

Planning Committee

Tuesday 3 July 2018

6.30 pm

Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1
2QH

Addendum No. 1

List of Contents

Item No.	Title	Page No.
6.1.	SHOPPING CENTRE SITE, ELEPHANT AND CASTLE, 26, 28, 30 AND 32 NEW KENT ROAD, ARCHES 6 AND 7 ELEPHANT ROAD, AND LONDON COLLEGE OF COMMUNICATIONS SITE, LONDON SE1	1 - 7

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Date: 3 July 2018

SHOPPING CENTRE SITE, ELEPHANT AND CASTLE, 26, 28, 30 AND 32 NEW KENT ROAD, ARCHES 6 AND 7 ELEPHANT ROAD, AND LONDON COLLEGE OF COMMUNICATIONS SITE, LONDON SE1

ADDENDUM

Land use, equalities and trader support

1. Correction and update to paragraph 6 (page 16) of the officer report:

...a temporary retail facility would be created on Castle Square... to the ~~west~~ east of the site. A planning application for the temporary retail space has now been submitted, and it proposes that the space be available in priority to independent traders within the east site red line, not just the shopping centre (reference 18/AP/2108).

2. Updates to paragraph 174 of the officer report (page 54)

The passport interview office and London School of Management have not occupied Hannibal House since 2011 and 2015 respectively.

3. Correction to paragraphs 195 (p58), 218 (p62) and 221 of the officer report:

This would equate to between 1823.4-2,109.4 2,104sqm depending on how flexible space on the west site were used.

The Elephant One development contains 471sqm of affordable retail space, not the 411sqm stated. This means that an additional 60sqm of affordable retail space would be available in the opportunity area, taking the total up to 3,926sqm when affordable retail within the proposed development is included. This compares to 4,005sqm understood to be currently occupied by independent traders within the east site red line.

4. Update to paragraph 224 (p68) summary of equality impacts

Characteristic	Effect	Reason	Mitigation
Age	Negative	Social value of indoor space. Could have a differential effect on older people.	High quality, accessible public realm, covered courts and galleries within the proposed shopping centre, seating areas, space for mobility scooters.
Race	Negative	Loss of bowling alley, mainly used by people from BAME backgrounds.	Provision of new leisure floorspace within the development.
Sex	Neutral	Female business owners (32.5% female, and 40% female from Latin American businesses.	None required.
Sex	Neutral	Female bingo players (59%)	Offer of first refusal to bingo operator to lease some of the leisure space.

5. Additional information regarding a Trader Panel – the officer report advises that if there is a resolution to grant permission, a Trader Panel would be set up to oversee the delivery of the relocation strategy. Officers recommend that this would be set up within

one month of a resolution to grant, to allow time for potential panel members to be approached and assembled.

Environmental Impact Assessment

6. Correction to paragraph 270 (page 75)
 ...The creation of 1, 230 construction jobs per year over the approximate 10 year construction period.

Affordable housing

7. Correction to table at paragraph 361 of the officer report (page 93): This correction also applies to the table at paragraph 362 of the officer report.

	Proposal (units)	% of AH in hab rooms	SP6 requirement	P4 requirement
Social rent	116	38%	50%	34%
London Living Rent	53	44% <u>15%</u>	50% for LLR/DMR combined	52%
Discount Market Rent	161	47%		14%
TOTAL	330	99% <u>100%</u>	100%	100%

8. Correction to paragraph 378 of the officer report (p95)
 ...In effect, as a result of the provision of 74 116 social rented units..
9. Correction to paragraph 383 of the officer report (p95)
 Delete reference to social rent equivalent units.
10. Additional information to supplement paragraphs 348-415 of the officer report (pages 91-101)
11. Viability review of applicant's revised offer – GVA which is advising the Council on the viability of the proposed development has confirmed that the applicant's revised affordable housing offer, which includes an agreement in principle for grant funding from the GLA, is the maximum that the development can reasonably support. GVA has also confirmed that the provision of grant funding would not increase the developer's profit in comparison with the earlier affordable housing offer which included 74 social rented units.
12. Corrections to paragraphs 393, 394 and 412 of the officer report:
 The proposed affordable housing would equate to 35% by habitable room, not 36% as stated in the report.
13. Correction to paragraphs 405 and 414 of the officer report (p99 and 101):
 Any uplift would be to deliver more London Living Rent units in line with draft policy P4. The number of social rented units would already comply with draft policy P4. Delete references to social rent 'equivalent' units.

14. Changes in tenant incomes – The s106 agreement would have to include a mechanism to ensure that the tenure split within the development between London Living Rent (LLR) units and Discount Market Rent units (DMR) would remain as consented if people's incomes were found to have changed at the end of a 3 year tenancy review. One possible way of doing this would be to allow tenants who had received a pay rise which moved them from LLR to DMR to stay in their flat, but paying a higher rent to reflect their changed circumstances, with another affordable housing unit swapping from DMR unit to LLR. This would maintain the required tenure split within the s106 agreement. However, if a situation were to arise where there were no other vacant DMR units to swap to LLR within a period of 6 months from the end of the 3 year tenancy, then the tenant who had received a pay rise would stay in the same flat and would continue to pay the same rent (LLR). In reality not all of the blocks would be occupied at the same time, meaning that 3 year tenancies would end at different times making it easier to provide a compensatory LLR unit.
15. Another possible way of achieving this could be to monitor the number of LLR and DMR units within the development each year, and if it were found that because people's incomes had changed they were paying DMR rent for a certain period of time and no compensatory LLR units had been provided, an equivalent number of LLR units would have to be provided within the development for that same period of time in order to bring the tenure split back as consented. Officers would continue s106 negotiations to ensure that the principle of maintaining the consented tenure split were secured within the legal agreement.
16. Viability of a build-to-sell scheme on the west site – The applicant's revised affordable offer includes a fall-back position where the units on the west site could be developed as build-to-sell. Viability information has been submitted to appraise this option, which has been reviewed by GVA on behalf of the Council. GVA have advised that at the present day this would be less viable than the proposed build-to-sell scheme, and a review mechanism would be required in order to capture any uplift in value. It is noted however, that the applicant's intention is to develop both sites as build-to-rent.
17. Daylight and sunlight – update to paragraph 559 of the officer report - The applicant's daylight and sunlight consultant has confirmed that the proposal would have no impact upon open space at the rear of the Hayles Buildings which back onto the Oswin Street properties next to the west site.

Additional information regarding Human Rights Implications

18. The Human Rights Act 1998 incorporates into domestic law the European Convention on Human Rights. Article 1 Protocol 1 Convention rights have to be considered: every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. In respect of this right a fair balance must be struck between the public interest and private rights. Where rights are enjoyed by residential premises, Article Convention 8 rights also apply and are engaged i.e. everyone has the right to respect for his private and family life, his home and his correspondence; there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. Any interference with this right must be proportionate.

19. The social and cultural elements of the scheme are considered in detail between paras 116 and 138 of the report. In this instance it is not considered that the conclusions reached would differ between an equalities analysis and a human rights perspective. In any event, it is not a grant of planning permission which will remove these rights but some subsequent action whether brought by the Landlord or by way of compulsory purchase order, which could lead to rights of compensation for traders.
Additional representations received:
20. London Borough of Westminster – no comments on revised proposal.
21. Palatial Leisure and Palace World Leisure (Bingo and bowling operator) – Formally withdraw all representations and objections previously submitted and no longer object to the scheme. Owing to further negotiations, previous concerns have been addressed and resolved.
22. 35% Campaign
- Welcome additional social rented units but affordable housing tenure split does not comply with the Core Strategy or emerging policy P4;
 - Mayor's SPG states that DMR rents should be pegged to LLR (incomes up to £60k) but all of the applicant's DMR rents would be for incomes of £80-90k, nearly half of the affordable housing offer.
 - Households with incomes between £60-90k should be met by intermediate sale housing which the applicant is not providing;
 - Request confirmation that the GLA grant funding would equate to £11.24m.
 - Request confirmation that the latest affordable housing offer would be delivered even if grant funding could not be secured.
 - Request confirmation that the social rented units would have secure tenancies if managed by a housing association.
 - Object to 75% of the market units being allowed to be occupied before any social rented units are delivered. All tenures of housing should be brought forward simultaneously.
 - Question whether GVA have assessed a build for sale option on the west site, and note that an appraisal for this was submitted to the Council.
23. Officer response – these comments are largely considered within the affordable housing section of the report at paragraphs 348-415 (pages 92 to 101). There is an agreement in principle for grant funding from the GLA of £11.24m towards affordable housing. The applicant has committed to providing the level of affordable housing set out in the latest offer, and including 116 social rented units, and this would be secured in the s106 agreement. If the social rented units were owned and managed by a Registered Provider they would offer secure tenancies, which would be secured through the s106 agreement.
24. The phasing of the proposed development across two sites and with all of the social rented units being delivered on the west site means that not all tenures of housing could come forward at the same time. The s106 agreement would prevent occupation of a proportion of the market housing until and unless the affordable units were completed, and this is routinely incorporated into legal agreements.
25. Statement of community involvement – delete paragraph 774 (p164) and update paragraph 779 to include that an additional trader tour took place on 4 April 2018.
26. Latin Elephant (additional comments)

The following issues remain unresolved:

- Equalities information is out of date;
- Loss of indoor space not properly considered through new questionnaires;
- Disregard of impact of development for Latin American and other migrant and ethnic communities;
- No concession to the multi-ethnic character of the business cluster;
- No Equalities Impact Assessment has been carried out addressing impact on loss of 25% of Latin American business cluster for Latin American communities in London;
- Survey responses do not reflect that the Borough's Latin American population is 8.9%, suggesting limited engagement from BAME groups;
- Affordability must be considered with respect to equality in relation to access to homes, livelihoods, recreation, convenience retail, social and cultural exchange;
- Loss of affordable and independent retail space must be put in the wider national context of a significant shift in the growth of small-scale self employment from 2001 to 2017;
- The Council must consider the loss / demise of migrant economies and workspace in Southwark;
- Between 2013 and 2017 have been a 50% reduction in National Insurance Number applications amongst the nationalities which operate in the shopping centre (-66% Columbians and -56% Nigerians);
- The cost of retail space and office space in Southwark has risen between 2002 and 2012, with Southwark's office space rising more than any other borough; retail space only increased by 3% and office space by 20% during this period;

27. Measures required are:

- Trader led panel;
- Considerable increase in relocation fund;
- Re-relocation fund for businesses wishing to return to the development;
- Clear and agreed relocation strategy including for all of the market stalls, kiosks and stands, and the 13 business in the arches;
- Written commitment to 'first refusal option' for all traders within the red line;
- Certainty over affordable units provided at 40% of market rates averaged over 5 years;
- Multiple language provision, which has still not been made available;
- Translation of main statement documents;
- More relocation space, equating to 4,005sqm;
- Affordable retail space must be clustered, which it would not be as proposed;
- Insufficient temporary retail space proposed on Castle Square;
- Replacement units not like-for-like in terms of size and this must be provided;
- Clear and transparent allocation of units needs to be drafted, which should be part of the Traders' Panel remit;
- Clear, published timeline for relocation and logistics strategy required to avoid loss of trade during transition period;
- Current retail diversity would not be replaced;
- Affordable retail should be clustered next to larger units such as banks or a supermarket, and some of the affordable retail locations would be in discreet locations with low footfall;
- Lack of consideration for Human Rights;
- Request clear policy and practice from the LCC to grant access to university space and rooms to the local community;
- Require LCC to launch a community fund for local groups, starting at £5k to increase with inflation;
- Require LCC to launch 10 community grants (100% costs) for students from local schools who are economically disadvantaged or from BAME backgrounds;

- Require 170 social rented units in accordance with the Council's own policy, and to replace the 80% market rent units with London Living Rent.

28. Elephant and Castle Traders Association, signed by 25 traders (additional comments)

- No equality analysis on the impact upon gender (i.e. female traders within the shopping centre) has been undertaken;
- Developer has not addressed the impact that closing the centre is having on trade, and footfall is down 75% but normal rents are charged;
- No solid promise of a new location to trade from;
- The Council's equality analysis is based on a Compulsory Purchase Order, not a planning application;
- Equalities information is out of date;
- Has been no equality analysis of the relocation strategy;
- The equality analysis should consider the impacts of the developer since February 2016 such as not renewing leases and not keeping escalators and toilets in good working order.
- Developer has advised that the centre will close on 31st March 2019 regardless of the outcome of the planning application, but there are no dates for new units for traders;
- Developer has advised there will be a 30% rent reduction from September 2018;
- The relocation package including relocation fund would be insufficient;
- Traders want to remain clustered during and post the development, for rent to be reduced until the closure of the shopping centre, for a 50% reduction in service charge until the closure of the centre, to be provided with replacement units with a specified date when they would be available, and £100k for each trader to help them rebuild their businesses.

Officer response to Latin Elephant and Traders' Association comments

29. The comments raised are predominantly addressed within the land use and equality implications sections of the officer report, at pages 33 to 70. The equality implications section of the report sets out how the Council must have **due regard** to the advancement of equality in the exercise of its powers, including planning powers. Due regard means consciously thinking about the three aims of the Equality Duty which are set out at paragraph 157 of the officer report (page 51), and potential equality impacts must be weighed in the balance with all the other benefits and disbenefits arising from the proposal.
30. Concerns have been raised that the impact that reducing the existing cluster of Latin American businesses by 25% would have on Latin American communities across London has not been considered. The officer report sets out how affordable retail space would be provided on the site, how the s106 agreement would include an obligation to cluster the affordable retail units, and provides details of other affordable retail opportunities coming forward within the opportunity area. These affordable retail opportunities would help to minimise the impact upon the existing Latin American businesses and businesses owned by people from other ethnic backgrounds. The package of measures set out in the officer report which would form the relocation strategy would help to minimise the impact of the proposal on those sharing protected characteristics.

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Original held in Constitutional Team; all amendments/queries to Virginia Wynn-Jones/Everton Roberts, Constitutional Team, Tel: 020 7525 7055

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