

Planning Committee

Tuesday 27 November 2018

6.30 pm

Ground Floor Meeting Room G01C - 160 Tooley Street, London
SE1 2QH

Addendum Report

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Item No: 7.1 and 7.2	Classification: Open	Date: 27 November 2018	Meeting Name: Planning Committee
Report title:		Addendum report Late observations and further information	
Ward(s) or groups affected:		Old Kent Road & Camberwell Green	
From:		Director of Planning	

PURPOSE

1. To advise members of observations, consultation responses and further information received in respect of the following planning applications on the main agenda. These were received after the preparation of the report and the matters raised may not therefore have been taken in to account in reaching the recommendation stated.

RECOMMENDATION

2. That members note and consider the late observations, consultation responses and information received in respect of each item in reaching their decision.

FACTORS FOR CONSIDERATION

Item 7.1 – Application 17/AP/4797 for: Full Planning Application – Burgess Business Park, Parkhouse Street, London, SE5 7TJ

Update on childrens' playspace (page 104)

3. It is currently intended that the external space in the middle of the central street would be used as spill out spaces for the various commercial uses which would line the street. However, the applicant has advised that some or all of this space could be given over to childrens' playspace if required, which would add up to 360sqm of additional playspace to the development. This would require the s106 playspace contribution to be adjusted accordingly.
4. Officers consider that a mix of both additional playspace and spill out space for the commercial units would be beneficial, and therefore recommend that half of the space (180sqm) be given over for additional playspace, and the s106 contribution adjusted accordingly. An additional condition has also been included below requiring details of the play equipment to be submitted for approval.

Update to the Planning Obligations section of the report (page 123)

5. A planning obligation is required to secure an affordable housing, upwards only review mechanism in the event that the scheme has not been substantially implemented within two years of permission having been granted, and a late stage review prior to the occupation of more than 75% of the units.

Additional representations received

6. A letter was received yesterday from the Southwark Law Centre objecting to the application on the following grounds:

Land use principles

- Scale of loss of industrial accommodation within a PIL. Current vacancy rates are a result of managed decline by the land owners.

- Information about demand for industrial accommodation is outdated.
- If the current premises were let on reasonable rates to businesses, the employment creation within the existing buildings would be much higher than the stated job creation under the application proposals.
- The proposal fails to re-provide the employment floorspace, as required by the draft new Southwark Plan site allocation and the draft London Plan.

Officer response:

7. The officers report acknowledges the scale of the loss of industrial floorspace, and the fact that the level of re-provision does not meet the draft site allocation on the NSP. The Southwark Employment Land Study 2016 recommended that for this site the Council should support mixed use development, or possible release for residential use. The officers report sets out the benefits of mixed use development, and the impact on affordable housing delivery of including a greater quantum of employment floorspace. The report concludes that, on balance, the loss of employment floorspace can be approved on the basis of the 'off-pitch' location, the better quality floorspace provided, and the significant contribution of housing and affordable housing.

Affordable Housing

- The provision of affordable housing (35%) falls below the 50% threshold for the release of industrial land required by policy H6 of the draft London Plan.
- The viability analysis is flawed – if the analysis suggests that only 19.4% affordable housing is viable, but 35% is offered, then the viability methodology must not be realistic.

Officer response:

8. The draft London Plan Examination in Public will commence in January 2019, and at the current time the draft policies have limited weight. The affordable housing provision meets the current London Plan and saved Southwark Plan/Core Strategy policies. Any permission would be subject to early stage viability reviews if commencement is delayed beyond 2 years, and a late stage review prior to the occupation of more than 75% of units. The applicant has taken the view that value growth, or cost savings, may enable them to reach a reasonable level of profit whilst delivering the committed level of affordable housing.

Density

- Density is unacceptable, and the quality of accommodation does not meet the test of exemplary design. Units have an under-provision of amenity space, and the communal amenity space is not available to all, and fails to comply with BRE guidelines.

Officer response:

9. The report sets out the areas where the scheme does, and doesn't, meet the expectations for exemplary quality of accommodation. The factors where the accommodation is not exemplary must be weighted in the balance with the positive aspects of the proposals.

Amenity Impacts

- Levels of loss of daylight and sunlight amenity are unacceptable. Severe amenity losses will not be outweighed by residents' benefits of the scheme.

Officers response:

10. The impact on neighbours amenity are set out in the officers report, and the impacts beyond those recommended by the BRE are acknowledged. Some neighbours will lose daylight and sunlight as a result of the scheme, but could benefit from other improvements to their amenity arising from the improved outlook, or removal of existing uses such as the carwash which adversely affect amenity.
11. Eight additional representations have been received in support of the application on the following grounds:
- Would boost employment in the area;
 - Social rented accommodation is a good idea as not everyone can afford to buy;
 - Beneficial for the community.
 - Would like to see a play area for children under 5 years old.

Additional conditions

12. The following two conditions are recommended:

- *A minimum of 2, 023sqm of the B1 floorspace hereby permitted shall be used for B1c purposes only (light industry appropriate in a residential area).*

Reason

To ensure that the commercial units would be suitable for a broad range of occupiers, in accordance with strategic policy 10 'Jobs and Businesses' of the Core Strategy (2011).

- *No later than 6 months prior to occupation details of the play equipment to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. The play equipment shall be provided in accordance with the details thereby approved prior to the occupation of the residential units. All residents within the development shall have access to childrens' playspace within the development in perpetuity.*

Reason

To ensure that there would be adequate play facilities to serve the development, in accordance with saved policy 4.2 'Quality of accommodation' of the Southwark Plan (2007) and strategic policy 13 'High environmental standards' of the Core Strategy (2011).

Item 7.2 – Application 17/AP/4819 for: Full Planning Application – LAND AT 313-349 ILBERTON ROAD, LONDON SE15

Additional Consultation Responses

13. One late letter of objection was received since the publication of the Committee Report. This brings the total number of consultation responses to 11, with 11 objecting to the scheme
14. The additional objection is from the Southwark Law Centre that can be summarised as:
- Scheme is contrary to adopted and emerging policy
 - The Officer's recommendation is undermined by a flawed evidence base.
 - Affordable Housing offer does not meet the 50% required for industrial land
 - The design and density of the scheme
 - Daylight and sunlight assessment

- Scheme is contrary to adopted and emerging policy
- The Officer's recommendation is undermined by a flawed evidence base.

Policy and evidence base

15. Southwark Law Centre's raises the shortfall of employment floorspace being contrary to emerging policy and the proposed revisions irrational. The letter states:

"Because the industrial floorspace proposed is not genuine (see GLAs stage 1 response, paragraph 19), net loss of industrial accommodation is 100%. No replacement is offered for that which is presently on site. This loss is contrary to London Plan ("LP") Policies 2.17 and 4.4, draft London Plan ("DLP") Policies E4, E5 and E7, the adopted local plan and the emerging local plan site allocation – all of which indicate clearly that there should be no net loss. The GLA have stated the scale of loss makes the scheme unacceptable.

The original scheme submitted was in principle policy compliant, but the officers encouraged the applicants to reduce the re-provision of non-residential floorspace (see paragraph 16 of the Officers Report ("OR")). This approach is irrational and entirely contrary to the no net loss principle.

The OR refers at paragraph 56 to the evidence base used for the preparation of the Southwark Core Strategy, indicating that structural changes in the economy are resulting in a declining need for industrial land in London. This is a misleading approach. The Core Strategy was prepared in 2010 and adopted in 2011. The evidence base used for it is therefore considerably out of date. Furthermore, subsequent evidence (the 2014 GVA Southwark report; and the currently suppressed 2018 GVA/00 Architects Southwark report) tell a different story: there is no shortage of demand for industrial land in this part of London."

Officer Response:

16. In response, the scheme proposes 1161sqm of genuine employment floorspace that would be provided at ground floor and first floor in the form of ten workspaces capable of use by small to medium sized enterprises, start up and creative type businesses within the B1 use class. Overall, this proposal would result in a shortfall 202sqm in the employment floorspace re-provision which equates to a 9.5% shortfall.
17. As noted in paragraph 16 of the main report the proposed scheme was revised following negotiations. Officers reviewed the design with the applicant to improve the overall quality of the scheme's which focused on the quality of residential, workspace and public realm offer, in light of the site's constraints and long frontage to Ilderton Road.
18. The design improvements Officers secured included:
- Improved footway widths and public realm so that people will have more space to walk up and down Ilderton Road and have access to the bus stop.
 - Improved access for residential and commercial servicing from Ilderton Road.
 - Improved design to the ground floor units that specifically allows individual units to have their own defensible space in front of the unit.
 - Improved internal ground floor layout for residential cores, lift locations, binstores and bike stores.
19. On balance, officers concluded that the benefits of these material design improvements outweighed the small (9.5%) reduction of commercial space that is

contrary to policy, and having had regard to the quantum and quality of the reprovided commercial workspace (90.1% reprovision/1661sqm) that has been specifically designed for B1 use on a constrained site and the provision of a 130 new homes on the site.

20. It is also noted that a financial contribution of £1848.09 for the loss of 202sqm will be secure through the Section 106 agreement.
21. The GLA's Stage 1 report states that "...any commercial use must therefore replace the existing B1(c) or B8 floorspace in line with Policies E7 and E4 of the draft London Plan." (Paragraph 19)
22. The draft Old Kent Road Area Action Plan identifies the application site as appropriate for B1(a) and B1(c) uses as a result of the constrained shape of the site and the servicing challenges this presents.
23. A condition is recommended to ensure the fit out of all the proposed B1 space of the proposed development to meet B1(c) requirements – so that industrial processes can be carried out in any residential area without causing detriment to the amenity of the area - and particulars to be submitted for approval by the Local Planning Authority.
24. In response, it is noted that the supporting text of Core Strategy Policy 10, adopted in 2011, does state that industrial land use is declining. However, the draft Old Kent Road Area Action Plan and current and draft London Plan recognises the importance of industrial floorspace and require reprovision.

SIL release

25. Southwark Law Centre's raises the issue of phased Strategic industrial Land release and the agreement between LBS and the GLA. The letter states:

Even though the GLA and LBS have agreed the phasing of SIL release, and the inclusion of this application site's SIL land in the first phase, the designation has not yet changed, and the land has not yet ceased to be SIL. At paragraph 279, the Officer refers to the Local Plan requirement for the process of SIL consolidation to be 'strategically coordinated'. There has been no such process. At best, the agreement between the GLA and LBS represents the very first stage in the process which will only conclude with the adoption of a sound Old Kent Road Area Action Plan ("OKR AAP") – something that will need significant amendment in this regard because in draft form it shows a 50% reduction of industrial footprint, completely at odds with both adopted and emerging strategic policy. To assume, as the Officer does, that the agreement between the GLA and LBS on SIL release is the final word on strategic coordination, and represents its conclusion, is incorrect, since it ignores the GLA's crucial strategic objective (embodied in the DLP) of 'no net loss' of industrial accommodation. Furthermore, strategic coordination of SIL consolidation/release must go hand-in-hand with the policy objectives for that consolidated land, such as continued industrial accommodation capacity levels, whether in existing form or as part of mixed-use schemes.

The Officer's error is to treat the agreement to release SIL in phases as if it represented SIL release itself. But that assumption upsets the whole purpose of having a formal Examination in Public of the New Southwark Plan ("NSP") and OKR AAP, given the central importance of SIL designation or release.

If and when the land in the application site is released from SIL designation, strategic policies E4, E5 and E7 in the DLP require development that co-locates industry with residential and other uses to deliver at least as much, preferably more, industrial accommodation.

Map 4.1 of the draft London Plan shows Southwark as a limited transfer borough with exceptional planned release. Furthermore, the draft London Plan shows Southwark in the 'retain' category for industrial accommodation capacity – and thus the 'no net loss' principle is of vital importance, or else that categorisation has no force.

Officer Response:

26. In response, the main report identifies that the proposal would represent a departure from the adopted development plan. This departure must be weighed against the benefits of the scheme which include:
- the provision of housing, of which 36% would be affordable;
 - substantial re-provision of 1661sqm of B1 commercial floorspace, which does represent at a small loss of 202sqm of commercial floorspace;
 - the provision of good quality, flexible commercial space that has been designed to include units of varying scale;
 - the delivery of 161sqm of affordable workspace;
 - improved on street servicing for the commercial and residential space;
 - job creation;
 - optimised use of the site.
27. The Old Kent Road Area Action Plan is seeking to have no net loss of industrial floorspace over the wider plan area as in the New London Plan.

Phasing

28. Southwark Law Centre's letter raises the issue of delivering commercial uses prior to residential occupancy in accordance with draft London Plan policy E7. The letter states:

The OR fails to have regard to DLP Policy E7, paragraph E.3, on SIL intensification that requires industrial replacement to be completed in advance of residential development being occupied (per development, not per phase). In this proposed scheme, there is no attempt to ensure industrial phasing in advance of residential. This aspect of non-compliance is not even acknowledged, let alone addressed, by the Officer. Neither does the officer consider any Grampian, or negative, condition – postponing occupation of residential development pending completion of the industrial development.

The legal consequence is that the report is flawed by failure to have regard to a material consideration. The practical consequences of this failing for local businesses are profound. Due to the severe borough-wide shortage of similar space, businesses in the Old Kent Road area are being forced to move a long way for a considerable period of time, if not permanently, because of the kind of approach that is being taken in this, and many other, applications.

Officer Response:

29. In response, the proposed scheme is a mixed use building whose vertical mix of commercial and residential uses would be delivered through a single construction phase. It is not possible therefore to split the development into two phases. However, a condition is recommended that the residential accommodation is not occupied until the commercial floor space is fitted out to the approved B1(c) standard.

Prematurity

30. Southwark Law Centre's letter raises the issue of prematurity. The letter states:

Paragraph 82 of the OR gives the misleading impression that the proposed scheme, whilst being inconsistent with current adopted policy, is nonetheless not 'premature' because it is consistent with emerging policy (both strategic and local). This is untrue.

The report simply fails to engage with the ways in which it is inconsistent with emerging policy.

Approving the scheme would be flawed for prematurity, as defined at NPPF paragraph 49 (2018 revised version), since the scale of industrial accommodation loss would make the commitment in the NSP to no net loss entirely undeliverable. It would thereby undermine emerging policy.

Officer Response:

31. In response, the issue of prematurity is addressed in paragraphs 54 and 82 of the main report. It is considered that the small loss of 202sqm of floorspace in this instance would not undermine emerging policy.

- Affordable Housing offer does not meet the 50% required for industrial land

32. Southwark Law Centre's letter raises the issue of an under-provision of affordable housing contrary to emerging London Plan policy.

Officer Response:

33. The proposal provides a minimum of 35% affordable housing units (by habitable room) in accordance with adopted policy.

34. The scheme is not contrary to policy H6 of the draft London Plan. Policy H6 requires schemes that don't achieve a 50% level of affordable housing on Strategic Industrial Land to be subject of a viability assessment. This scheme has been the subject of a viability assessment that shows it is providing the maximum amount of affordable housing. Any permission would be subject to early stage viability reviews if commencement is delayed beyond 2 years, and a late stage review prior to the occupation of more than 75% of units.

- The design and density of the scheme

35. Southwark Law Centre's letter raises the issue of high density development and that design quality does not meet exceptional standards due shortfalls of amenity space, playspace and open space.

Officer Response:

36. The main report sets out the where aspects of the proposed scheme does, and doesn't, meet policy requirements. The factors where the accommodation is not exemplary must be weighted in the balance with the positive aspects of the proposals.

37. Overall, Officers consider the accommodation to be of a good quality and the density of the scheme is acceptable.

- Daylight and sunlight assessment

38. The Southwark Law Centre's letter raises the issue of assumption in relation to the type and number of rooms being affected by daylight/sunlight loss. The letter states:

The OR falls into exactly the same error as that identified by the High Court in R (Rainbird) v London Borough of Tower Hamlets [2018] EWHC 657 (Admin), at paragraph 87 – it fails to identify the number of habitable rooms affected in each property. Paragraphs 154-155 of the OR make unsupported assumptions about the

number and type of rooms affected in excess of the BRE guidelines by daylight loss (NSL). This is a failure to adequately advise the committee.

Officer Response:

39. Paragraphs 154-155 identify the windows that may be affected as a result of the development. None have been assumed as non-habitable and are therefore assessed.

Location of affordable units

40. For clarity, the locations of the 46 affordable units that are proposed within the scheme are set out below:

Block	Market units	Social Rent units	Intermediate units	Total	Wheelchair units
A	26	30	16	72	5
B	58	0	0	58	8

Communal amenity space

41. Three communal amenity spaces are proposed within the development that totals 562sqm. Details are set out below:

Communal Amenity Space	Location	Size	Who has access?
Space 1	On the podium between Block A and B, Level 3	288sqm	<u>Block A: 72 units</u> 30 Social rented units (floors 2-6) 16 Intermediate units (floors 7-9) 26 Market units (floors 9-14)
Space 2	Block A, Level 13	159sqm	<u>Block A: 72 units</u> 30 Social rented units (Floors 2-6) 16 Intermediate units (floors 7-9) 26 Market units (floors 9-14)
Space 3	Block B, Level 11	115sqm	<u>Block B – 58 units</u> Market units (floors 2-12)

42. A total communal amenity space of 447sqm is available to the 72 units in Block A. 115sqm is available to Block B.
43. The detailed design and layout of each of these spaces will be secured by condition with service charges for maintenance split between all units.

Guarding to communal amenity spaces

44. Part K of the Building Regulations (2013) requires guarding to balconies to protect people from falling. The minimum height required for guarding as detailed in Part K is 1.1 metres.
45. The applicant has proposed guarding of 1.2 metres to the communal areas and this would comply with the minimum height requirement. However, the applicant has

indicated that they are willing to increase the height of the proposed guarding and this would be secured through the proposed landscaping condition.

Residential service charges

46. All residential units, including social rented units, are likely to pay a 'reasonable' service charge to pay for the upkeep of communal areas and services within the building. The services charges would be limited at a level to cover the costs of providing the services, and would be proportional to the size of the unit and the type of any tenancy.
47. In relation to social rented unit service charges, HCA rent standards guidance (3.213, 2015) states that: *"Service charges are subject to separate legal requirements, including tenancy agreements. They are limited to covering the cost of providing the services ... However, it is expected that registered providers will endeavour to keep increases for Housing Benefit eligible service charges within the Guideline Limit. Registered providers should, therefore, properly distinguish between rents and service charges."*
48. Service charges may include the costs of:
 - Communal cleaning and cleaning of communal windows; litter picking; removal of rubbish and fly tipping from communal areas; tidying and cleaning of communal bin store areas; removing graffiti and grounds maintenance (where undertaken by the scheme managers)
 - Inspection and servicing of CCTV equipment
 - Reporting and co-ordinating repairs to communal areas
 - Programming of communal door, car park and gate fobs and cutting of communal keys
 - Management of communal car parks; inspection of car park barriers; dealing with abandoned vehicles; litter picking
 - Management of children's play areas; health and safety checks; litter picking
 - Administration and line management where related to eligible activities.

Amendments and Corrections

49. Paragraph 59 – 'merging' should read 'emerging'
50. Paragraph 117 – 13 wheelchair units are provided, but this is a 10% provision, not a 13% provision.
51. Paragraph 133 – Three communal amenity spaces are proposed and not two.
52. Updated plan numbers are as follows:
 - 2495_GA-P-A-L15 P5 updates 2495_GA-P-A-L15 P3
 - 2495_FT-B-3B5P-01 P4 updates 2495_FT-B-3B5P-01 P3
 - GA-P-A-L07 P2 replaces GA-P-A-L07 P1
 - GA-P-A-L08 P0 is a new plan as Level 8 previously matched Level 7

REASON FOR URGENCY

53. Applications are required by statute to be considered as speedily as possible. The application has been publicised as being on the agenda for consideration at this meeting of the planning committee and applicants and objectors have been invited to attend the meeting to make their views known. Deferral would delay the processing of the applications and would inconvenience all those who attend the meeting

REASON FOR LATENESS

54. The new information, comments reported and corrections to the main report and recommendation have been noted and/or received since the committee agenda was

printed. They all relate to an item on the agenda and members should be aware of the objections and comments made.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Individual files	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403