreed with the Inspector that this would not be a sufficient reason on its own to justify refusing planning permission.
- 2.16 However, the Secretary of State agreed with this Inspector that the extent and length of shading caused by the scheme would be a serious disadvantage of the proposed design, including its impact on the Tesco site, affecting the ability to make the best use of that site for redevelopment.

Amenity space

- 2.17 The Secretary of State agreed with the Inspector that the level of private amenity space proposed would be inadequate, with many areas suffering from poor levels of sunlight and unacceptable levels of noise. Further the requirement for children's play space would not be fully met, particularly if valid aspirations for the redevelopment of adjoining sites are to be achieved.
- 2.18 Overall, the Secretary of State was of the view that these deficiencies with regard to open space provision represent another serious drawback of the scheme.

Effects on Conservation Areas and Listed Buildings

- 2.19 The Inspector concluded that the scale and building of the proposed buildings would change the character of the area. The Secretary of State agreed that the combination of the height and mass of the buildings (particularly the tallest buildings next to the water's edge) would have detrimental effect on the Three Mills Conservation Area and the setting of the listed buildings, neither of which would be preserved or enhanced. This would be contrary to national guidance (PPG15) and development plan policies.

Section 106 Obligations including infrastructure contribution

- 2.20 The Secretary of State agreed with the Inspector that Aitch's proposed contribution (of up to £4,000 per residential unit) would go some way to meeting the reasonable costs of securing a level of affordable housing and infrastructure improvements. However, the failure to bring forward any offer to provide for essential improvements to Bromley-by-Bow station is unreasonable and counts against the scheme. The Secretary of State said that "she would expect any scheme of the scale proposed to include mechanisms to secure such improvements in tandem with the development which they would serve".

Concorde House

2.21 The Inspector opened his decision letter with a summary of relevant planning policies in the London Plan and Newham's UDP as well as commenting on Newham's emerging LDF documents, the LLV OAPF (Lower Lea Valley Opportunity Planning Framework) and various SPDs (Supplementary Planning Guidance). The Inspector considered that only limited weight could be attached to the LDF documents and regarded the OAPF and the SPDs as being material considerations. The scheme comprised 68 flats and 585 sq metres of commercial space with heights of 5 and 8 storeys.

Principle of residential use and loss of commercial floorspace

2.22 Both sides accepted that the site is within a Principle Employment Area (PEA) and the issue is whether there were material considerations to justify an exception to the safeguarding of employment land. The Inspector considered that the building was not vacant as claimed, that no information had been provided as to marketing, that most buildings in the area are occupied and there is demand for such industrial buildings. A residential scheme involving an almost 50% reduction in commercial floorspace did not accord with the area and the priority is to retain employment generating uses.

2.23 Whilst the appellant argued that other residential schemes had been permitted in the area the Inspector concluded that the circumstances of those schemes were materially different and the the policies regarding safeguarding employment space meant that there was no sound justification for residential use.

Suitability of local environment for residential use

2.24 The Inspector agreed with Corporation's view that existing business occupiers in the vicinity could potentially create disturbance for residents which could not be resolved by artificial noise and ventilation measures. Furthermore that complaints could create pressure for the removal of such businesses in a recognised employment area.

Density, height, massing and design

2.25 The density was considered to be excessive even allowing for PTAL levels and furthermore the height and massing would also be excessive having regard to surrounding buildings and density guidelines. Accepted that the design approach in itself might be acceptable with careful control of materials.

Internal Space standards

- 2.26 There were differences of opinion on this aspect as different standards were being quoted and in any event these are guidelines. Not considered to be an issue.

Amenity Space

- 2.27 Whilst again there were differing views as to how areas within the scheme and nearby open space are taken into consideration, the Inspector concluded that in any event there was a substantial shortfall in amenity space which reinforced his view as to the scale of development being excessive.

Affordable Housing

- 2.28 Notwithstanding Newham's approach to the % of affordable housing that would be acceptable, there was conflict with both the London Plan and the Borough's Core Strategy and as such this weighs against the grant of permission.

S106 Contributions

- 2.29 The appellants had submitted a unilateral undertaking which was challenged by the Corporation not only because of the low figure offered but also because of concerns over enforceability of the undertaking arising from the named parties in it. The Inspector fully accepted the latter point. With regard to the scale of contributions, he had been provided with a copy of the Corporation's S106 Strategy which he considered "to be a sound and reasonable basis for identifying what measures could be included in an undertaking." Accordingly he agreed that there was a significant shortfall in what might reasonably be expected and that the onus had been on the appellants to enter into discussions with the Corporation at an early stage after lodging the appeal.

3. Conclusion

- 3.1 Whilst the two decisions relate to specific sites with their own characteristics, clear support is given to key approaches adopted by the Corporation in its planning decisions. These cover issues of comprehensiveness and the Corporation's ability and responsibility to intervene in significant development areas, the quality and scale of developments, the fact that residential schemes need to meet a wide range of criteria including compliance with significant policies in both the London Plan and Borough UDP as well as emerging documents, and the relevance of the Corporation's S106 Strategy including seeking reasonable levels of funding for a range of infrastructure needs in the area.

4. Recommendation

4.1 It is recommended that the Committee **NOTE** the contents of this report.

Date: 02 January 2008