

London Thames Gateway Development Corporation

13 August 2009 Planning Committee

Addendum Report

Agenda item 3: 60 Portree Street and Lanrick House, Lanrick Road, E14

1.0 The purpose of this note is to update members on (1) correspondence received from, and telephone conversations held with, the Health and Safety Executive (HSE) following issue of the Quantitative Risk Assessment, prepared by Atkins on behalf of the Corporation, on 3 August 2009 [and (2) the extent to which air quality impact of redeveloping adjacent to the A13 have been considered as part of the application.] The officer's response is in bold.

Health and Safety Executive

2.0 On the 5 August (see appendix 1) and 6 August 2009 the HSE wrote to the Corporation to maintain its view that intensive residential development on the application site is undesirable and its recommendation against granting planning permission. The HSE refers to the advice contained within Circular 4/2000 that *"In view of their acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from HSE that planning permission should be refused for development for, at or near to a hazardous installation or pipeline, or that hazardous substances consent should be refused, should not be overridden without the most careful consideration"* as particularly relevant to the Corporation's consideration of the application.

3.0 On reviewing the Quantitative Risk Assessment, prepared by Atkins on behalf of the Corporation, the HSE state that they have concerns about the reliability with which Atkins consider the significance of the levels of risk and how this should be assessed. The QRA was issued to the HSE on 3 August 2009. In responding on the 5 August 2009, the HSE refers to a letter dated 4 August 2009 (see appendix 2) sent to the Corporation following their consideration of a similar QRA for a different site located within the Poplar Gasholder Station consultation zone for details of why the methodology and conclusions of the QRA are challenged.

In accordance with the advice contained within Circular 4/2000, officers have given careful consideration to the impact of redeveloping the site on the risk to human health by instructing a suitably qualified expert to undertake a Quantitative Risk Assessment of a particular event occurring at the Poplar Gasholder Station and the probability of it leading to fatalities or serious injury above the levels applied by the HSE. While the HSE challenge the reliability of the QRA, officers are satisfied that its conclusions about the risk to human health of redeveloping the site, when considered as part of an assessment of a range of planning objectives, do not justify a refusal of planning permission. The Corporation's advisor has issued a technical note in response to the HSE which is attached (see

appendix 3). Furthermore, it is noted that, in considering the Planning Committee's decision to grant planning permission for this application before the most recent amendments which are now before the Committee, the HSE decided not to request that the Secretary of State to call-in the application on the basis that this action is reserved for safety issues of exceptional concern. It is therefore considered unlikely that, in the event that a decision to grant planning permission for the amended application with a reduced number of flats, the HSE will now consider safety issues to be of exceptional concern and request the Secretary of State to call-in the application.

4.0 The HSE refers to the advice contained within Circular 4/200 that "Where a local planning or hazardous substances authority is minded to grant planning permission or hazardous substances consent against HSE's advice, it should give HSE advance notice of that intention, and allow 21 days from that notice for HSE to give further consideration to the matter" as particularly relevant to the Corporation's consideration of the application.

In accordance with the advice contained within Circular 4/2000, it is recommended that, in the event that the Planning Committee resolves to grant planning permission, the HSE is notified of the decision and given 21 days in which to decide whether to request the Secretary of State to call-in the application. An amendment to the recommendation is proposed at paragraph 11.0 of this Addendum Report.

5.0 The HSE has also drawn attention to the fact that the Committee Report does not give adequate consideration to the extent to which the application meets the requirements of Policy 3A.34 of the London Plan, Policy DEV54 of the Unitary Development Planning and Policy DEV23 of the Interim Planning Guidance.

6.0 In making planning policies and determining planning applications, Policy 3A.34 of the London Plan requires account to be taken of the presence of hazardous substances that relate to the development of land in the vicinity of where they are stored in order to limit the consequences of any potential accidents.

7.0 Policy DEV54 of the Unitary Development Plan requires consultation and liaison with the HSE on any significant development involving or likely to be affected by hazardous substances and processes. The sub text states that it is important that any proposals falling within the HSE Consultation Zone are carefully assessed in relation to the advice given by the HSE and that development near to hazardous installations should not go ahead if it exposes large numbers of people to increased risk.

8.0 Policy DEV23 of the Interim Planning Guidance states that the Council will resist proposals for development in close proximity to the storage or use of notable quantities of hazardous substances, where it would cause a significant hazard to health, and that risk cannot be mitigated to the satisfaction of the Health and Safety Executive.

It is recommended that the Planning Committee note the relevant planning policies referred to above. While these policies are not listed within section 8.0 of the Committee Report, their requirements are considered to be met within the Section 9.0 of the Committee Report under 'Health and Safety'.

Air Quality

9.0 The applicant submitted an Air Quality Assessment (AQA) in support of the application. The AQA concludes that forecast levels of air pollutants do not exceed the existing and future LBTH Air Quality Objectives. It is noted that Lanrick Road separates the development site from the A13 as it rises to cross the River Lea and there is a significant boundary wall dividing the A13 and Lanrick Road.

10.0 Officers have instructed Entec to undertake a high level review of the AQA. Entec conclude that, while the results of the AQA are not based on the most up-to-date assessment of local monitoring data and associated dispersion modelling, there are no grounds for a refusal of planning permission. However, it would be good practice to include a condition requiring a revised assessment using the most recent monitoring data and associated dispersion modelling to verify the conclusions set out in the AQA.

Recommendation

11.0 Members are recommended to note the update and consider the following amended recommendation:

It is recommended that Members give delegated authority to the Director of Planning to GRANT PLANNING PERMISSION subject to:

- A. the Health and Safety Executive being given notice of the intention to grant planning permission and 21 days being allowed from the date of the notice to give further consideration of this matter and whether they wish to request that the Secretary of State call-in this application for her determination.**
- B. the planning conditions set out at section 12.0 of the report;
- C. the completion of a S106 Agreement securing the following Heads of Terms:
 - 1. A financial contribution in accordance with the Corporation's Planning Obligations Community Benefit Strategy;
 - 2. The provision of 35% affordable housing based on a 70:30 split between social rented and intermediate housing;
 - 3. A scheme for mitigating sunlight and daylight impact to nos. 48, 58 and 60 Portree Street;
 - 4. A commitment to a local labour, goods and training scheme;
 - 5. A commitment to prevent future residents from applying for parking permits;
 - 6. A commitment to prepare, implement and monitor a Green Travel Plan;
 - 7. A commitment to enter into a S278 agreement and fund highway works adjacent to the boundary of the site.

Case Officer: Will Steadman

Appendix 1 HSE letter dated 5 August 2009

Appendix 2 HSE letter dated 4 August 2009

Appendix 3 Atkins Technical Note dated 12 August 2009