

## **Addendum Planning Committee Report**

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### **London Thames Gateway Development Corporation**

### **Planning Application LTGDC-08-053-FUL**

### **Report of the Director of Planning**

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#### **1. Introduction**

1.1 This is an addendum to agenda item 3 relating to the proposal at Dovers Corner in Rainham, which was previously deferred by Members subject to further information being provided. Since the committee report was circulated, further information has been received from the London Borough of Havering, from the Health and Safety Executive and from a Havering Councillor.

#### **2. Further representation from the London Borough of Havering**

2.1 On the 9<sup>th</sup> of June, officers received further representation from the Borough advising that they have taken own Counsel's advice on the reasons for refusal that were suggested to the Corporation and whether the officer reports to the committee appropriately record the arguments which Members are invited to consider.

2.2 In summary, the advice to Havering was that the first two reasons for refusal are "legitimate and defensible", the third reason whilst dependant on the first two "carries planning weight in its own right" and reasons four and five would be legitimate reasons for refusal subject to the appellant not being able to provide the appropriate evidence.

2.3 The Counsel opinion to Havering goes on to state that the reports to the planning committee are deficient in two primary respects, being firstly that they do not adequately spell out the breaches in planning policy and secondly that they do not adequately argue the non-viability of a scheme which would be compliant with policy.

2.4 Havering's further letter of objection is attached to the addendum.

#### **3 Further Representations from the Health and Safety Executive**

3.1 Following the receipt of further information provided by the pipeline operators, the HSE have confirmed that the consultation zones affecting the development site have been reduced. However, despite this reduction, the HSE still advises against the proposals.

3.2 It is not known whether the HSE will appear at the Public Inquiry.

#### **4 Further Representation from Havering Councillor**

4.1 Havering Councillor Burton has provided copies of the pro-forma objection letters dating back to May 2008. These objections have reported in the original committee report and are available for Members to view. An example of one is attached.

#### **RECOMMENDATION**

Remains as previously reported, that is had the appeal not been lodged, Members would have resolved to grant permission subject to the Section 106 Heads of Terms and conditions as set out in the report.

**CASE OFFICER:** Stephen Allen

**Date:** 10 June 2010



**Havering**  
LONDON BOROUGH

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Date: 9 June 2010

My Reference: PK/U0002.08

Dear John

**Application Reference U0002.08 - Dover's Corner**

Following the LTGDC Planning Committee's 13 May deferral of its decision on the above, Havering Council has taken its own Counsel's advice on the reasons for refusal it has suggested to the Corporation. Havering also asked Counsel to consider whether the officer report(s) to the Corporation's planning committee appropriately record the arguments which your committee members are invited to consider.

I ask that the following comments, reflecting Counsel's advice, be drawn to the LTGDC Planning Committee's attention in evidence of Havering's continued, strong objections to the proposal.

In Counsel's view reasons for refusal 1 and 2 suggested by Havering represent legitimate and defensible reasons for refusal. The following matters are pertinent to Counsel's view.

There is a recently adopted DPD policy which explicitly controls the height of redevelopment and suggests it should be of no more than three storeys. The buildings on the site are generally in excess of three storeys, and in a number of cases, by a considerable margin.

The design, particularly the inward looking nature of the scheme, is criticised not only by the Council but also by both CABI and the GLA and its design advisers.

The design also fails to respond adequately to the Rainham Conservation Area. It is a further explicit requirement of the adopted statutory development plan policy that the development "reflect the character" of that Conservation Area.

The view taken in the LTGDC Committee report is that the scheme, whilst not the best that could be obtained, is nevertheless acceptable. However, it has been made clear by PPS1 that good design is a necessary requirement of all developments and that the focus of the planning process should not simply be on permitting the acceptable but instead on encouraging the excellent.

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INVESTOR IN PEOPLE

In those circumstances, the proposals would appear on their face to be contrary to the development plan and important elements of national policy. As such, the appellants would need to point to material planning considerations which were sufficient to outweigh that breach of the development plan. There appear to be two principal reasons relied upon in the content of the Committee report. First, it is stated that the nature of the existing buildings on the site is such that the development proposed will nevertheless represent an improvement over what is present and, importantly, will improve the setting of the Conservation Area. Second, it is suggested that reasons of financial viability mean that a development which complies with the height requirements of policy SSA12 cannot be taken forward.

The former justification does not appear to encapsulate any analysis of the new tests set out in PPS5 (which, though referred to in the most recent report, are not analysed). Policy now requires that the particular elements which give a conservation area, and/or its setting, its value as a heritage asset must be identified. Only then can it be understood whether or not the proposal responds positively, or does harm, to those elements. More generally, the approach which says, in effect, "anything would be better than that which is there now" ignores the strictures of PPS1, referred to above, concerning design quality.


As to the viability issue, there is no evidence on which the Council (and, by extension, the Secretary of State on the appeal) could properly conclude that a scheme which was compliant with policy SSA12 would *not* be viable. The officer report to LTGDC committee has explicitly declined to reveal such viability evidence.

The remaining reasons for refusal suggested by Havering deal with more detailed points. Reason for refusal 3 points out the importance to the redevelopment of the area as a whole of securing an exemplar development at Dover's Corner. This reason is dependent upon the success of reasons 1 and 2 but, if those are made out, this reason for refusal carries planning weight in its own right.

As to reasons for refusal 4 and 5, it is noted that the appellants may try to address these by seeking further modifications to the scheme or by submitting further detailed evidence so as to seek to overcome these objections by the time of the inquiry. It would be reasonable to anticipate in a development of this size that a satisfactory section 106 obligation could potentially be completed to overcome issues of contribution to infrastructure. In the event that this were not the case, the decision maker, provided they were able to marshal appropriate evidence in support of the contributions it suggests, would have further legitimate reasons for refusal upon which it could make its case at the inquiry.

Turning to the adequacy and balance of the reports to the LTGDC planning committee, Counsel advises that those reports are deficient in two primary respects. First, they do not adequately spell out the details of the breaches of planning policy which have been outlined above. Second, they do not spell out the central importance to the appellant's case, in response to those breaches of planning policy, of the argument as to the non-viability of a scheme which was compliant with policy.

Yours sincerely



Patrick Keyes  
Head of Development and Building Control

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May 2008

Dear Sir/Madam

**OBJECTION to Planning Application No U0002.08. Dover's Corner, Rainham Essex.**

I totally object to the above application for the following reasons:

- The density of this development is far too high (750 dwellings in 11.5 hectares). This is only achieved by cramming tenants into flats/apartment blocks, some of which are up to 10 storeys high. Contrast this to the nearby Mardyke Estate, where tower blocks are currently being demolished!
- The design of the development is basic, unattractive and can only be described as a future 'sink' estate.
- We do not have the infrastructure to support a development of this scale, which will accommodate at least 2,500 people. Where will they go for dental or medical care; already our doctors and dentists are oversubscribed, with residents often having to wait 5 days for an appointment as we are 3 doctors short in Rainham alone.
- Where will the children go to school? Local schools are already oversubscribed.
- Where will the residents work? It won't be locally, so they won't be investing in the future of Rainham's economy.
- This proposal contravenes policy ENV1, as it will not maintain or enhance Havering's existing open and spacious residential character. The concreting over of Rainham cannot achieve this.
- The views of our residents, who took part in the public consultation which was included in the Site Specific Allocations for Havering's Development Options, must be taken into account when a decision is made. Residents have made it perfectly clear that they don't want over development, mass housing or tower blocks.

Dover's Corner is the Gateway to Rainham Village Conservation Area, and the Southern gateway to London. Any development on this important site must be of high quality, not more than 3-storeys high, and must include expansion of Rainham Creek to accommodate a Thames Sailing Barge as a museum or restaurant. It must also include a purpose built Health Centre.

Please make my views known to the Planning Committee and , and acknowledge receipt of this letter.

Yours faithfully

Signed: 

Name and address:

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