

PLANNING COMMITTEE MEETING: 10 March 2011

**PLANNING APPLICATION FOR DETERMINATION BY THE LTGDC
 ADDENDUM REPORT**

UDC CASE NUMBER:	LTGDC-10-113-OUT	DATE MADE VALID:	26/08/2010
APPLICATION NUMBER:	PA/10/01864/LBTH	TARGET DATE:	Subject to a PPA

APPLICANT:	Clearstorm Limited
AGENT:	GVA
PROPOSAL:	<p>Hybrid planning application for the comprehensive redevelopment of the Leamouth Peninsula for mixed-use development to provide up to 185,077 sqm (GEA) of new floor space (including up to 1,706 residential units (use class C3)) as follows:</p> <p>1) Part Outline, Part Full Planning Application for development of Phase 1, at the southern end of the site, to provide a new pedestrian access (river bridge) across the River Lea (in outline), and for erection of 5 Buildings (in full), namely Buildings G, H, I, J and K, including alterations to existing Building N, to provide:</p> <ul style="list-style-type: none"> • 537 residential units (use class C3) • 5,424 sqm of office and flexible business workspace (use class B1) • 382 sqm of retail, financial and professional services, food and drink (use classes A1, A2, A3, A4, A5) • 1,801 sqm of leisure (use class D2) • 1,296 sqm of community uses (use class D1) • 249 sqm art gallery (use class D1) • 2,390 sqm energy centre • 275 car parking spaces <p>2) Outline Planning Application for Phase 2, at the northern end of the site, comprising Buildings A, B, C, D E, F and M (with all matters reserved except for access and layout) and to provide:</p>

	<ul style="list-style-type: none"> • Maximum of 1,169 residential units (use class C3) • 2,424 sqm of office and flexible business workspace (use class B1) • 1,470 sqm of retail, financial and professional services, food and drink (use classes A1, A2, A3, A4, A5) • 1,800 sqm of arts and cultural uses floorspace (use class D1) • 4,800 sqm of educational floorspace (use class D1) • Storage and car and cycle parking • Formation of a new vehicular access and means of access and circulation within the site, new private and public open space and landscaping and works to the river walls. <p><i>The application is also supported by an Environmental Statement under the provisions of the Town and Country Planning (EIA) Regulations 1999.</i></p>
LOCATION:	Pura Foods Ltd, Leamouth Peninsula North, Orchard Place, London E14

1. UPDATE ON ENVIRONMENT AGENCY (EA) MATTERS

On 2 March 2011, the applicant's consultant provided further information to the Environment Agency on flood storage compensation and mitigation for the loss of foreshore arising from the worst case situation of having to found the proposed pedestrian bridge within the intertidal zone of the River Lea, together with a preliminary statement on hydrodynamic effects. They also provided a revised Parameter Plan and the previously consented River Wall Flood Mitigation plans.

On 4 March 2011, the Environment Agency responded as follows:

"Whilst we are pleased to see the progress that has been made to date particularly with the calculations, we are still unable to remove our objection to the proposal because the information we have requested still has not been provided.

You have stated that a minimum flood compensation volume of 1,150m³ and a minimum foreshore re-provision area of 250m² would be achievable within Phase 1. We acknowledge the commitment provided by Ballymore, but continue to require further information on where this will be provided.

Again, we also have concerns about the bridge founding in the River Lea as being an option. This option will result in a direct loss of priority

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Biodiversity Action Plan Habitat and impact on the Site of Metropolitan Importance through encroachment and indirect losses through scour and accretion of sediments. This would also impact on the stability of the flood defences. Before looking at compensation/mitigation it should be demonstrated that the impacts can or cannot be reasonably avoided, and if not, that the compensation proposals are appropriate.

Until this information above has been provided we are going to have to maintain our objection to the proposal.”

On 8 March 2011, the applicant submitted a plan to the EA showing the location of the intertidal terrace / foreshore re-provision area. The EA in response has welcomed some of the information but still have various detailed technical concerns which require further work and therefore maintain their objections. These have much to do with the limited time they have had to fully respond to the issues created and suggested solutions.

2. UPDATE ON PORT OF LONDON AUTHORITY (PLA) MATTERS

On 25 February 2011, the applicant's consultant set out the following details of their agreed way forward with the PLA. The PLA has confirmed that this is an agreed way forward from the PLA's perspective:

Risk Assessment

Ballymore has instructed Waterman Structures to prepare a navigational safety risk assessment (the scope of which is to be agreed with the PLA prior to the commencement of the assessment) to address the Harbour Master's concerns and to inform the acceptability or not of any structure in the river and, if any structure was determined to be acceptable, the form it should take and the appropriate level of protection it should have.

Work on this assessment will commence now but at this stage it is not expected that this will be completed prior to the LTGDC planning committee on 10 March. Detailed comment on this work by the PLA will require amongst other things the proposal to be drawn on a current navigational chart.

For the avoidance of doubt, the Harbour Master's concerns are set out in an electronic mail correspondence dated 24 February 2011 attached to this e-mail.

Parameter Plans

Ballymore and the consultant team have reviewed the submitted bridge parameter plan and have made a series of changes:

- *Substantially rationalised the extent of potential encroachment into the river previously shown.*
- *Extended the extent of the red line parameter to allow a bridge to cross before the river bend.*
- *Amended the labelling on the plan to clarify the nature of any potential works that might take place within the river if the navigational safety risk assessment determines that a structure and any associated mitigation in the river is acceptable.*

It is recognised and accepted by all parties that this parameter plan does not represent the final form of the proposed bridge in any way. The final parameter plan will be informed by the navigational safety risk assessment currently being prepared and will incorporate any changes as required by the navigational safety risk assessment. It is recognised and accepted by all parties that this could result in it being unacceptable to place any structure in the river within the current red line parameter plan.

(Officer Note: A copy of the revised bridge parameter plan is attached to this addendum report at Appendix 1).

S106 Clause

In addition to a revised parameter plan, Ballymore are prepared to accept a clause in the S106 Agreement which requires them to robustly test all options for the bridge including changing its location within the parameters identified on the final parameter plan.

Ballymore are in the process of instructing bridge designers and once we have the certainty of a committee decision, they will need to start work to establish the bridge design and procure the consents if they are able to deliver on their commitment to the LTGDC to open the bridge before the end of Phase 1 (less than a third of the scheme).

Ballymore propose that the S106 clause could be structured to include the following:

- *Ballymore will need to fully consult with all stakeholders through out the process.*
- *Reserved matters will be submitted early on and Ballymore have committed to delivering the bridge before last occupation of Phase 1.*

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- *The bridge will be delivered in accordance with the parameters set out on the final parameter plan as informed by the Navigational Safety Risk Assessment.*

We would propose to discuss and agree the detailed wording of this clause with the PLA and other key stakeholders as necessary when the S106 is being drafted in order to ensure that all parties are satisfied and this will be informed by the outcome of the navigational safety risk assessment.

Next steps

On the basis of the above it is agreed by the PLA and the applicants that the application could be considered at the LTGDC Planning Committee on 10 March 2011. It is also agreed by all parties that any resolution would need to be subject to (i) the satisfactory completion of the navigational safety risk assessment and the implementation of any conclusions it may reach to determine the acceptability or not of a bridge within the current red line parameter plan (ii) the agreement of the form of the final parameter plan (as informed and determined by the navigational safety risk assessment); (iii) the agreement of the Section 106 clause.

The PLA will use the navigational safety risk assessment alongside other supporting documents such as a hydrodynamic assessment to inform its decision on any River Works Licence application that it may receive in due course to ensure that all relevant matters are considered before a decision is made on any River Works Licence application.

3. LONDON BOROUGH OF TOWER HAMLETS (LBTH)

The application was presented to LBTH's Strategic Development Committee on 7 March 2011 and they have provided the following response to LTGDC:

“Following the presentation of the above application to the Strategic Development Committee on 7 March 2011, I write to confirm that Members (unanimously) resolved to endorse officers’ recommendation to object to the proposed development for the reasons set out in pages 5 and 6 of the attached report.

Our report set out in detail the Council’s position in relation to all aspects of the proposal. At the time of presenting the report to the Strategic Development Committee, the issues relating to the encroachment of the northern bridge landing in to the river (as noted by the PLA and EA) had not been resolved to a stage where the PLA and EA were willing to remove their objection.

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Even so, it is acknowledged that additional information has been submitted with regards to mitigation for the loss of foreshore, flood storage compensation calculations and that a navigational risk assessment has been commissioned. This information might mean that the Borough's objections (Objections 4, 5 and 6) can be suitably overcome as a consequence of recent events and discussions.

However, the Council's other objections to the proposals (Objections 1, 2 and 3) remain.

Based on the 19.6% affordable housing offer, (11% without grant funding), the scheme falls significantly short of the Council's Core Strategy and Housing Needs Survey targets. We recognise that the application has been submitted in a very difficult economic climate and the scheme has been subject to a viability assessment which has been independently reviewed. We also note that there is intended to be a future review mechanism in place to assist the Borough in clawing back future contributions towards affordable housing if and when the market recovers.

However, the Council is concerned with the developer's identified triggers incorporated within the review mechanism and the levels set in order to realise any realistic future affordable housing provision.

We believe the trigger set at £600sq ft (Phase 1) and £800sq ft (Phase 2) are set too high and this brings significant risks for the Council, with a very remote prospect that it will ever result in the applicant making any further payment towards affordable housing and/or other infrastructure requirements.

This is a strategic site and the Council recognises that if planning permission is refused in line with the Council's suggested reasons for refusal, the site could be left undeveloped for a number of years. However, we do not believe this is a sufficient reason to justify such a low level of affordable housing, particularly in the absence of an equitable review mechanism that would give the Council a reasonable prospect of an increase in affordable housing as market conditions improve.

The Council is not dependant on this site to contribute towards the delivery of the Borough's 5 year housing land supply. We feel that the risk involved in the delay in the delivery of housing (and by implication, affordable housing, which is a major objective for Tower Hamlets) would be outweighed by the potential benefit of securing a much higher level of affordable housing and associated infrastructure requirements at some point in the future when market conditions improve. This attitude to risk is similar to the view taken by the Planning Inspectorate at the recent Gun Wharf appeal decision.

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In light of the risks and concerns identified above and in particular with the proposed triggers outlined by the applicant to date, the Borough is unable to support the application proposal.

It is also worth noting that the Borough also has concerns regarding the overall lack of family accommodation, which amounts to only 14% which falls significantly short of the Borough's target of 30%. The Council's Strategic Housing Market and Needs Assessment (August 2009) evidences this particular need. Whilst the Council acknowledges that the applicant has stated that the lack of family housing is in direct response to market evidence for this particular location, the Council feels that the overall under provision of family housing would result in an unacceptable tenure mix contrary to policies identified in the attached report.

Finally, in relation to the level of contributions proposed, it is the view of the Borough that the cost of the proposed pedestrian bridge should be a development cost and not offset against LTGDC's tariff. This will have implications on the level of contributions required to mitigate against the overall development proposal and if approved, will also make any future uplift towards affordable housing difficult. As such, there is concern that many aspects of the scheme will not be mitigated against and the scheme fails to provide an acceptable and sustainable development which provides social, economic and physical benefits for existing and future communities.

To conclude, given the significance of this strategic site in terms of the Council's overall growth agenda and the vision for Leamouth, we consider that the proposal, when viewed alongside financial viability constraints and the inability of the scheme to satisfactorily mitigate the various impacts and accommodate associated social and physical infrastructure requirements, will fail to deliver a sustainable, liveable, vibrant, accessible and inclusive community contrary to the vision for Leamouth Peninsula.

I trust the above clarifies the Council's position in respect of the application, and we trust that our views will be made clear at the LTGDC committee on Thursday 10th March."

4. LONDON BOROUGH OF NEWHAM (LBN)

The London Borough of Newham has provided the following comments on the application to the LTGDC:

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Background

The proposals represent a revision to the extant hybrid planning permission which was granted on 6th September 2007 (Ref: PA/06/00748/LBTH).

Bridge

The Council's preference is for the connection with the Peninsula further to the south via the Limmo site. Given that this could have provided 24 hour access, not reliant on Canning Town station, and better connectivity with the rest of Canning Town. However, it is recognised that this option does represent problems in terms of land assembly, engagement with appropriate stakeholders and timing.

The proposals in the current location to the north now result in the loss of the former 'green bridge' which connected a second bridge spanning across the River, providing a linkage between the Peninsula over the railway tracks to Canning Town. The loss of this bridge over the railway tracks is a disappointment, however it is recognised that this has resulted from insurmountable feasibility issues and technical concerns that the applicants faced.

It is welcomed that the bridge will now be coming forward in Phase 1, rather than Phase 2 as was originally proposed.

There is however disappointment that this access link will not be able to operate 24 hours owing on its reliance to the stations opening hours. The applicants have now offered to operate a 24 hour bus service to Canning Town to address this shortcoming. Whilst this is welcomed, the Council will question how practical an alternative bus service will be in terms of costs (assuming that the service is not free or subsidised for residents and other occupiers of the development), given that the bridge will be free to use.

The Council welcomes the LTGDC officer's intention not to progress with the plans for pursuing the Reuben's Bridge route to the station via the A13 option as an alternative when the station is closed. The Council similarly shares concerns on safety grounds.

It is urged that a S106 contribution through the tariff system is secured to ensure that the rotunda and surrounding public realm is made to be more welcoming than currently the case. Consideration should also be given to ensuring that the route through the station to the rotunda can be improved. Currently navigation through the station to the rotunda is through a meandering and convoluted internal route. It is however accepted that the present station and track layouts will offer a challenge.

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In terms of the bridge design, it is accepted that the detailed design has been reserved for a later stage. The Council would like to be fully consulted when the details are eventually submitted. It is considered that the originally consented bridge represented an iconic structure which the Council fully supported. It is realised that the new design will not be able to achieve the same iconic status, which is a disappointment. However we are still keen to ensure that the eventually agreed design is of a suitably very high standard responding to the Council's 'convergence' agenda.

Other Matters

The Council supports the overall design approach of the scheme and considers that the 27 storey maximum height, appearance and proportions of the main buildings are acceptable. However, through the design codes, the Council will invite the LTGDC to secure good quality external material finishes for the completed buildings.

The Council also welcomes the principle of connecting with the Royal Docks energy network.

Proposed Condition 56 relates to a construction logistics plan. It is not mentioned whether this will include encouraging use of the River for transport purposes. This is something the Council would be keen to ensure is secured.

S106

The Council recommends that the following contributions are secured for Newham through the tariff system, justified by the likelihood that future residents will be reliant on Newham's facilities given the proximity and focus of the site towards Canning Town:

- *Open space provision (the proposals result in a deficiency in terms of policy requirements)*
- *Health*
- *Education*
- *Local Labour*
- *Local goods and services.*

Conditions

Please consult us on the suggested conditions (should permission be granted) that will also need consideration and an input from Newham.

Core Strategy

The Committee report currently does not include the Council's Proposed Submission Draft Core Strategy, which was approved by the Mayor in Consultation with Cabinet on 27th January 2011, and therefore now has planning weight. It is considered that the following Core Strategy polices apply and are relevant:

- S1 Spatial Strategy*
- S4 Canning Town and Custom House*
- SP1 Borough Wide Place Making*
- SP2 Healthy Neighbourhoods*
- SP3 Quality Urban Design within Places*
- J1 Investment in New Economy*
- J3 Skills and Access to Employment*
- H1 Building Sustainable Mixed Communities*
- SC1 Climate Change*
- SC2 Energy*
- INF1 Strategic Transport*
- INF2 Sustainable Transport*
- INF4 Local Heat and Power Networks*
- INF8 Community Facilities*
- INF9 Infrastructure Delivery.*

5. TRANSPORT FOR LONDON (TfL)

Transport for London (TfL) provided the following comments on 4 March 2011 following review of the committee report:

Thank you for sending through the link to the committee report. The wording supports TfL's broad aspirations for the site, and thank you for ring-fencing the £3.3m towards buses.

You will have seen from Adrian Maher's letter to Ballymore (dated 1 March) that there are a number of considerations, specific to TfL's property interests, that will be tied up in separate legal agreements, outside of the planning process. Although the draft heads of terms of the S106 are broadly supportive of TfL's aspirations, please can you ensure that the following matters are expanded on within the final agreement and decision notice:

Section 106

- **Item 6** - *Can the wording of "Bridge to be completed prior to occupation of the last 50 residential units in Phase 1" be augmented? Although TfL has no objection to the restrictions on the occupation of the final 50 units of Phase 1, the agreement should nevertheless*

oblige the developer to complete the bridge and works to the station/rotunda before any of the Phase 2 units are occupied. This should embody a requirement for the necessary agreements to be entered into with Transport for London, DLR and London Underground, regarding the works to, and access through, the station/rotunda. Although similar restrictions are contained in the Grampian conditions attached to the planning permission, these could ultimately be varied. Having it in the Section 106 gives TfL greater assurances that the works will be delivered in a timely fashion.

- **Item 16** - *TfL requests that the final Section 106 obliges the developer to make provision for (and maintain) a bus driver toilet facility, in addition to the bus stands and stops. The obligation should be for the developer to provide a facility in perpetuity, and at a peppercorn rent. A lease or other non-terminable right will be required, and initial and continuing costs associated with the provision of this facility should be borne by the developer. All these arrangements will need to be agreed with London Buses, and the final agreement should reflect this.*
- **Item 16** - *This should allow for both the capital costs of getting the facility into a useable state and for any additional staffing or maintenance costs.*
- **Item 16** - *Is it possible to ask for cycle parking to be provided at the Rotunda? I appreciate this is a very late request.*

Condition 6

Having consulted colleagues in Group Property, TfL considers that the scope of Condition 6 needs to be augmented slightly. As a result, TfL recommends that it is split into two separate conditions. I've drafted these as follows, and they have been considered acceptable by our legal team:

6. No works in Phase 1 of the development hereby approved shall be commenced unless and until the developer has secured all necessary legal agreement(s) with Transport for London, London Underground Limited, Docklands Light Railway Limited, Port of London Authority, and any other relevant parties, to ensure the funding (by the developer), construction, implementation, delivery, use by members of the public and management of the pedestrian and cycle bridge over Bow Creek and the access between this bridge and the unpaid side of Canning Town Station (including the station ticket hall and concourse, rotunda, lift, staircase and link to river walkway).

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Reason: *To ensure the timely delivery of a pedestrian link into the station for use by members of the public to improve the accessibility of the development site to the wider area, in line with Policy 3C.1 of the London Plan (2008), Policies ST25 and T19 of LBTH's Unitary Development Plan (1998) (saved policies), Policies DEV27 and HSG1 of LBTH's Interim Planning Guidance (2007), and Policy SP08 of LBTH's Core Strategy (2010).*

NEW CONDITION:

7. *None of the residential units in Phase 2 (as shown on the plan attached) shall be occupied until the pedestrian and cycle bridge over Bow Creek and the access between this bridge and the unpaid side of Canning Town Station have been delivered and opened for use by members of the public, pursuant to the requirements of Condition 6 above.*

Reason: *To ensure the timely delivery of a pedestrian link into the station for use by members of the public to improve the accessibility of the development site to the wider area, in line with Policy 3C.1 of the London Plan (2008), Policies ST25 and T19 of LBTH's Unitary Development Plan (1998) (saved policies), Policies DEV27 and HSG1 of LBTH's Interim Planning Guidance (2007), and Policy SP08 of LBTH's Core Strategy (2010).*

I appreciate that the above issues may appear to place a lot of demands on the developer, but they are essential to TfL (as both a landowner and transport operator) to ensure that the site is fully accessible, with the appropriate facilities, and in a timely fashion.

(Officer Note: The proposed Condition 7 above does not appear to be contentious and it is proposed to accept this as a new condition. With respect to the proposed wording of Condition 6 as drafted by TfL above (which is similar to Condition 6 in the draft conditions in the committee report) this has the potential to be problematic if there are unnecessary delays in obtaining legal agreements from the relevant parties. While the principle of this condition is accepted, further negotiations are required with the applicant to agree the exact wording of the condition).

6. METROPOLITAN POLICE AUTHORITY (MPA) FLOORSPACE

On 1 March 2011, the applicant responded to a request from the Metropolitan Police Authority (MPA) for floorspace in the development as follows:

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"We would be prepared to allow the Met to have desks in our management suite. We would need to discuss your requirements but this has worked on other scheme we have developed."

In response, the following comments were received from CgMs Consulting on behalf of the MPA on 4 March 2011:

"As stated in our representations dated 26 January 2011 and the e-mail to Elaine on 7 February 2011 (both attached), the principle of providing 115 sqm policing floorspace was secured under the 2007 signed S106 Agreement of the original permission. The current application proposed an increase in scale of useable floorspace (185,077sqm) which would potentially increase pressure on the policing need of the area and further reinforce the need for an increased police presence.

The MPA therefore requires a self-contained unit to accommodate community policing facilities to service the policing need which arises from the development. The proposed office spaces (desks) within Ballymore's on-site management suite would not be acceptable to the MPA given associated issues of operation and security, particularly mindful that dedicated floorspace was committed to within the previous permission.

This is supported by the strengthened policy context supporting policing since the time of the 2007 permission, i.e. the London Plan 2008; LBTH's Interim Planning Guidance on Development Control (November 2007) (Policy IMP1 and SCF1); and LBTH's adopted Core Strategy (2010) (Policy SP03 and SP13).

This approach is supported by the LTGDC and the application will be considered by the LTGDC planning committee on 10 March. The LTGDC committee report recommended the application for approval subject to the completion of a S106 Agreement securing the Heads of Term (HOT) set out in the report, which states "21. Metropolitan Police Floorspace: Minimum of 115 sqm of floorspace to be provided for the Metropolitan Police" (section 9.19.12).

*Whilst this HOT is welcomed in principle, the floorspace should be provided at a peppercorn rent in order to ensure a community benefit is realised. On behalf of the MPA, we therefore request the S106 HOT to secure the provision of **"Minimum of 115 sqm of floorspace to be provided for the Metropolitan Police at peppercorn rent for a minimum period of 25 years, constructed to shell and core fitting at the ground floor of Building B"**, as per the original agreed S106 agreement dated 6 September 2007."*

The applicant has responded to this request from the MPA as follows:

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“The provision of this floorspace has not been accepted by the applicant and as such we will be requesting that the committee report is amended.

The viability of this scheme has been very carefully tested with the LTGDC and Tower Hamlets and an agreed position reached.

This did not take account of providing this space to the Met at a peppercorn rent.

We stand by our offer for you to use our management suite, however, if you are not prepared to agree to this then we cannot honour this beyond the committee date.

If your client is interested in discussing taking space on a commercial basis I would be happy to refer them to my colleagues in management.”

The agents for the MPA have reiterated their request that space be provided at a peppercorn rent in accordance with the previous permission. Given that any such accommodation would be provided in Phase 2 of the development (as opposed to Phase 1 in the previous scheme) which will be some years hence it is considered reasonable for this request to be reconsidered by the Borough at the appropriate time having regard to the monies provided under the S106 for that stage.

7. UPDATE ON ENERGY MATTERS

An update on energy matters was requested from the GLA but has not been received. It is considered that if the GLA Energy Team has any outstanding issues these will be picked up as part of the GLA Stage 2 Report.

8. UPDATE ON VIABILITY MATTERS

Further advice has been received from the consultant acting on behalf of the Corporation and LBTH with regard to the contributions to be delivered by the Heads of Terms under the proposed S106 including triggers for additional payments being generated. That advice has been sent to Ballymore and further negotiations are required - this also responds to one of the main objections from LBTH as to what monies might be generated for the borough from the overall development. This position is as stated at the third bullet point of the first Heads of Term at page 92 of the report and reflected in point (5) of the recommendation.

9. REVISED BRIDGE PARAMETER PLAN

Following discussions with the EA and the PLA, the applicant has reviewed the submitted bridge parameter plan and made a series of changes as follows:

- Substantially rationalised the extent of potential encroachment into the river previously shown.
- Extended the extent of the red line parameter to allow a bridge to cross before the river bend.
- Amended the labelling on the plan to clarify the nature of any potential works that might take place within the river if the navigational safety risk assessment determines that a structure and any associated mitigation in the river is acceptable.

The applicant has advised that it is recognised and accepted by all parties that this parameter plan does not represent the final form of the proposed bridge in any way. The final parameter plan will be informed by the navigational safety risk assessment currently being prepared and will incorporate any changes as required by the navigational safety risk assessment. It is recognised and accepted by all parties that this could result in it being unacceptable to place any structure in the river within the current red line parameter plan.

10. OFFICER COMMENTS ON UPDATED REPRESENTATIONS

These representations are best assessed as four elements – PLA/EA, TfL, LBTH and LBN. Progress has been made on responding to the outstanding objections of the PLA and the EA and given points (2) and (3) in the recommendation it is considered that these matters do not prevent a resolution being made on the application. This is accepted by both organisations and LBTH. The latest requests from TfL relate to both conditions and S106 clauses. As highlighted above in this report, not all of them are acceptable as detailed and indeed TfL recognise that they “may appear to place a lot of demands on the developer”. There is a need to strike the right balance between what should reasonably be required under any recommendation for permission in planning terms, what does not place excessive obligations on the applicant and the powers that TfL have as landowner from whom permission will be needed for the development to be taken forward. It is not uncommon for resolution of such points to occur post Committee and this is recognised in points (4) and (5) of the recommendation with delegation being proposed to the Director of Planning to agree final wording of conditions and the S106.

The objections to the application from LBTH are detailed and

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encompass six points - three relating to concerns of the PLA/EA and three to the level of affordable housing, the low amount of family housing and the monies likely to be secured under the S106. It is accepted by them that the PLA/EA aspects are resolvable and the comments below focus on the housing and S106 aspects. It should also be noted that borough officers were fully involved in the various workshops and discussions around the design of all elements of the scheme, and welcome the improvements to the scheme compared to the previous approval and support it as now designed.

The issue of how much affordable housing can be provided within a scheme in these challenging economic times and justification for agreeing such provision, along with mechanisms for increasing that provision if values allow, has been the subject of various applications considered by the Committee and then supported by the GLA. The baseline offer arising from the values which creates the low percentage of affordable housing is not disputed by our consultant who assessed the financial appraisal. The borough's case is that notwithstanding this fact, the percentage is too low and the housing proposed is not needed to meet its current housing provision target. Therefore the site should remain vacant until economic conditions improve and an affordable housing percentage which meets their policy can be achieved. Reference is specifically made to the Gun Wharf appeal decision where the borough's decision to refuse a development because of the percentage of affordable housing was upheld. Apart from the fact, as members are aware, that each application must be assessed on its own merits the main reason for refusing the appeal related to how the land value was assessed and in effect how much money was left for affordable housing. The Inspector concluded that the approach adopted by the appellant was not in accordance with the GLA toolkit and that too much had been allowed for the price paid for the site when values were much higher. That is not the case with the Leamouth site. The Corporation is charged with helping to bring forward regeneration where appropriate and the statement that this site should be left vacant until the economy improves must be considered in a wider context than just housing numbers and the site itself, which is very visible from the DLR. The location of the site and access arrangements as proposed means that the future residents and businesses will be very much dependent on Canning Town train/bus stations and the proposed district shopping centre across from the stations for a wide range of facilities. However the shopping centre will also benefit significantly from the patronage of the future occupiers of the Leamouth site given the phased provision of new homes on the sites around the centre itself. The assistance to the regeneration of Canning Town is considered to be a material consideration given the remit of the Corporation.

The issue raised by the borough over the values currently proposed to trigger enhanced monies under the S106 provisions is shared and discussions are ongoing. With similar situations in the past it has been

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accepted that provided there are adequate safeguards to maximise the opportunity to achieve a reasonable share of any increases in values, then this is not a ground for refusal.

With regard to the provision of family housing, the borough has a target not a requirement for schemes, and each site is to be assessed on its individual merits. The provision of the family housing is focussed in the first phase and centred around the principal open space, as detailed in the main report, and the arrangements for that housing have been drawn up following discussions between the applicant and its main affordable housing provider in the borough. It is proposed that any additional monies generated by uplift in values will be targeted at increased affordable housing either on or off site – given the timescale for the development this will be a decision for the borough rather than the Corporation. There is undoubtedly a need for further family housing in the borough but this should also be balanced against the wider regenerative values of a residential led development on this important site.

Whilst not within one of the recommended reasons for refusal, the borough also objected to part of the cost of the new river bridge being set against the S106 Tariff. Whilst this bridge is obviously integral to the scheme it also provides significant access improvements for residents and businesses in the wider area beyond the Leamouth site. This was recognised with the previous permission and circumstances have not changed since.

The comments from LB of Newham support the overall design approach subject to good quality materials. The relevant draft Core Strategy policies are generally in support of the proposal. Whilst expressing disappointment over the changes in the way access will be provided to and from Canning Town, the realities of access provision are also recognised. The request for securing improvements to the rotunda and surrounding public realm is supported and indeed the applicants have produced indicative plans as to how this can be achieved. With regard to how contributions provided under the S106 are allocated, in the short term this would be a matter for the Corporation's Board following consultation with the Lower Lea Valley Management Board and then later for whatever successor might be made.

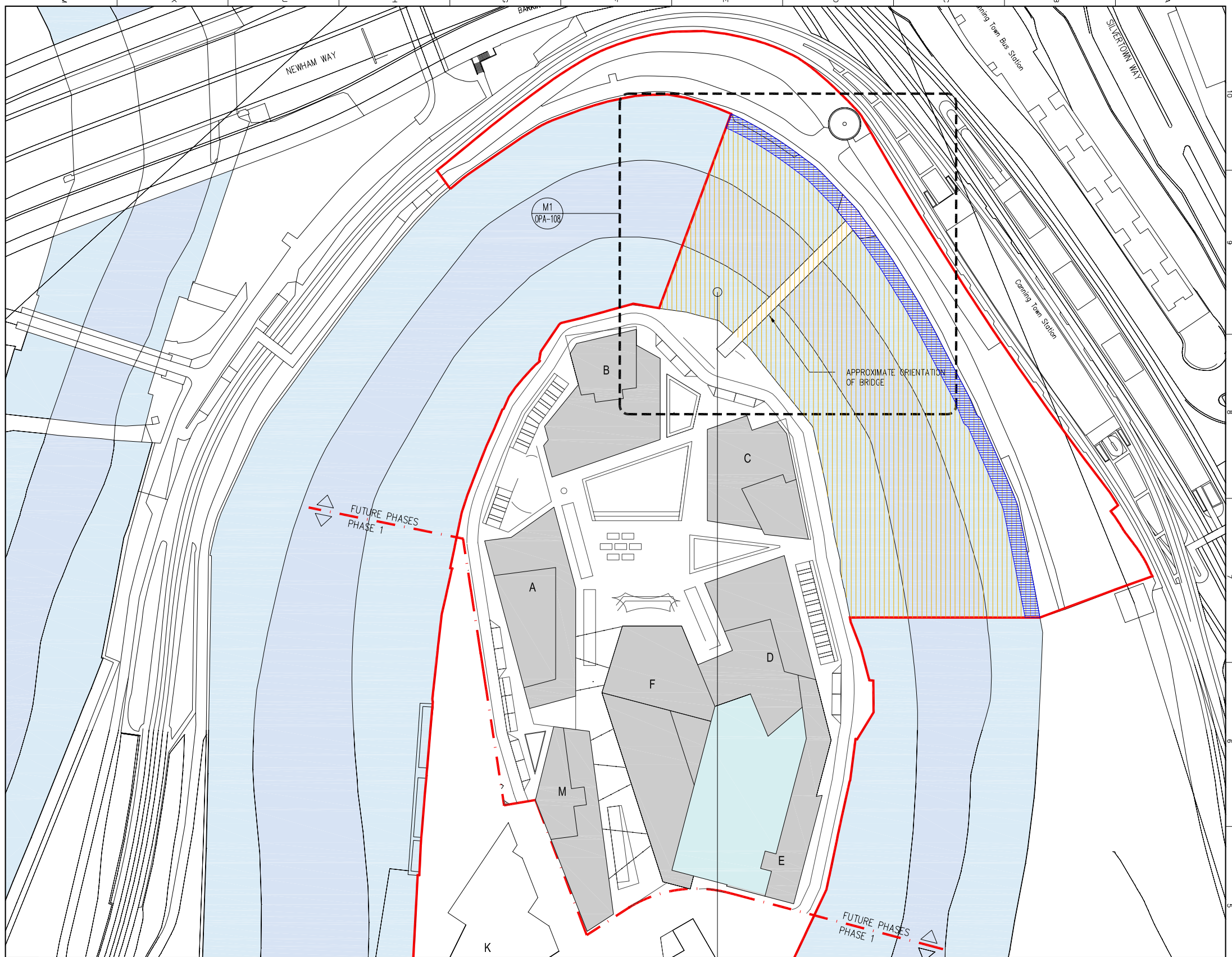
Conclusion

The latest representation detailed above, when assessed in the context of officer comments, are not considered to justify a change in the Section 106 Heads of Terms, conclusion and recommendations as detailed at paragraph 9.19 and sections 10 and 11 of the main report. There will need to be some further discussions around the wording of certain conditions, notably Number 6.

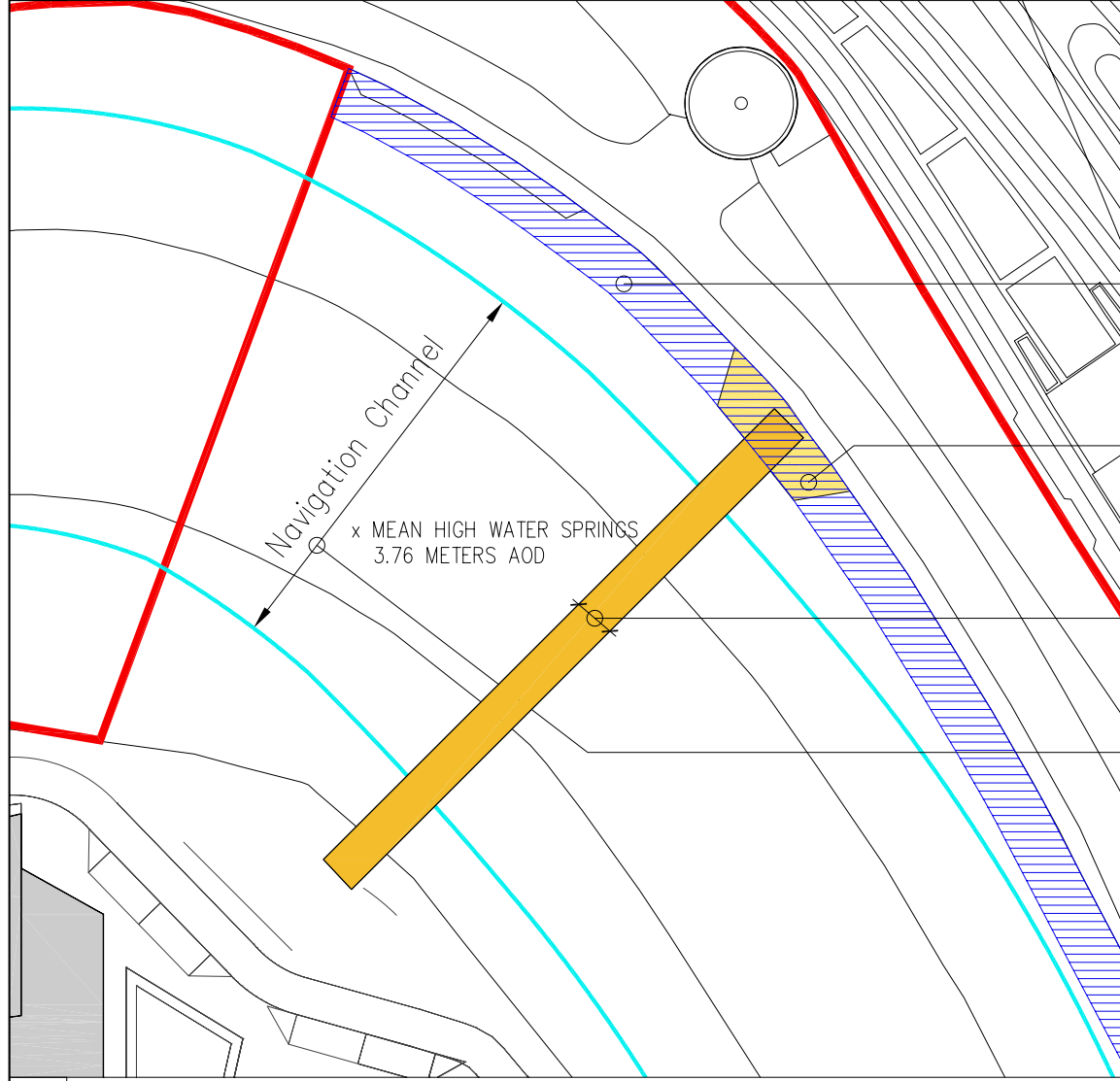
Meeting: 10 March 2011
Agenda Item: 5
Report No: LTGDC/11/PC10

CASE OFFICER: Adele Lawrence

Appendix 1: Revised Bridge Parameter Plan



M5 PLAN - FUTURE PHAES
 OPA-108 SCALE: 1:5000A0



M1 PLAN - PEDESTRIAN AND CYCLE BRIDGE PARAMETERS
 OPA-108 SCALE: 1:2500A0

- BRIDGE LOCATION OVER RIVER LEA**
 - bridge will be located within the area defined by the existing river walls and proposed development boundary
 - BRIDGE LANDING ZONE AT NORTH BANK**
 - landing area as described below will be within 5 meter off-set zone from current river wall inside the proposed development boundary
 - BRIDGE LANDING AREA AT NORTH BANK**
 - the bridge landing area only to be used for bridge support structure (refer to S106 agreement)
 - size to be agreed through detail design stages at all times minimizing the need to put support structure on the river bed
 - PEDESTRIAN/CYCLE BRIDGE**
 - bridge deck will have minimum 4 meters clear width
 - minimum balustrade height 1.4 meters
 - NAVIGATION CLEARANCE**
 - 40 meters wide navigation channel will be provided at Mean High Water Springs
 - Aircraft when bridge is closed will be no less than 5.2 meters above the level of Mean High Water Springs
 - Aircraft when bridge is open will be no less than 9.4 meters above the level of Mean High Water Springs
- PROPOSED DEVELOPMENT AREA

PEDESTRIAN BRIDGE PARAMETER PLAN LEAMOUTH NORTH		Revisions <table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Issue</th> </tr> </thead> <tbody> <tr> <td>00</td> <td>09.07.10</td> <td>ISSUED FOR OUTLINE PLANNING APPLICATION</td> </tr> <tr> <td>01</td> <td>24.02.11</td> <td>REVISED LANDING AREA DEFINITION</td> </tr> </tbody> </table>	No.	Date	Issue	00	09.07.10	ISSUED FOR OUTLINE PLANNING APPLICATION	01	24.02.11	REVISED LANDING AREA DEFINITION
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00	09.07.10	ISSUED FOR OUTLINE PLANNING APPLICATION									
01	24.02.11	REVISED LANDING AREA DEFINITION									
Drawing No: OPA-108 Revision: 01	Date: 09/07/2010 Scale: AS NOTED SOM Job No: Ad209177 CAD File Name: A-OPA-108	Project: LEAMOUTH NORTH									

PARAMETER PLAN

