

**PLANNING COMMITTEE MEETING: 13 August 2009**

**PLANNING APPLICATION FOR DETERMINATION BY THE LTGDC**

**ADDENDUM REPORT**

<b>UDC CASE NUMBER:</b>	LTGDC-08-153-OUT	<b>DATE MADE VALID:</b>	29/10/2008
<b>APPLICATION NUMBER:</b>	08/01325/OUT/LBBD	<b>TARGET DATE:</b>	Subject to a PPA

<b>APPLICANT:</b>	Countryside Properties (London and Thames Gateway) Ltd and Fresh Wharf Developments Ltd
<b>AGENT:</b>	Gerald Eve
<b>PROPOSAL:</b>	Outline planning application for Class A1 (Shops) and/or Class A2 (Financial and Professional Services) and/or Class A3 (Restaurants and Cafes) and/or Class A4 (Drinking Establishments) and/or Class A5 (Hot Food Takeaways) (up to 3,015 sqm); Class C3 (Dwellings) up to 1,102 dwellings (up to 112,622 sqm); and Class D1 (Non-residential Institutions) (up to 1,525 sqm); all in buildings ranging in height between 5 and 24 storeys; erection of a 4 metre high landscaped acoustic bund 'Green Screen'; provision of 485 residential car parking spaces and 30 visitor car parking spaces; provision of 113 motorcycle parking spaces and 1,196 bicycle parking spaces; open space and landscaping including riverside walk; highways and transport works; works to river wall; demolition; engineering operations; moorings; together with all associated and ancillary works.
<b>LOCATION:</b>	Fresh Wharf Estate, Fresh Wharf Road, Barking, Essex IG11 7BG.

## 1. COMPARISON WITH PREVIOUSLY REFUSED APPLICATION

Members may recall that the Committee refused a previous application from the current applicants to redevelop the Fresh Wharf site for a residential-led mixed use development in November 2007.

The reasons for refusal related to:

- Insufficient affordable housing.
- Poor design in relation to lack of a comprehensive scheme at the northern end of the site, lack of a scheme for the treatment of the A406 boundary, the adverse effect of the tall building at the northern end of the site on the Mill Pool area which forms part of the East Street and Abbey Green Conservation area, and being contrary to CABE's and English Heritage's Guidance on Tall Buildings.
- Inadequate information on noise.
- Failure to comply with the Corporation's Planning Obligations and Community Benefits Strategy.
- Inadequate information on quality and quantum of amenity space, leisure/recreational uses of the river, moorings, inclusive environment, effect on bats, animation of the southern square and the quality of the riverside walk.

The applicants appealed that decision and a public inquiry was scheduled for 8 days in May 2008. On 11 April 2008 the applicants withdrew their appeal and embarked on pre-application discussions for a revised scheme which have resulted in the application currently before tonight's Committee meeting.

The proposals now in front of the Committee have responded to the previous refusal reasons in the following ways:

- The scheme is now comprehensive in that it includes all relevant land at the northern end of the site, including the land formerly owned by the Environment Agency to provide an essential link to Barking town centre, and it includes the A406 boundary where the applicants originally proposed the retention of unsightly advertisement hoardings which are now being removed and replaced by a green screen.
- The location of the tallest building on the site at 22-24 storeys has been moved away from the sensitive Mill Pool and conservation area, and following expert independent conservation advice, it is considered along with the rest of the development not to have any significant adverse

conservation impacts.

- In accordance with the CABI / English Heritage guidance on tall buildings, the applicants were requested to make the new planning application a hybrid application such that the elements to do with the tall building could be submitted in full with other parts of the scheme in outline. The applicants declined to do so but did submit a significant amount of illustrative information with the application which demonstrates, in officers' opinion, that the tall building can contribute a high quality environment in the surrounding area.
- Noise from the A406 is now dealt with comprehensively by the inclusion of an innovative high transparent screen on the western boundary of the built development which not only shields flats from noise but also shields amenity space areas making them much more pleasant to use.
- Much greater information is now provided on the quality and quantum of amenity space – over 10,300 square metres of amenity space is provided and the drawings in Appendix 7 of the main Committee Report show the quality of design and layouts proposed for different parts of the overall site. An illustrative landscape plan is also attached to this addendum report.
- Detailed plans are now provided to illustrate how the riverside walk will look, how an inclusive environment is promoted across the site including taking the A406 footbridge directly into the northern part of the site and how ground floor uses may now animate the southern square.
- Some indication is given of how different types of moorings could support leisure and recreational use of the river.
- No adverse effect on bats has been identified.
- As far as affordable housing and the Corporation's Planning Obligations and Community Benefits Strategy are concerned, it has to be recognised that the economic and financial circumstances of today are significantly different than when the previous application was under consideration in 2007. This has meant that in fact a lower amount of affordable housing (10%) is guaranteed if the development is built out as now proposed than was proposed in the previous scheme (20%).
- In relation to the Planning Obligations Strategy, the provision of the £6,000 per unit discounted standard charge is met, half by way of on site provision and half by way of financial payment. The applicant is not willing to enter into an agreement to base further payments according to the Corporation's standard approach of increased actual sales values. The applicant has instead proposed an alternative approach based on further financial appraisals before the commencement of each phase of development which provide the opportunity to take advantage of a market

upturn including unexpectedly large returns on previous phases.

## **2. FURTHER COMMENTS FROM TfL**

### **Bus Capacity Contributions**

On 4 August 2009, TfL provided the following justification, and suggested approach, for taking forward the contributions to additional bus capacity that will be necessary to mitigate the impact of the Fresh Wharf development:

*'TfL would require an index linked contribution of £1.2 million (the previously estimated costs of adding an additional two buses into the network for a three-year period) to enhance bus capacity on routes serving the site as mitigation for the additional bus trips generated by the development. The applicant's analysis of bus trip generation indicates that there will be 152 additional bus trips in the peak hour, which is equivalent to the capacity of an additional 2 buses per hour required in the peak hour. This imposes a cost to the public sector which needs to be mitigated through a contribution towards providing the additional capacity.'*

*As an indicative example of how the bus network might be enhanced to meet increased demand, bus route 366 is the only route planned to directly serve the site that will provide a link to Barking town centre, and also the Royal Docks (at Gallions Reach and Cyprus) to the south. It may also be an appropriate route to use any busway infrastructure that may be provided in the area. It currently requires 14 buses to provide a 5 bus-per-hour frequency. To provide an additional frequency up to 6 buses per hour, the route would need an additional 3 buses to operate reliably. There is currently some spare capacity, which is why we are not seeking to increase the route by 2 buses-per-hour, which the 152 additional trips would indicate. As can be seen, the £1.2 million is not covering the full cost of 3 buses for the 3-year funding period. We would be seeking contributions from other developments that will also benefit from a service enhancement as appropriate to cover the additional cost. It should be noted that changes in the bus network may mean this indicative example is not the scheme that we would take forward at the time.'*

*All calculations are based on the final development scenario (i.e. after all four phases). TfL recognises that the development will be phased to take account of market conditions and suggested at the meeting on 2nd July that there could be payments of £300k for each of the four phases. This could be secured as three payments of £100k or as a lump sum on first occupation. However, there would need to be certainty that if the full development were built out a total of £1.2 million could be secured. This is because £300k by itself would not fund any improvements. On the basis of four equal phases TfL would expect that the additional capacity may need to be delivered from phase 2 onwards (assuming that build out of the half the scheme increases demand by 75 passengers), although there would need to be some flexibility to take account of other*

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*changes in the local bus network including patronage increases on other parts of the routes. The timing for payments and the delivery of public transport improvements would need to retain this flexibility but could be addressed as part of the section 106 agreement if TfL were a signatory. Because the issue of bus capacity is one of transport mitigation rather than delivering transport improvements TfL would expect the £1.2 million to be a ring-fenced contribution that would be offset against the general tariff.'*

On 11 August 2009, TfL provided further comments as follows:

*'TfL welcomes the inclusion of conditions addressing requirements for provision of bus infrastructure, submission of a Travel Plan and Construction Logistics Plan although there is concern that there is no requirement to ensure that the service road which will be used by diverted bus services will remain open and free from obstruction until completion of the spine road during phase 2. Can you clarify how this can be secured in the absence of a specific condition? It would also be helpful to state a specific requirement for submission and implementation of a Delivery & Servicing Plan in accordance with TfL guidance as part of condition 55.'*

**LTGDC response to comments above:**

Head of Term 5(c) secures the provision of a route within the site for buses. This will include the temporary route for buses along the service road, as well as the final route for buses along the spine road.

It is considered that Condition 55 as currently drafted will ensure the submission of vehicular access and servicing arrangements. On receipt of the submitted information TfL will be consulted as a matter of course.

*'In view of TfL's concerns about inadequate bus capacity it is unfortunate that some of the misleading analysis carried out by Fresh Wharf's consultants regarding bus capacity was included in the report without challenge (paragraph 9.14.4). The analysis assumed incorrectly that residents would arrive evenly spread over the whole analysis period and would be distributed equally across all bus services. This is wholly unrealistic as pointed out in previous correspondence with the consultants as people will be likely to use the services closest to the site taking them to key destinations such as Barking and will not arrive conveniently spread across the time period.'*

*The key figure is the 152 total additional bus trips in the peak hour predicted in the transport assessment, the majority of which are likely to use services diverted through the site. The applicant's consultants have conceded that at least 50% (equivalent to 76) of total additional trips will be on these two services. In view of the convenience of these routes and the length of the walk route to Barking town centre, TfL expects the percentage and the total number of trips to be significantly higher.'*

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*In this context TfL is very concerned that the report only recommends ring-fencing £300,000 for mitigating the impact on bus services although it is understood that the report was drafted prior to receipt of the note of 4 August 2009 which justifies and explains the rationale for the full £1.2 million that TfL has requested. £300,000 may be appropriate to secure for a single phase but TfL would require £1.2 million for the full development as explained below – a figure that has been used throughout the negotiations with the applicants and their consultants (dating back some four-five years). Increases in bus capacity can only be delivered if there is certainty that the full £1.2 million sum will be secured across the lifetime of the development. TfL welcomes the indication that the Management Group could decide to allocate further tariff payments toward bus capacity but would want the planning committee to be made aware of TfL's continuing concerns through an addendum or oral report that proposes an agreed way forward.'*

TfL also expressed concern about the 'very limited benefits' of some of the potential offset items listed in paragraph 2.2.23 of the Committee Report, namely the adaptation of the A406 pedestrian bridge, and the bus link to Jenkins Lane which was a requirement of the planning permission for the industrial/retail units.

Officers consider that the works listed in paragraph 2.2.23 of the Committee Report provide benefits to the wider community and accordingly are considered to be allowable offsets.

### **Transit or Busway Route**

Further to paragraphs 1.11, 9.14.12, and 9.14.13, members should be aware that the proposed application makes the following provisions for a busway route:

*The making available of land/rights and appropriate provisions for access/maintenance to:*

- *allow for bridges to be constructed and maintained across the river;*
- *provide a transport corridor for the east-west transit link;*
- *allow for the widening of the Jenkins Lane bus route; and*
- *incidental land required for HGV access/passage associated with the provision of the east-west transit link.*

The Creative Industries Quarter (CIQ) application on the eastern side of the River Roding (which has a resolution to grant planning permission, pending the completion of a unilateral undertaking) makes provision for a busway route and bridge.

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The Beckton Sewage Treatment Works application (which has a resolution to grant planning permission, pending the completion of a S106 agreement) secures the safeguarding of a transport corridor.

If all of these applications come to fruition and funding becomes available for the bridge then there is the prospect for a complete busway route (approximately 13 kilometres) from Barking Station to Custom House via Gallions Reach DLR, City Airport, and ExCel.

Following the cancellation of ELT2, work by the Corporation and TfL is underway to consider the provision of this complete busway route. Until the complete route is available, parts of the route would be available to accommodate existing bus services which may benefit from being diverted along the route.

It is considered that the proposed application provides significant benefits towards the provision of a busway route from Barking Station to Custom House.

Discussions are continuing with TfL on resolving the best way of ensuring public transport improvements through the busway scheme and bus capacity enhancements.

As advised at paragraph 9.3.4 of the main Committee Report, the diversion of buses through the Fresh Wharf site will improve Public Transport Accessibility Levels (PTAL) for the site to Level 3 at the northern tip, to Level 3 in the centre, and to Level 1 and 2 at the southern end.

The provision of a public transport bridge over the River Roding would further improve the PTAL of the site to Level 5 at the northern tip, to Level 4 in the centre, and to Level 3 at the southern end.

The Corporation considers that a limit on build out of later phases of the development be conditional upon provision of the busway route/bridge.

The applicant has proposed the following S106 clause in response:

*'The applicant will not construct phases 3, 4 and 5 of the development for a period of [5] years from the date of the outline planning consent unless the transit route and River Roding bridge is complete.*

*If six months prior to this date the transit route and bridge is not completed and operational the LTGDC will enter into a sponsored route agreement with Transport for London (TfL). Within the sponsored route agreement TfL will commit to providing a bus service through the development at a frequency of [x] buses per hour until such time as phase 3 is completed. To fund the provision of this bus service frequency the LTGDC will agree to ring-fence a sum of [£300,000] from the discounted standard charge to allow this service frequency to be achieved.*

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*If six months prior to the construction of phase 4 or 5 of the development the transit route and bridge is not operational then the LTGDC will agree to ring-fence a further sum of [£300,000] to allow a further increase in bus service frequency through the development to [x] per hour. TfL will undertake with the LTGDC to implement such service and to keep such service operation for a period of [x] years.*

*Should the transit route and bridge be completed during either phase 3, phase 4 or phase 5 of the development then the LTGDC will not be required to ring-fence any additional monies for transport improvements.'*

TfL responded on 10 August 2009 as follows:

*'I presume the intention is to secure the completion of the transport corridor but if this is not taken forward to divert the funding into additional bus capacity. Although this flexibility is welcomed the proposed mechanism may not be the best way to achieve it.'*

As a way forward, the Corporation will discuss with the applicant and TfL appropriate wording regarding the use of ring-fenced funding for additional transport capacity.

**It is recommended that, should the Committee agree to approve the application as recommended in the main Committee Report, authority be delegated to the Director of Planning to discuss further with TfL and agree, where possible, acceptable financial arrangements for transport provisions in the S106 agreement.**

### **3. NOISE**

Please note the following correction to the text in Section 9.5.3 of the main Committee Report (the last sentence of the 4<sup>th</sup> paragraph on page 55):

*'A 4 metre high noise barrier has also been proposed between Blocks **H and I** to improve ground level amenity space noise levels in this area'.*

should read as:

*'A 4 metre high noise barrier has also been proposed between Blocks **H and G** to improve ground level amenity space noise levels in this area'.*

#### **4. ADDITIONAL S106 HEADS OF TERM**

London Borough of Barking and Dagenham Regeneration has requested that the following additional Head of Term be included in the S106:

*To maximise the local economic benefit of the construction of the site through the provision for:*

- *A local labour scheme including apprenticeships*
- *Use of local contractors in the supply of goods and services in the construction programme.*

The applicant has agreed to the following Heads of Term which are considered acceptable by the Corporation:

- *A local labour scheme.*
- *Use of local contractors in the supply of goods and services.*

#### **5. REVISED CONDITIONS**

The applicant requested that Conditions 21 (Code for Sustainable Homes) and 44 (Energy) as set out in the main Committee Report be reviewed as they considered that the conditions as drafted would not be able to be met.

The two conditions have been reviewed by the Climate Change Team at the London Borough of Barking and Dagenham and following further discussions between the applicant and the Climate Change Team it is proposed that Conditions 21 and 44 be amended to read:

##### **Condition 21:**

For each phase of development no development shall commence until the applicant has provided to the Local Planning Authority for approval a Certified Code for Sustainable Homes Pre-Assessment for that phase that achieves at least a 'Level 3' rating. The approved scheme shall then be implemented in accordance with these details. Prior to occupation of the first unit in the development a Post Construction Review or audit or other verification process agreed with the Local Planning Authority will be provided confirming that the certified pre-assessment rating of at least a Level 3 score has been achieved.

**Reasons:** To ensure that the proposed residential units are designed in an environmentally sustainable manner and in accordance with Policies 2A.1 and

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4A.3 of the London Plan (2008).

**Condition 44:**

Prior to commencement, a full energy strategy will be provided, which will give details of the Energy Efficient measures, on top of part L compliance, to be undertaken for the development and this will provide a baseline of Carbon emissions for the completed scheme. The strategy will provide details on the Combined Heat and Power system which will provide heat and power for all units across the site (residential and Commercial), and how it will link into the wider aspirations of the Barking Community Heating Network following the technical guidelines set out by the London Borough of Barking and Dagenham. The Strategy will also give details of electrical generating renewable energy systems which will generate 10% of the predicted total carbon emissions for the development. If the development cannot achieve this target, then the short fall (to achieve the 10%) could be contributed through an additional S106 financial contribution.

The programme for their provision shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be implemented in accordance with the agreed programme and shall be maintained unless otherwise agreed in writing. These measures will also be monitored by the Local Planning Authority to ensure that targets are achieved.

**Reasons:** To promote the use of energy efficient and renewable energy technologies in accordance with Policies 4A.6 and 4A.7 of the London Plan (2008) and Policy BR2 of the London Borough of Barking and Dagenham Borough Wide Development Policies Pre-Submission Report (2008).

**6. PHASING**

At paragraph 9.2.7 of the committee report it was reported that each of the four phases of development will provide between 225 and 337 new homes over an anticipated construction period of 10 years.

The applicant has provided a further breakdown of the number of residential units for each phase. The indicative maximums for each phase are:

**Phase 1** – 225 residential units.

**Phase 2** – 305 residential units.

**Phase 3** – 337 residential units.

**Phase 4** – 235 residential units.

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**CASE OFFICER:** Adele Williamson

**Appendix 1:** Illustrative Landscape Plan