

Item No: 8.1	Classification: Open	Date: 05 March 2019	Meeting Name: Planning Committee
Report title:		Addendum report Late observations and further information	
Ward(s) or groups affected:		Old Kent Road	
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 8.1 – Application 18/AP/3246 for: Full Planning Application – Land at Cantium Retail Park, 520 Old Kent Road, London SE1 5BA

3. At the members briefing on 28 February 2019, members raised a series of questions and comments. A summary of the comments made, together with a response can be found in the following table.

Issue	Response
B&Q re-provision	<p>As per the main report, B&Q would be offered first refusal on the destination space, at normal market rates. In addition, the applicant has prepared a plan to show how B&Q could fit into the destination space, which will be included in the officer presentation. The plan makes provision for 437sqm of potential space for B&Q.</p> <p>Officers would secure advice and undertake benchmarking on the rents to ensure the market rate would be fair and would reflect a brand new, retail facility.</p>
Destination space – deletion of offices from the flexible uses sought	<p>Paragraphs 20 & 118 of the main report refer to the inclusion of offices as one of the flexible uses for the destination space. Following some additional negotiations with the applicant, they have agreed to limit the uses proposed for the destination space to Class A, Class D and Sui generis (theatre) use classes only. A new condition has been included which can substitute condition 42 and can be found below.</p> <p>“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order and any associated provisions of the Town and Country Planning General Permitted Development Order (including any future amendment or enactment of those Orders), the destination space use hereby permitted shall include use</p>

	as retail (Class A1-A3), Class D1, Class D2 or sui generis use as a theatre only, unless any change or variation is agreed in writing.
Concern over the quantum of offices	<p>Deleted condition 27 Office Floorspace Assessment.</p> <p>As a consequence of deleting the provision of offices as a flexible use for the destination space, the amount of office provision within the scheme would be fixed at 5,659sqm rather than up to 7,995sqm. Offices consider that this quantum of offices would be appropriate and would not be to the detriment of the nearby CAZ at Bankside, Borough and London Bridge. Therefore condition 27, which required the submission of an 'Office Floorspace Assessment' if the offices were to exceed 5,659sqm to be submitted and approved is no longer required and can be deleted.</p>
Tenure of the dual aspect units	<p>Some additional information on the level of dual aspect units can be found later in the addendum to supplement the information provided at paragraphs 351-354 of the report.</p> <p>Overall, the scheme would achieve 64% as dual aspect units. 68.67% of the private units would be dual aspect and 59.07% of the social rent units would be dual aspect. Whilst the highest proportion would be in the private tenure, the level of dual aspect units in the social rented tenure reaches almost 60%. Overall, the level of compliance is considered very good when taking into account the high density nature of the scheme.</p> <p>In addition, the applicant has agreed to reconsider the mix of affordable units looking to increase the number of 3 and 4 bed units and reduce the one and two beds. This reconfiguration is likely to result in an increase in dual aspect units.</p>
Grant funding	The applicant has agreed to accept an obligation in the S106 to relook at whether grant funding would be viable to increase the quantum of affordable housing to 40% or above when a RSL is on board.
Housing mix in affordable provision	<p>The applicant has agreed to accept a condition to relook at whether there is scope to reduce the one bed units and increase the three bed units – see also above.</p> <p>“Notwithstanding the plans and information hereby approved, prior to any works above grade level, the applicant shall submit detailed floor plans to consider the increase of three bed +affordable units and the associated reduction in one and two bed affordable units. If any additional three bed units can be provided, these shall be secured as amended floor plans to the scheme and the development shall not be carried out otherwise than accordance with any such approval given.</p>

Public access on Tower C	Paragraph 661 refers to the public access that would be secured to the 46 th floor of the Block C tower. The applicant has provided some additional details of how the access would work. Access would be provided to local stakeholder groups for up to 12 days per calendar year. There would be no charge for the use of the space for these groups. It is proposed that the type of groups that can apply to use the facility and the process for booking and access can be agreed as part of the Site Management Strategy (to be submitted and agreed prior to first occupation).
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Response from Southwark Law Centre

4. The Southwark Law Centre have made a series of comments, as follows.

Objection	Officer response
<p>Principle of development and land use.</p> <p>Concern of the loss of retail floorspace on the site, and the amount of office floorspace which could reach 8,000sqm.</p> <p>In addition, there is no evidence presented of the declining demand for builders merchants in the area – The Malt Street scheme would lose Travis Perkins, masterplans show Selco, Rexel, South London Timber, HSS, Benchmarx and others gone; Floyds will be lost; and on the Civic Centre site, Topps Tiles will not be retained.</p> <p>Should the committee resolve to grant planning permission, a condition should be added ensuring any industrial uses on adjacent sites are not prejudiced by the introduction of residential units on the scale proposed in this scheme.</p>	<p>The loss of retail has been found to be acceptable and would help deliver other regeneration benefits of the scheme. The quantum of offices has been reduced as they would no longer be included as one of the flexible uses for the destination use.</p> <p>Officers have been in negotiations with the applicant which could see B&Q return to the site, in the destination use.</p> <p>New condition on noise included.</p>
<p>Affordable Housing and Viability.</p> <p>We are concerned that this offer is not supported by a viability assessment that would ensure delivery of the affordable housing. The Mayor of London’s 2017 Supplementary Planning Guidance (SPG) on affordable housing and viability states at paragraph 3.11 that where an applicant commits to a higher proportion of affordable housing than is viable on the basis of growth assumptions, these assumptions “should be provided” in order to ensure affordable housing is maximised. There is in fact no evidence that 35.48% is the maximum that the scheme can deliver.</p> <p>Furthermore and as a consequence of the above, there has seemingly been no attempt</p>	<p>A viability assessment has been submitted and reviewed by consultants on behalf of the council. The growth assumptions have been considered in the main report at paragraphs 169-177 which state that the development would need to achieve higher pricing to be viable.</p> <p>Policy H5 is the Strategic London wide affordable housing target. It is not a target applied to each individual site. It assumes some sites such as those bought forward by housing associations and local planning authorities will achieve greater than 50% affordable and will include schemes that</p>

<p>to seek to achieve the 50% affordable housing target indicated by the Draft London Plan Policy H5, and Southwark Saved Policy 4.4.</p>	<p>provide 100% affordable housing.</p> <p>The applicant has committed to reconsider grant funding which could see the quantum of affordable housing increase. In addition, an early review mechanism has been secured.</p>
<p>Grant funding</p> <p>There is no reference to viability assessment information supporting this, either from the applicant or the council. Furthermore, in absence of the provision of growth assumptions as explained above, it is not possible to draw any conclusion about this argument the applicant makes against use of grant funding.</p>	<p>Grant funding is currently not viable but the applicant has agreed to reconsider this when a RSL is on board.</p>
<p>Housing mix</p> <p>Policy P1 of the NSP states that a minimum of 25% of all housing by habitable room must be social rent. In this scheme, as seen at paragraph 164 of the Officer's Report, only 24.5% by habitable room is for social rent. Therefore the scheme is not policy compliant, contrary to the statement at paragraph 163 of the Officer's Report that the level of provision is "fully policy compliant". Furthermore, the scheme fails to respond to the recognised need for family housing: there is an acknowledged shortage of family homes in the borough, yet this scheme only proposes 1% (3 units) of affordable housing with 4 bedrooms. Within the scheme as a whole, only 8% (98) of units would be affordable and have 3 bedrooms. There is no indication what proportion of these affordable family homes would be for social rent, meaning there could end up being no social rent family homes.</p>	<p>The main report considers the tenure split of the scheme based on the adopted tenure split of 70% social rented and 30% intermediate at 35% rather than the emerging policy split requirements. It is accepted that 24.5% of the habitable rooms would be social rent, but when measured at 35%, 70% would include social rented housing. This is discussed further in the tables later in this addendum report.</p> <p>The applicant has agreed to consider whether there is scope for more larger affordable units to be provided and a condition has been included to secure this.</p>
<p>Furthermore, overall just 16% of units would have 3 or more bedrooms, whereas the Policy 7 of the Core Strategy requires 20% (see Officer's Report, paragraph 340).</p>	<p>This has been considered in the main report, at paragraph 340. The report acknowledges that the overall mix does fall short but that the percentage of affordable units in the 3bed + size would achieve 28%, which is 8% above the minimum.</p>
<p>Design Issues.</p> <p>The principle of using such tall buildings to optimise housing delivery is not supported by evidence, in fact recent information obtained by Southwark Law Centre (circulated to planning committee and officers in recent days) shows that tall</p>	<p>The acceptability of the tall buildings has been discussed in the main report and has been found to be acceptable and would be in compliance with adopted planning policy, being located in a London Plan opportunity area in a London Plan transport and growth corridor at a point of landmark significance and making a very positive contribution to</p>

<p>buildings have a negative effect on viability in low value areas such as Croydon and Ilford and make provision of maximum affordable housing for a site less likely.</p> <p>Furthermore, the height of the tallest tower, at 160m, is inappropriate: at present there are only 4 residential buildings taller than this in London.</p>	<p>the landscape.</p>
<p>Heritage Impact. The Officer’s Report is misleading where it states at paragraph 304 that “As with Historic England, Officers consider this harm to be less than substantial and to be outweighed by the wider regeneration benefits of the proposal.” Historic England do not hold that position: they do not weigh the harm against the benefits of the proposal – they simply give their expert view on the nature and degree of harm. To suggest, as the Officer does, that Historic England accept the public benefits outweigh the heritage harm is misleading and unhelpful.</p>	<p>Noted. The paragraph can be reworded to add the following words in bold type:</p> <p>“As with Historic England, Officers consider this harm to be less than substantial and officers consider that this can be outweighed by the wider regeneration benefits of the proposal.</p>
<p>Furthermore, there is no cumulative impact assessment undertaken by the Officer of the impact on Glengall Conservation Area bearing in mind the recent resolution to grant permission for the site at 49-53 Glengall Road, which Historic England and the Design Review Panel, the Conservation Area Advisory Group and the GLA describes variously as “overbearing” and “overwhelming”.</p>	<p>The applicant has undertaken a cumulative impact assessment of the proposal, which is discussed at paragraph 313 of the main report.</p>
<p>The balancing exercise undertaken the Officer, weighing the heritage impact against the benefits of the scheme, suggest that the height of the buildings is justified because it provides significant affordable housing (‘optimum viable use’ – GLA paragraph 46, OR paragraph 305). However, as demonstrated above in relation to the GLA study, there is no need to build as high as 48 storeys in order to provide the maximum affordable housing: on the contrary, building to that height is likely to reduce the quantum of affordable housing the site can provide. The short point is that the same public benefits could be provided without compromising the heritage of the area to the same degree.</p>	<p>As above, the building heights have been found to be acceptable, meeting the requirements of the saved Southwark Plan Policy 3.20 and the adopted London Plan.</p> <p>The GLA study considers the lack of viability of tall buildings in low value areas. As set out in the main report existing London Plan policy and the new draft London Plan policy seek to optimise delivery in Opportunity Areas and along transport growth corridors.</p>

Response from Vital Old Kent Road

5. Objection received from Vital Old Kent Road which is summarised below.

Objection	Officer comment
An industrial use, such as a courier depot could take the place of the awkward lower floors of the development, along Olmar Street.	There would be no requirement for the scheme to deliver any industrial uses alongside the other uses. The “awkward” space provides servicing to the shops and residential including refuse storage and collection space and cycle and accessible car park spaces. This obviates the need for these things to be present in the public realm, giving a better ground floor experience to the scheme.
Loss of retail floorspace. Also included in the objection is a submission by Halfords to the London Plan Examination which considers that the London Plan does not consider that there is a fair balance between the continued presence of bulky goods retail and delivering housing.	Addressed in the main report, at paragraphs 96-98. Whilst there would be a loss, there would be an uplift in the overall amount of commercial space which would include a mix of retail, cultural destination space as well as offices. In relation to Halfords, space has been provided for them to return and they have made no representations to the application. They would go back in a high street format more in keeping with the aspirations to create a high street character in Old Kent Road and designate the area a district town centre.
B&Q have objected to the scheme.	Officers have been working with the applicant to ensure B&Q would be offered part of the destination space – as described above.
Prematurity. Recommend schemes are not approved that follow the draft OKR AAP.	The application has been determined in accordance with the adopted development plan, consisting of the saved Southwark Plan, the Southwark Core Strategy and the adopted London Plan. Where the OKR AAP, the New Southwark Plan and the draft London Plan has been referred to in the main report, it has been referred to as a draft document.

Additional neighbour responses

6. Two additional neighbour objections have been received as follows.

Objection	Officer response
Loss of daylight to Canal Grove cottages.	The applicant's daylight consultant has confirmed there would be no loss of light to these cottages.
No consultation letters were sent to Canal Grove cottages.	These were sent.
Disruption from building works.	Harm would be mitigated through the submission of demolition and construction management plans.
Higher bills to Canal Grove cottages because of reduction in daylight.	As above, there would be no impact to these cottages.
The design and height is not in keeping with the local area or at all in line with what local business and residents want.	The design and heights are found to be acceptable and are addressed in main report, at paragraphs 192-209.
The OKR should be developed sympathetically not taking industrial land away from local business and building luxury flats.	The site is not as designated industrial site.
Fire Safety post Grenfell	A Fire Safety Statement has been submitted with the application, and the applicants consultants consider the development would achieve a high standard of safety for occupants (paragraph 643-643 of main report).
Taking the advice of the Design Review Panel can be harmful.	In this case, officers have agreed with the comments they have made and have secured amendments (paragraphs 243-262 of the main report).
The scheme should include 50% social rented housing.	The scheme delivers 35.48% affordable housing overall, which is more than the development can currently support.
Detailed comment made about the design of the towers and the vertical grouping.	The detailed design has been found to be acceptable, refer paragraphs 210-230 of the main report.
The Linear Park is not a park but a green link. The Linear Park should be designed with a segregated cycle way. If not, it will be a disaster.	The linear park would measure 24m at its narrowest point and would include a 4m wide pedestrian and cycle route.
Inclusion and acceptability of studio units.	Only 4% of studios have been included and

	they are considered to have an acceptable layout and size with the studios being at least 3.9sqm above the minimum size requirements.
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Condition changes

7. A series of condition changes are proposed as follows. New conditions are also included.

<u>Consultee</u>	<u>Officer response</u>
Health and safety executive - No comments	Noted.
Historic England: Note the additional view from Caroline Gardens (View 14). But uphold the view as previously expressed that these proposals would cause harm to the character of the Conservation Area and the setting of the Grade II listed almshouse buildings.	Already discussed in main report, paragraphs 303-305.
Design Review Panel. Formal receipt of 2 nd Design review Panel report received.	Since the writing of the report, the formal report from the Design Review Panel has been received. The main report has adequately summarised the comments made by the Panel at paragraphs 261-262 and accordingly, no additional comments need to be addressed.
35% group Request that the applicant and the council confirm that they are in agreement that a fully policy compliant scheme will be delivered, with social rented housing at target rents. Secondly, we note that the applicant argues it is unviable to apply for grant funding for additional affordable housing, because it would preclude the opportunity to reduce the scheme's deficit, through increasing free-market values (by reducing the number of free-market units, if we understand correctly) (paras 178-182). There is no reference to viability assessment information supporting this, either from the applicant or the council.	Letter from applicant received to this effect. Applicant has agreed to accept an obligation in the s106 to review grant funding when a partner RSL is on board.

Additional S106 clauses/clarifications would be required as follows.

<u>S106 clause</u>	<u>Officer comment</u>
Grant funding	To review grant funding when a RSL is on board.
Greenfield run off rates	In the event that the detailed strategy states that greenfield run off rates cannot be achieved, then a financial contribution would be collected towards the council's greenfield off set fund at £366 per cubic metre.
Length of term for affordable offices	As per the main report, the rent offered would be £18-24 per sq ft. The applicant has advised that this rent

	would be offered for 25 years, which is considered reasonable.
Independent retail provision	Paragraph 99 of the main report refers to the independent retail provision that would be secured in Block C. The applicant has advised that they would market the units for one year after which if no independent tenant was found then the provision would no longer apply. This is considered a reasonable period of marketing.
Site Management Strategy	Details of this strategy can include the free access offered to the 46 th floor of Tower C.

Additional conditions/changes to conditions would be required as follows.

Condition	Nature of change
Time limit condition 01	The applicant has requested an extension in the time period to implement the permission from the standard three years to five. The five year time frame is requested given Pets at Home's current lease extends to December 2023. The parties are engaged in respect of the operator taking a new unit in the development which has been designed specifically to meet its preferred trading format however a formal lease is yet to be finalised and signed. Whilst the Applicant expects to agree a position with Pets at Home in the short term (hence start on site is targeted for 2020), a five year permission would provide the necessary flexibility for the current lease period to be completed and vacant possession secured after its expiry.
Drawing Numbers 02	An up to date drawing list sheet is appended, which includes the up to date and accurate drawing numbers following the recent changes to the Block A townhouses. It is recommended that these drawing numbers be included on the draft decision notice.
Deletion of condition 27 Office Floorspace Assessment	No longer required.
New condition noise	To secure the noise mitigation measures such as soundproofing as contained in the submitted Noise report. "The noise mitigation measures such as sound insulation as recommended within Chapter 9 of the ES shall be secured by condition as follows. This is also required to ensure that the introduction of residential units would not prejudice the continued operation of established noisy industrial activities near to the site".
New condition tv and radio signals	Paragraph 646-647 of the main report refers to the potential impact to television satellite dishes and states that reception could be affected to some properties to the NW of the site. Arqiva have also stated there could be some impact to the radio link passing between the BBC Broadcasting house and a transmission site at Wrotham. A planning condition to ensure mitigation was mistakenly left of the draft decision notice and so is included below.

	Prior to the commencement of the above ground superstructure, a scheme of mitigation works to the satellite dishes to the NW of the site and works to re-route the relevant radio link (between Broadcasting House and Wrotham – Link ID 1067507/1 and 0486072/2) shall be submitted and approved in writing to the local planning authority, and the development shall not be carried out otherwise than in accordance with any such approval given.
New condition on the affordable unit mix	The applicant has agreed to accept a new condition to consider whether it would be feasible to increase the number of affordable three bed units and reduce the no. of affordable one and two bed units. “Notwithstanding the plans and information hereby approved, prior to any works above grade level, the applicant shall submit detailed floor plans to consider the increase of three bed +affordable units and the associated reduction in one and two bed affordable units. If any additional three bed units can be provided, these shall be secured and shall substitute the smaller units. The development shall not be carried out otherwise than in accordance with any such approval given.
Amended condition 19 Play	To delete the following text in strikethrough as this is not relevant or required. ii) Before any above grade work (excluding demolition) hereby authorised begins on any of phase of development (excluding public realm, as detailed in part i), the applicant shall submit details of all the play spaces proposed within that phase, including 1:50 scale detailed drawings for approval by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with any such approval given and retained as such.
Correction to condition 37 – Noise transfer	To delete reference to Class A5 units in the condition as there are no Class A5 units included in the application.

Affordable housing mix to address comments made by the Southwark Law Centre

8. Paragraph 163-164 of the main report refers to the tenure split percentages. In total 3280 habitable rooms would be provided as part of the development as follows and this would equate to 35.48% affordable housing as follows.

3280 habitable rooms	100%
1,164 affordable hab rooms provided	35.48%
804 social rented	24.51%
360 intermediate	10.98%

9. Measured at 70:30 at 35%, the proposal would deliver a tenure split of 70% social rented and 30% intermediate as follows.

1,148 affordable habitable rooms at 35%	100%
803.6 rounded to 804	70%
344,4 rounded to 344	30%

10. Based on the emerging New Southwark Plan requirement which requires 35% minimum affordable housing of which a minimum of 25% should be social rented and a minimum of 10% should be intermediate housing, the proposal would fall short as per the following table. This is because the 25% and 10% split requirements do not equate to a straight 70 social rented and 30 intermediate equivalent. Instead it equates to a 71.5% split for social rented and 28.5% split for intermediate.

Affordable split	Emerging NSP requirements	The proposal
1,148 affordable habitable rooms at 35%	100%	100%
820 social rented	25%	24.51%
328 intermediate	10%	10.98%

11. Based on the emerging New Southwark Plan, the scheme would fall short of social rented habitable rooms by 16.4 (820-803.4 = 16.4). However, based on the tenure split at 70:30, the scheme would fully accord.

Dual aspect units

12. In response to comments on the dual aspect units at the briefing, the following table sets out the percentage of dual aspect units per tenure. The table makes clear that the 59.07% of the social rented units would be dual aspect. In addition, there are no north facing, single aspect affordable units within the entire scheme.

Table: Dual aspect units

	Total	Dual	Single	% Dual	% Single	Single facing S / SE / SW	% Single facing S / SE / SW	Single facing E / W	% Single facing E / W
Private	750	515	235	68.67%	31.33%				
Shared ownership	126	58	68	46.03%	53.97%	68	100%	0	0
Rent	237	140	97	59.07%	40.93%	24	24.74%	73	75.26%
Affordable (Rent + SO)	363	198	165	54.55%	45.45%	92	55.76%	73	44.24%

Corrections and clarifications to the main report

<u>Paragraph affected</u>	<u>Correction or clarification</u>
Paragraph 114.	The destination space size should read 2,336 sqm not 2,800 sqm.
Paragraph 126.	To delete the '4' after Screwfix to address a typo.
Paragraph 143	This paragraph should actually appear at the end of the prematurity section, after paragraph 145.
Paragraph 216.	The image after this paragraph shows the Block A flats and not townhouses as the caption states.
Paragraph 227.	States that colonnade will be adopted. The applicant has

	stated that they are happy for the entire area of footway along Old Kent Road to be adopted as public highway but has requested that the area on the inside of the colonnade of Block C1 remains in private ownership given the requirements for ongoing management of this building. Whilst officers consider this to be reasonable, it would be for Transport for London to agree.						
Paragraph 233.	The image after this paragraph is an older version of the landscape plan. The latest one has been included in the members pack.						
Paragraph 395	The last column in the residential design standards table at paragraph 395 incorrectly refers to paragraph 396. This is incorrect and the correct reference is paragraphs 388-389.						
Paragraph 558	Paragraph 558 incorrectly refers to paragraph 556. This is incorrect and the correct reference is paragraph 227.						
Paragraph 346	To add the line 4 bed houses to the table as follows: <table border="1" data-bbox="662 963 1444 1030"> <thead> <tr> <th>Unit type</th> <th>SPD (sqm)</th> <th>Size range (sqm)</th> </tr> </thead> <tbody> <tr> <td>4 Bed house</td> <td>90-117</td> <td>136.7-201.9</td> </tr> </tbody> </table>	Unit type	SPD (sqm)	Size range (sqm)	4 Bed house	90-117	136.7-201.9
Unit type	SPD (sqm)	Size range (sqm)					
4 Bed house	90-117	136.7-201.9					

Comments from the Director of Planning

13. Taking into account the above, the recommendation remains that planning permission be granted with conditions as amended by this addendum and the completion of a legal agreement, and subject to referral to the Mayor of London and the Secretary of State.

REASON FOR URGENCY

14. 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

15. 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	Place and Wellbeing Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403

APPENDICES

No.	Title
Appendix 1	GA-P Drawing Issue Sheet