

Addendum Planning Committee Report

London Thames Gateway Development Corporation

Planning Application LTGDC-09-099-OUT

Report of the Planning Development Manager

1. Summary

1.1 The purpose of this addendum report is to update the Planning Committee on:

- a) The London Borough of Tower Hamlet's (LBTH) highway matters referred to at paragraph 5.14 of the main report;
- b) The letters of objection sent directly to the Corporation (as opposed to being sent to LBTH as part of the public consultation of the application);
- c) The proposed amendments to the reasons to be attached to planning conditions B23, D19 and F20.
- d) The proposed amendments to the recommendation and Section 106 Heads of Terms set out at Section 11 of the main report;

2. Highways and Access

2.1 In formalising its position as a statutory consultee, LBTH made reference to its Highways department's concerns about (1) the level of detail associated with when and how the A12 all movements junction will be implemented and (2) the variety and number of vehicle movements through the junction of Lea Avenue and Imperial Street, (3) traffic queuing to enter the District Centre car park and the impact on the ability of fuel tankers to exit the petrol filling station and (4) the extent to which the delivery bay on Imperial row is sufficient to service the proposed retail units and will be provided as part of Phase 1.

2.2 On 25 May 2010 LBTH Highways issued further correspondence stating that it accepted the proposed development subject to clauses within the Section 106 Agreement requiring a restriction on Phase 1 works commencing until the A12 all movements junction, and any necessary interim road safety measures, being fully designed, tested and signed off by Transport for London and LBTH and the submission of a Construction Management Plan and Servicing Management Plans, and appropriate planning conditions relating to the detailed highway designs and car park management.

2.3 As stated in paragraph 2.2.9 of the main report and page 4 of Appendix 2, Transport for London (TfL) agree that the proposed all-movements junction is workable subject to the detailed design, funding and delivery being worked up as part of the Section 106 Agreement. The proposed Section 106 Heads of Terms includes a clause that prevents commencement of Phase 1 until the necessary TfL approvals are in place. It is also recommended that, in the event that the all-movements junction has not been implemented within 18 months of the end of the Olympic Route Network moratorium on road works, the applicant is required to transfer the necessary funds to the Corporation or its nominee to construct the all movements junction and undertake any interim works to the Hancock Road/A12 junction.

2.4 Paragraphs 9.80 and 9.81 of the main report provide an assessment of how the junction of Lea Avenue and Imperial Street will be designed to accommodate the variety and frequency of vehicular and pedestrian movements. The application promotes a 'shared space' that will reduce the perception that priority is given to vehicles and maintain the east-west pedestrian desire line along Imperial Street. The junction design has been developed in response to the recommendations of a Stage 1 Road Safety Audit. Condition A15 prevents Heavy Goods Vehicle (HGV) servicing during school pick up and drop off times. Condition B2 and B7 require the detailed design of Imperial Street and Lea Avenue, including highway design and layout and surface materials, and the results of a Stage 2 Road Safety Audit to be submitted to and approved by the Local Planning Authority prior to commencement of the Phase 1. This is considered to address LBTH Highway's concern about the number and variety of traffic movements at the junction.

2.5 While it is acknowledged that traffic will queue along Lea Avenue to enter the District Centre car park, this will be limited to the Saturday peak hours. This is considered to be typical of a busy District Centre and does not compromise the safe and efficient operation of the local highway network. The requirement under condition B11 to submit a Car Park Management Plan enables the management of vehicles queuing to enter the car parking to be given consideration. While it is acknowledged that a petrol tanker will oversail the southbound carriageway of Lea Avenue when exiting the petrol filling station, this is considered acceptable given the good junction visibility and wider urban design objectives.

2.6 The Imperial Row delivery bay has been designed to accommodate the number of deliveries anticipated to be generated by the IDEA store and flexible retail units fronting Imperial Square. To ensure the Imperial Row delivery bay is available for use by the Phase 1 flexible retail units, it is recommended that condition B6 be amended as follows:

B6. Works to Phase 1 of the development hereby approved shall not commence until details of the interim vehicular and pedestrian access and servicing arrangements required to provide access to and from the superstore and the flexible retail units have been submitted to and approved in writing by the Local Planning Authority. The interim access and servicing arrangements shall be implemented in accordance with the approved details and to the satisfaction of the Local Planning Authority.

Reason: In the interest of highway safety and urban design in accordance with Policy T18 of the London Borough of Tower Hamlets Unitary Development Plan (adopted 1998, saved from 18 September 2007 by direction from the Secretary of State), Policies CP4,

CP42, CP43, DEV3 and DEV16 of the London Borough of Tower Hamlets Core Strategy and Development Control Development Plan Document (2006) and Policies 3C.18, 3C.20, 3C.21 and 3C.22 of the London Plan (February 2008, Consolidated with Alterations Since 2004).

2.7 Planning conditions B8, D7 and F10 require the submission of Delivery and Servicing Plans for Phase 1, 3 and 5 respectively.

2.8 It is considered that the outstanding highway issues have been adequately addressed on the basis of the Section 106 Heads of Terms and planning conditions referred to above and in the recommendation set out at paragraph 5.2 of this report.

3. Consultation Responses

3.1 In addition to the 3rd party letters of support and objection referred to at paragraphs 7.1 and 7.2 of the main report and submitted in response to public consultation, the Corporation has received 17 letters from employees of Trad Scaffolding Company Limited expressing concern about the loss of existing employment created by the proposed development and the alleged lack of effort to help relocate existing businesses. The objections made to the loss of existing employment land are material to the consideration of the planning application. While the adopted Unitary Development Plan (UDP) locates the site within an Industrial Employment Area, paragraphs 9.11 to 9.24 of the main report refer to up-to-date planning policy objectives and the Secretary of State's ruling that the UDP is out-of date with respect to the application site. The loss of existing employment is considered to be outweighed by the wider planning and regeneration benefits, including its job creation, of the proposed development.

3.2 The objections to the Compulsory Purchase Order, and in particular, the Corporation's alleged failure to identify alternative premises is not material to the consideration of the planning application. Any issues relating to relocation or otherwise of existing businesses should the CPO be confirmed following the Public Inquiry scheduled to commence on 20 July 2010, are ultimately questions of compensation to be determined by the Land Chamber of Upper Tribunal if not agreed between the parties. It should also be noted that Trad Scaffolding Company Limited did not object to the planning application dismissed at appeal in 2007 for redevelopment of the scaffolding site with a residential-led development, and have not objected to the principle of comprehensive redevelopment of the site proposed by the application under consideration.

4. Planning Conditions

4.1 It is recommended that planning conditions B23, D19 and F21 be amended to read as follows:

Phase [1] [3 [5] of the development hereby approved shall not commence until an Energy Strategy has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Greater London Authority.

Reason: To ensure the sustainable design and construction of the development and its efficient use of energy in accordance with Policies CP38, DEV6, DEV7 and DEV9 of the London Borough of Tower Hamlets Core Strategy and Development Control

Development Plan Document (2006) and Policies 4A.1, 4A.3, 4A.3, 4A.4, 4A.6 and 4A.7 of the London Plan (Feb 2008, Consolidated with Alterations Since 2004).

5. Recommendation

5.1 Since the publication of the main report further negotiations have taken place with the applicant to agree the Heads of Terms identified at paragraph 11.1. Further to paragraph 9.148 and 11.1D(4) of the main report, it is recommended that an agreed percentage (capped at £600,000) of constructing the subway improvement and an agreed percentage (capped at £800,000) of the cost of constructing the all movements junction will not be treated as Works in Kind to be offset against a non-residential contribution on the basis that they will be funded by a third party. Conversely, the cost of making the open space and school land available for development will be treated as Works in Kind to be offset against a non residential contribution.

5.2 It is recommended that given the conflict of interest created by the Director of Planning's involvement in the forthcoming Compulsory Purchase Order public inquiry, and in response to the Section 106 negotiations referred to above, Section 11 of the main report be amended to read as follows:

It is recommended that the Planning Committee give delegated authority to the Planning Development Manager to GRANT PLANNING PERMISSION, including any such changes that fall within the scheme of delegation, subject to:

- A. *any 'call in' direction following referral of the decision to the Government Office for London (GOL) as a departure from the adopted Unitary Development Plan;*
- B. *any contrary direction following referral of the decision to the Mayor of London;*
- C. *the conditions set out at Section 12 of the report, together with any amendments or additions considered necessary;*
- D. *the completion of a S106 agreement securing the following Heads of Terms:*
 - 1. *The payment of a discounted standard charge of £10,000 per residential unit (£4,545,000) in accordance with the Planning Obligations Community Benefits Strategy subject to reappraisal of the viability of the scheme following the completion of Phase 1;*
 - 2. *A further payment in lieu up to the difference between the level of affordable housing that the scheme can initially support (26% by habitable room) and 35% affordable housing subject to reappraisal of the viability of the scheme following the completion of Phase 1;*
 - 3. *The payment of a deferred charge (up to £22,600 per residential unit) in accordance with the Planning Obligations Community Benefit Strategy (a proportion to be ring fenced towards providing a maximum of 35% affordable housing) subject to reappraisal of the viability of the scheme following the completion of Phase 1.*
 - 4. *The following Works in Kind to be offset against the non-residential development in accordance with the Planning Obligations Community Benefit Strategy:*

- *The cost of making the land for the open space and the school suitable for the proposed uses (estimated at £500,000);*
 - *The cost of constructing the IDEA store to shell and core (estimated at £2,260,000).*
5. *Transfer of primary school land (made available for development) to LTGDC for £1 within 12 months of superstore opening;*
 6. *Transfer of open space (made available for development) to LTGDC for £1 within 12 months of superstore opening;*
 7. *The IDEA store shall be funded by the applicant to shell and core and made available to LBTH on a new 125 year lease at a peppercorn rent;*
 8. *The A12 all-movement junction to be funded by the applicant subject to a contribution of £800k from a third party and an undertaking that if it is not operational within 18 months of the end of the Olympic Route Network moratorium on road works, the funds necessary to construct the all-movements junction and implement any necessary interim road safety improvements will be transferred to LTGDC or its nominee.*
 9. *No residential unit is to be occupied until the earlier of the completion of a legally binding agreement between TfL and Tesco to fund the delivery of the scheme within a defined programme OR the date at which the junction becomes operational. The restriction on residential occupation falls away if, within 18 months of the end of the Olympic Route Network moratorium on road works, the funds necessary to construct the all-movements junction and implement any necessary interim road safety improvements have been transferred to LTGDC or its nominee.*
 10. *Phase 1 (Blocks A, C and D) shall not be commence until evidence that the A12 all-movements junction, and the interim road safety improvements referred to in heads 8 and 9 (above), have received the necessary highway approvals from Transport for London and the London Borough of Tower Hamlets;*
 11. *The A12 subway works shall be funded by the applicant subject to a third party contribution of £600,000 and be completed and made available for use before the occupation of Phase 1 (Blocks A, C and D);*
 12. *Phase 5 (Blocks E, G, H, J, K and L) shall not commence until the primary school land has been has been transferred to the Local Planning Authority or its nominee;*
 13. *Phase 5 (Blocks E, G, H, J, K and L) shall not commence until the open space land has been transferred to the Local Planning Authority of its nominee;*

14. *Deliver 26% affordable housing (on a habitable room basis) and a 75:25 split between social rented and intermediate and a cascade mechanism in response to the availability of housing grant;*
15. *Deliver an agreed percentage of affordable housing before occupation of an agreed percentage of open market housing;*
16. *Cap the amount of comparison goods floorspace within the superstore to 45% of the net sales area;*
17. *All Phase 1 flexible retail units to be constructed to shell and core and marketed for a minimum of 6 months before the opening of the food store in accordance with an agreed marketing strategy to which the LTGDC maintain an active role;*
18. *Provide 24 hour public access to Imperial Square, Imperial Row, Imperial Street, Lea Avenue, Three Mills Park and Riverside Walk;*
19. *Skills and Training Initiatives;*
20. *Local Goods, Labour and Contractors, including a commitment to establish a Regeneration Partnership;*
21. *S278, and if needed S38, Agreement (the applicant to fund all relevant enabling highway works, including pedestrian/cycling, public realm improvements and signage and maintenance as part of access/servicing proposals);*
22. *Establishment of a car club;*
23. *All monies to be indexed in accordance with the BCIS Index;*
24. *Provision of Affordable Retail and Commercial Units in Phase 5;*
25. *Satisfactory provisions to demonstrate that there is a realistic prospect of delivering the whole of the development within a reasonable timeframe.*

If Members resolve that planning permission be granted, that the Committee confirms that in their decision they have taken the environmental information into account as required by Regulation 3 (2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

Officers are satisfied that the community benefits under the proposed Section 106 Agreement meet the statutory tests prescribed in regulation 122 of the Community Infrastructure Levy Regulations 2010 in that they are:

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*

(c) fairly and reasonably related in scale and kind to the development.

If members agree with the officer assessment, they may take the proposed obligations into account as constituting reasons for granting planning permission, but not otherwise.

Following the issue of the decision a statement be placed on the London Borough of Tower Hamlets Statutory Register confirming that the main reasons and considerations on which the Committee decision was based were those set out in this officer's report to the Committee as required by Regulation 21(1) (c) of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

CASE OFFICER: Will Steadman

Date: 26 May 2010