

Silvertown Quays, E16

in the London Borough of Newham

planning application no. 14/01605/OUT

Strategic planning application stage II referral

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

The proposal

Redevelopment of the site for mixed use purposes, including the partial demolition, rebuilding, alteration and conversion of the Millennium Mills and the construction of buildings across the site to include Brand Buildings (Sui Generis), residential (C3), office (B1), retail (A1-A5), leisure (D2), education (D1), hotels (C1), other non-residential floorspace such as community use (D1); provision of public open space; works of repair and restoration of the dock walls; infilling and excavation of parts of the dock area; the placing of structures in, on or over the dock area; utilities; construction of estate roads and the creation of new accesses to the public highway; works of landscaping and making good; creation of surface and sub-surface car parking areas.

The applicant

The applicant is **The Silvertown Partnership** and the lead masterplan architect is **Fletcher Priest**.

Strategic issues

The principle of an **employment led-mixed use development** with **residential, leisure and commercial uses** in the Royal Docks Opportunity Area and Enterprise Zone is supported.

Robust control mechanisms have been established to appropriately manage the brand and retail floorspace and to avoid unacceptable impacts on the catchment area.

The application will deliver 20% affordable housing in part 1, with the potential for this to increase to up to 35% depending on the outcome of alternative funding sources sought. Part 2 will deliver 35% affordable housing (subject to viability).

At Stage I the completion of the **appropriate legal agreements was required** as part of the Stage II referral. Whilst, to date, the legal mechanisms needed to secure the necessary transport mitigation (including the Section 106 agreement) are still to be **formally completed**, the drafting of these is **sufficiently advanced** and agreed to provide the necessary comfort that appropriate mitigation would be delivered as required.

Moreover, the strategic issues raised at consultation stage with respect to **brand accommodation and retail; housing; urban design and heritage; inclusive design; climate change; noise/air quality; aviation safeguarding; and transport** have been appropriately addressed, and the scheme now complies with the policies of the London Plan.

The Council's decision

In this instance Newham Council resolved to grant planning permission subject to conditions and a section 106 agreement.

Recommendation

That Newham Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal or direct that he is to be the local planning authority.

Context

1 On 23 September 2014 the Mayor of London received documents from Newham Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. This was referred to the Mayor under the following Categories of the Schedule to the Order 2008:

Category 1A: *“Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats”.*

Category 1B: *“Development which comprises or includes the erection of a building outside Central London and with a total floorspace of more than 15,000 square metres.”*

Category 3F: *“Development for a use, other than residential use, which includes the provision of more than 200 car parking spaces in connection with that use.”*

2 On 13 January 2015 the Assistant Director – Planning, acting under delegated authority, considered planning report D&P/0498f/01, and subsequently advised Newham Council that whilst the principle of the development was supported, further work was required on matters relating to controlling brand-related retail elements, affordable housing, residential quality, inclusive design, climate change, noise/air quality, aviation safeguarding and transport to ensure full compliance with the relevant policies of the London Plan. These issues were summarised in paragraphs 177 and 178 of that report.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site and its history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report.

4 On 21 April 2015 Newham Council decided that it was minded to resolve to grant planning permission, subject to conditions and the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). Authority was delegated to the Head of Planning and Development Commissioning to finalise the wording of the conditions and draft legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) in line with the draft Heads of Terms and conditions set out in the committee report, and to refer the application to the Mayor of London, the Secretary of State for Communities and Local Government (DCLG) in accordance with the Town and Country Planning (Consultation) (England) Direction 2009, because the application proposes land uses which are not in accordance with one or more provisions of the Development Plan in force (Newham Core Strategy, adopted January 2012); and, referral of the application to the Secretary of State for Transport in accordance with the DfT Circular 01/2010 Control of Development in Airport Public Safety Zones.

5 The committee report notes that subject to no adverse directions from the Secretary of State for Communities and Local Government (DCLG) or the Secretary of State for Transport the Committee gave permission to determine the application subject to the imposition of conditions which will not materially depart from those set out in Appendix 1 of the Newham Council committee report; and, the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) based on the following Heads of Terms:

Affordable Housing

- Part 1: 20% on-site affordable housing (60% affordable rented /40% intermediate tenure). Provisions for Part 1 provision to increase if GLA Grant and/or LEP funding is secured.
- Part 1: Review Mechanism
- Part 2: 35% on-site affordable housing (60% affordable rented /40% intermediate tenure), subject to viability
- Part 2: Viability Review Clause (where less than 35% affordable housing is proposed in part 2.

Site Wide Housing Strategy

Transport

- (In the event LEP Funding is not secured) Bus Service Contribution
- Cycle Hire Scheme
- RPZ Study
- Parking Impact Contribution (payable only if RPZ Study identifies RPZ required)
- Reduced Car Parking Development Agreement
- Travel Plan
- Travel Plan Monitoring
- Provision / Implementation of a Car Club
- Public Access – 24hr access for dockside, cycle and pedestrian routes through the site
- Submission of Full Planning Application for Bridge Link Across Royal Victoria Dock

Education

- Applicant to transfer the school site to Education Funding Agency (EFA). EFA to deliver the school.

Community

- Safeguard community floorspace for provision of health/community facilities

Employment and Training

- Financial contribution of £10m
- Local Employment & Supply Chain Commitments & Monitoring Provisions

6 It was noted in the Newham Council committee report that in the event that any of the outstanding issues remained unresolved the application could be reported back to the Strategic Development Committee for due consideration before any decision notice is issued.

7 On 9 December 2015, and following discussions between the Greater London Authority (GLA), Transport for London (TfL) and the applicant, Newham Council notified the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged; direct the Council under Article 6 to refuse the application; or, issue a direction to the Council under Article 7 that he

is to act as the Local Planning Authority for the purposes of determining the application. The Mayor has until 22 December 2015 to notify the Council of his decision and to issue any direction.

8 The decision on this case, and the reasons, will be made available on the GLA's website www.london.gov.uk.

9 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) has been taken into account in the consideration of this case.

Update

10 At consultation stage the principle of an employment-led mixed use development in the Royal Docks Opportunity Area and Enterprise Zone was supported. Nevertheless, the following matters were identified as areas where the proposals did not fully comply with London Plan policy and where changes or further information were required:

- **Brand accommodation and retail:** The proposed 'sui generis' brand building use is innovative. While this could potentially be supported, given the quantum proposed, robust control mechanisms will be required to ensure the brand-related retail and the associated A1 to A5 retail elements do not negatively impact on town centres in the wider sub-region and more local centres.
- **Housing:** Negotiations are ongoing in relation to viability and affordable housing. The indicative housing mix has been agreed in line with the Council's local housing needs. A review mechanism is likely to be necessary given the level of affordable housing currently proposed.
- **Urban design and heritage:** Given the outline nature of the proposals the design code secured through the legal agreement.
- **Inclusive design:** Provisions should be made to secure inclusive design matters through the legal agreement and/or planning conditions.
- **Climate change:** The applicant has broadly followed the energy hierarchy to achieve carbon dioxide emission reductions of 38%. Further detail is required on the site heat network, energy centre, PV and overheating. Sustainable drainage elements should be addressed and the wider sustainability measures proposed should be secured by way of condition.
- **Noise/air quality:** Provisions to address any identified issues will need to be secured by planning condition.
- **Aviation safeguarding:** Provisions to address any identified issues will need to be secured by planning condition.
- **Transport:** Substantial mitigation is required to address the transport impacts of the proposed development. This will need to be agreed and secured by planning conditions and /or legal agreement to ensure that the proposal complies with the London Plan.

11 Given the outline nature of the proposal, with much of the detail to be decided at a later stage through the reserved matters applications, it was noted that provisions be made in the necessary legal agreements to secure the design and residential quality (through the design code) and the housing, climate change, inclusive design and transport elements of the proposal in line with the London Plan. These outstanding issues are addressed in turn below.

Brand accommodation and retail

12 It was noted at the consultation stage that the proposed innovative ‘sui generis’ brand accommodation is principally concerned with showcasing brands and is supported in line with London Plan policy 4.8 which seeks to create a diverse and competitive retail sector. However, it was also clear that there would likely be an element of ancillary retail associated with this use and as a result, the planning permission was structured to include provision of up to 44,500 sq.m. of A1 brand-related retail floorspace, which could represent up to 17% of the total Brand Accommodation. In addition, a further 10,000 sq.m. of A1, A2, A3, A4 and A5 floorspace is sought across the scheme in order to create active ground floor frontages and a further 20,400 sq.m. of A3 to A5 uses (food and beverage) to serve the future development.

13 Given the total quantum of this proposed provision, a detailed Brand and Retail Impact Assessment (BRA) was submitted by the applicant to support the proposals. This BRA was independently reviewed on behalf of Newham Council by GVA and a number of additional controls recommended. The results of the BRA and independent review were reported in detail at the consultation stage and it was noted that to ensure consistency with the London Plan town centre network and ensure brand-related A1 retail impacts are suitably managed, any retail provision associated with the brands should be robustly controlled. Accordingly, following further detailed discussions, and having had regard to the various responses received as part of the consultation process (refer below), a number of related conditions and obligations are proposed to be secured as part of planning permission.

14 Such measures include planning conditions appropriately controlling: overall quantum of brand unit floorspace; maximum floorspace of individual brand units; detailed approval of brand unit/floorspace floorplans; use of (and access to) dedicated brand A1 retail floorspace; sale of goods and services in brand use floorspace; storage of goods in brand use floorspace; and, click and collect. Various conventional conditions are also proposed to appropriately control the proposed local retail floorspace within the scheme. The Section 106 agreement has also been designed to restrict the use of brand units via an obligation to include a user covenant in any lease and sub-lease. Moreover, the Section 106 agreement provides for monitoring and reporting in respect of each brand unit.

15 Further to the consideration at stage 1 (and having had regard to the findings of the GVA retail review, the measures summarised above, and the representations made on this case (discussed below)), GLA officers are satisfied that it is appropriate for the proposed ‘brand use’ to be classed as ‘sui generis’. Moreover, having reviewed the Newham Council draft decision notice, and the draft section 106 agreement, GLA officers are satisfied that necessary controls, alongside robust enforcement measures, would be in place to appropriately manage the unique offer proposed in this case, and to avoid any unacceptable impact on the network of town centres in Newham and the wider east London catchment.

Housing and residential quality

16 The introduction of a residential element for place-making purposes was previously supported, although it was noted that the inclusion of residential uses on the site is a departure from the site’s strategic land use designation; given the scale of the residential element proposed, only a fully policy compliant offer, in terms of unit mix, would be acceptable.

17 The Newham Council Strategic Development Committee report sets out that following extensive negotiations with the applicant, a revised affordable housing offer has been submitted. This identifies a quantum of affordable floorspace to come forward within a first 69,262 sq.m. (GEA) of residential floorspace in the development (Part 1) and an approach to the residual residential floorspace on a site wide basis for the remainder (Part 2). Essentially this comprises 20%

affordable housing for part 1 and 35% affordable housing for part 2 (subject to viability). The provision is proposed to be split 60% affordable rent and 40% intermediate.

18 Provisions within the Section 106 agreement would allow the affordable housing provision within Part 1 to increase from 20% to a maximum of 35% if: GLA Grant Funding is secured before the submission of the first Reserved Matters application for Part 1; and/or, Local Enterprise Partnership (LEP) funding is secured within twelve months of the date of permission, for one or all of the relevant transportation improvements. This would form part of the affordable housing obligations and review mechanism package summarised in paragraph 5 above.

19 The Newham Council committee report confirms that the proposals will deliver a housing mix that responds favourably to local need, and a condition has been applied to secure the children's playspace strategy at the reserved matters stage. As such, housing matters have been suitably addressed.

Urban design and heritage

20 At consultation stage it was noted that the submitted design material demonstrated that future reserved matters applications would be capable of coming forward in accordance London Plan housing standards and the good practice design standards within the Mayor's Housing SPG. Further to this, GLA officers welcome the fact that development in accordance with the submitted Design Code is proposed to be secured by way of planning condition. Furthermore, the Section 106 agreement provides for a 'design certifier' to confirm compliance (or otherwise) with the code – for consideration by Newham Council. This is supported.

Inclusive access

21 Planning conditions have been applied to the draft decision notice to secure delivery of lifetime homes, 10% wheelchair units and blue badge parking spaces in line with London Plan policy 7.2 and 6.13.

Climate change

22 At consultation stage, the applicant was advised that the methodology applied within the energy strategy was incorrect, as it had not been calculated against a Part L 2013 baseline as required by London Plan Policy 5.2. The strategy to use heat pumps in combination with CHP was also questioned, as it did not reflect the energy hierarchy in London Plan policy 5.6 which requires CHP to be optimised. In addition, GLA officers requested further information such as sample DER/TER sheets for the residential elements and further details on the proposed energy centre. The applicant was also advised to provide further detail of their discussions with district energy network providers and to clarify their approach to connecting to any such network in line with the strategic priority and intentions set out in London Plan policies 5.5 and 5.6.

23 The applicant has since confirmed that heat pumps will not be used and that heat demand will be supplied to all buildings from the onsite CHP. The applicant has also provided further correspondence based on discussions with the local district heat network provider, Cofely, up until the end of July 2014. However, this evidence does not include notes of the legal meeting where risks associated with connection to the Cofely network were discussed, which the applicant uses as the basis for its decision to choose an on-site energy provider. The evidence provided also references a further report produced by AECOM/HMP which may provide an assessment of the further discussions with Cofely and SSE which ultimately led to the applicant's decision. This report also does not appear to have been provided to the GLA. Hence, based on the information received

to date there is insufficient evidence available to the GLA to accept at this stage the conclusion that the Cofely offer is uncompetitive compared to the on-site solution. Therefore London Plan policy 5.6, which requires connection to existing heating and cooling networks to be prioritised, has not been fully complied with. However, given the provisions in the draft section 106 agreement to provide a temporary energy centre for the first phase of development, the applicant has agreed to continue discussions with Cofely (or other district energy provider) to further investigate the potential for an off-site connection prior to commencement of phase two.

24 The applicant has agreed to the inclusion of wording within the Section 106 agreement which prioritises the energy hierarchy set out in London Plan policy 5.6. and will provide a 'Permanent Energy Centre Solution' to be approved by the Local Planning Authority in consultation with the GLA. This is supported.

25 The applicant and the Council have also agreed to a planning condition to secure passive provision for the strategic infrastructure necessary to safeguard delivery of an off-site solution in the future. As such, following negotiations, the principal issues raised with the energy strategy at consultation stage have been addressed.

Noise/air quality/ aviation safeguarding

26 Matters relating to noise, air quality and aviation safeguarding have been addressed in detail in the Newham Council's Strategic Development Committee report and conditions have been applied where appropriate.

Transport

27 Following further assessment and negotiation of the impacts and phasing of the proposed development since stage 1, TfL has concluded that there is a need for improvements to Pontoon Dock DLR station, bus services and highways serving the development. Accordingly, the mitigation discussed below will be secured through the imposition of conditions and/or obligations within the section 106 agreement (to which TfL will be a signatory).

Docklands Light Railway (DLR)

28 At Stage 1, TfL commented that improvements to the link between the site and Custom House DLR/Crossrail (from 2018) station and over North Woolwich Road to Pontoon Dock DLR station were required to enhance access to these stations and to accommodate forecast demand from the development. In addition, Pontoon Dock station itself was identified as requiring enhanced vertical circulation to meet these needs. These improvements would be over and above those already identified for the DLR network itself (including increased train capacity and the Custom House Crossrail station - which is currently being delivered).

29 With respect to the link to Custom House station, Newham Council has resolved to impose a Grampian condition which would prevent occupation beyond 40,000 sq.m. non-residential floorspace (with no more than 5,000 sq.m. outside the Millennium Mills building) until the Royal Victoria Dock pedestrian and cycle bridge has been delivered (in accordance with a set specification). This condition will adequately mitigate the impact of this development in terms of providing an appropriate link with the station (and indeed elsewhere) in time to relieve pressure on Pontoon Dock which is the nearest station to the site.

30 For Pontoon Dock station, Newham Council has resolved to impose a Grampian condition which would prevent occupation beyond 500 residential units, and 50,000 sq.m. non-residential floorspace, until a contract for the vertical circulation station works is let. The proposed conditions

also include a specification for these works. Accordingly, it is anticipated that development impact would be adequately mitigated in this regard.

31 TfL's preference is for an escalator based scheme at Pontoon Dock which would provide additional capacity and passenger convenience benefits compared to the alternative lift based option. However, it has been accepted that the latter would provide the necessary mechanised vertical circulation mitigation for the development, and thus the specification included in the condition allows for either scenario. The option which is ultimately delivered will depend upon the amount of funding which can be secured at the time that the scheme has to be progressed to release the Grampian trigger.

32 For a pedestrian bridge across North Woolwich Road connecting the site into the mezzanine level of Pontoon Dock station a similar Grampian condition prevents occupation beyond 50% completion of the development until a bridge has been delivered and the conditions include a specification for these works. This condition will adequately mitigate the development impact by the time the street level crossing alone is no longer expected to be adequate.

33 Conditions have also been secured to protect DLR operations and infrastructure from adverse impacts arising from the development.

Buses

34 At Stage 1, TfL reported a bus capacity contribution of £2,200,000 had been agreed in principle to enhance bus services to mitigate the impact of the development. This amount and timing of the payment to TfL at completion of 50% of the development has been secured in the Section 106 agreement.

35 The aforementioned improvements would form part of the implementation of a new bus services strategy for the whole of south Newham to relate to the opportunities arising from the opening of Custom House Crossrail station in 2018, and to meet the needs of occupiers and users of the significant new development in the area as well as existing passengers. The strategy is being worked up in discussion with Newham and will include improvements to service(s) between the site and the north of the Borough to enable better access for those residents to the new jobs and other facilities to be provided at Silvertown Quays (and indeed the other significant developments within the Royals).

Car and cycle parking

36 In line with the representations made at stage 1, a condition has been agreed requiring the preparation of a Car and Cycle Parking Management Plan. Conditions have also been imposed to secure electric vehicle charging points, blue badge parking and cycle parking in line with London Plan standards (and with maximum overall levels of car parking well below London Plan maximum standards). This is supported, and it is noted that details of all these mitigation measures would be submitted for approval. The submission and approval of the details of coach, taxi, private hire and dial-a-ride bays and/or ranks and related facilities for each phase is also secured by condition (with agreement as to what is required for a specific phase being reached at that time).

37 It is also noted that, with respect to implementing a Controlled Parking Zone (CPZ), the draft Section 106 agreement imposes non-planning obligations in respect of restricting applications for residential parking in a CPZ and provision and monitoring of Car Club spaces.

Walking and cycling

38 In addition to the aforementioned bridges over North Woolwich Road and the Royal Victoria Dock a complete network of pedestrian and cycle routes are proposed within the development and secured via condition and the Section 106 agreement (including use on a 24/7 basis). These will link into the existing network and future improvements planned for the wider south Newham area - which Newham Council will lead on in terms of delivery.

39 Further to TfL comments at Stage 1, the Design Code was updated to increase and clarify the area where cycling will be permitted which is welcomed, although there will still be some areas in which walking only would be permitted in recognition of the anticipated particularly high levels of pedestrian activity and public realm use. In these cases a good alternative route is provided for cyclists. Reserved Matters applications will include a Cycling Level of Service (CLOS) assessment. A wayfinding strategy has also been secured by condition.

40 The draft Section 106 agreement also includes a Sustainable Transport Contribution payment of £197,000. This secures a strategy to identify and safeguard sites for the Mayor of London's cycle hire scheme and make a payment to TfL to deliver one new docking station whilst safeguarding sites for two others. However, if the scheme is not due to be extended within a reasonable period of time, the payment will instead be made to Newham Council - to implement a cycle hire scheme, or other sustainable transport measures, to be agreed. In such case the safeguarded sites would fall away.

Highway measures

41 At Stage 1, TfL identified the need for improvements to highways and junctions in the vicinity of the site. New or improved access points into the development from the public highway network (including better pedestrian and cycle facilities, and potentially improved relocated bus stops) are covered by Grampian conditions relating to occupation of development zones. These would be subject to Section 278 agreements in due course, with Newham Council as the relevant highway authority. In addition Newham would bring forward improvements to the North Woolwich Road and Connaught Bridge roundabouts on the Strategic Road Network adjacent to the site via appropriate legal agreements.

Estate Management, Delivery, Servicing, Construction and Travel Plans

42 An Estate Management Strategy will be secured by condition which will include arrangements for a Delivery and Servicing Plan, and the management of public events. The submission and approval of a Demolition and Construction Environmental Method and Management Plan and a Construction Logistics Plan are also to be secured by condition. In addition, the Section 106 agreement will secure the preparation and approval of a Travel Plan and annual reports. The travel plan will include real time public transport information display boards or a functionally equivalent information provision facility and further measures.

Transport conclusion

43 Subject to the imposition of the conditions as detailed above, and the conclusion of the Section 106 agreement and other appropriate legal agreements as agreed between the parties, TfL is of the view that the proposals are acceptable in strategic transport terms, and comply with the relevant transport policies of the London Plan.

44 Notwithstanding the above, it is acknowledged that the GLA stage 1 representations stated that appropriate legal mechanisms to secure the necessary transport mitigation (including the Section 106 agreement), needed to be completed prior to referral of the application back to the

Mayor at stage 2. However, having considered the proposed planning conditions within the Newham Council draft decision notice, the definitions and clauses within the draft Section 106 agreement, and the advice from TfL (discussed above), GLA officers are satisfied that the appropriate legal mechanisms required to secure the necessary transport mitigation in this case (whilst not yet completed), are sufficiently advanced and agreed between the parties to provide the necessary comfort that appropriate mitigation would be delivered as required. Accordingly, GLA officers are satisfied that the application accords with the London Plan in strategic transport terms.

Public consultation

45 Newham Council's committee report confirms that the application was advertised by way of 7,232 letters sent to adjoining and neighbouring properties, together with local press and site notices. The relevant statutory bodies were also consulted. The representations received in response to the local consultation process are considered in detail within Newham Council's committee report and addendum. Furthermore, copies of all responses to public consultation, and any other representations made on the case, have been made available to the Mayor in their original form.

Responses to neighbourhood consultation

46 Newham Council received eleven representations in response to the neighbourhood consultation process (six in support, four in objection and one making comments). The associated issues raised in each case are summarised below.

47 The representations of support cited reasons with respect to: the positive transformation of Silvertown; and, redevelopment of this area is overdue.

48 The representations of objection cited reasons with respect to: absence of affordable moorings; lack of public consultation; and, displacement of existing businesses/employees (and associated environmental impact).

49 The comments made on the application related to the following: importance of not losing access to the Dockside; need for local retail to open outside of core hours; confirmation that there are two business occupiers at the site; provision of employment land remains important for local businesses and population; building heights should be limited in line with Building 1000; parking should be considered; and, need for bridges over the dock.

50 Newham Council addresses the response to neighbourhood consultation in detail within its committee report. Further to this (as noted within the Newham Council committee report addendum) late representations were received from Councillor Patrick Murphy expressing his support for the application for reasons with respect to job creation and the delivery of new homes.

Responses from statutory consultees and other organisations

- **Environment Agency:** the development will only be acceptable if conditions relating to contamination; verification report; remediation strategy; surface water drainage; foundation designs; compliance with Flood Risk Assessment are imposed.
- **London City Airport:** requested conditions which have been applied.
- **English Heritage:** suggested conditions and informatives which have been attached to the draft decision notice.

- **London Fire and Emergency Planning Authority:** recommended installation of sprinkler systems within the buildings and this has been included within an informative.
- **Buglife:** the application is likely to impact on nationally important populations of the Streaked bombardier beetle (*Brachinus scolopets*), a Priority invertebrate species under Section 41 of the Natural Environment and Rural Communities (NERC) Act. A planning condition has been attached.
- **Thames Water:** the suggested conditions and informatives to address water supply infrastructure, swimming pool metering and easements have been included.
- **Port of London Authority:** requested condition regarding the use of the river for the transport of construction materials and demolition waste has been included in the draft decision notice.
- **Natural England:** does not consider that the application poses any likely or significant risk to the natural environment.
- **Newham Chamber of Commerce:** expressed overall support for the proposal as a global commercial hub and waterfront destination for Newham.
- **Williams Environmental:** (a leaseholder at Silvertown Quays) raised an objection to the proposal for reasons with respect to lack of public consultation; displacement of existing businesses/employees; and associated environmental impact of longer customer journeys. GLA officers note that the concerns raised by Williams Environmental have been addressed in detail within the Newham Council committee report and committee report addendum.
- **Westfield:** raised an objection to the proposal related to concerns of retail impact. More specifically, Westfield expressed the view that: ‘branding accommodation’ has been incorrectly categorised as a sui generis use; the applicant has failed to provide a proper assessment of the retail and other town centre uses within the development together with the resulting environmental impacts; the suggested methods of controlling retail floorspace cannot be effectively enforced; and, no evidence has been provided of demand for such ‘brand accommodation’ – this may result in pressure on Newham Council to approve future applications for change of use of the buildings. A retail critique from NLP was provided to support Westfield’s position.

Following the publication of Newham Council’s committee report Westfield issued further representations stating that: the quantum, mix and location of dedicated brand A1 retail floorspace needs to be properly controlled; concerns raised by GVA (advising Newham Council) were not fully expressed within the committee report; the committee report does not explain why an offer from the applicant to enter into a unilateral undertaking with Newham Council (to provide additional retail controls) has not been taken forward; a number of proposed conditions raise concerns with respect to enforceability (suggested amendments were provided); and, Westfield does not agree that Use Class classification is a matter of planning judgement. Notwithstanding this, Westfield stated that it was in discussions with the applicant team with a view to resolving the outstanding concerns through refinements to the proposed planning controls.

GLA officers note that the concerns raised by Westfield have been addressed in detail within the Newham Council committee report and committee report addendum. Moreover, the Council has incorporated/amended planning conditions and obligations to appropriately control the brand accommodation and A1 retail space in response to the concerns raised by Westfield. Having considered the associated strategic issues, and pursuant to the consideration within the brand accommodation and retail section above, GLA officers are satisfied that the necessary controls would be in place to appropriately manage the unique offer proposed in this case, and to avoid any unacceptable impact on the network of town centres in Newham and the wider east London catchment.

On 21 December 2015, a further consultation response was received from Westfield relating to revised planning conditions and the draft proposed section 106 obligations. Concerns raised include: current planning conditions fail to provide Newham Council with robust controls over the extent to which the brand units can be put to A1 retail use; whilst the Council's report asserts that robust and enforceable conditions and obligations can be imposed, no assessment is provided as to how this is achieved by the conditions and obligations proposed; the allowance for 25% of the floor area of a brand unit to be used for A1 retail purposes allows for the creation of retail destinations; such large stores could become primary rather than ancillary to the brand units; no clarity as to how Newham Council will enforce conditions preventing the brand unit floorspace being used for A1 retail, and current conditions differ from those presented to Newham Council's planning committee, and should therefore be re-presented, particularly given the removal of references to 'ancillary' and 'primary' use.

GLA officers note the additional concerns raised by Westfield; however, GLA officers remain satisfied that the necessary controls would be in place to appropriately manage the unique offer proposed in this case, and to avoid any unacceptable impact on the network of town centres in Newham and the wider east London catchment.

Response to public consultation – conclusion

51 The statutory and non-statutory responses to Newham Council's consultation process do not raise any material planning issues of strategic importance that have not already been considered at stage 1, and/or in this report.

Article 7: Direction that the Mayor is to be the local planning authority

52 Under Article 7 of the Order the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance the Council has resolved to grant permission with conditions and planning obligations, which satisfactorily addresses the matters raised at stage one, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

53 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application and any connected application. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor

may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

Financial considerations

54 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government guidance emphasises that parties usually pay their own expenses arising from an appeal.

55 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

56 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the council to do so) and determining any approval of details (unless the council agrees to do so).

Conclusion

57 The principle of an employment led-mixed use development with residential, leisure and commercial uses in the Royal Docks Opportunity Area and Enterprise Zone is supported and would deliver much needed regeneration to the area.

58 The strategic issues raised at consultation stage with respect to brand accommodation and retail; housing; urban design and heritage; inclusive design; climate change; noise/air quality; aviation safeguarding; and transport have now been appropriately addressed. Appropriate robust controls are now in place to ensure the 'brand' accommodation and retail uses do not adversely impact on nearby town centres or contravene the NPPF and London Plan policy.

59 Moreover, having regard to the details of the application; the matters set out in the Council's committee report and addendum; the draft Section 106 legal agreement; and, draft decision notice, GLA officers are satisfied that the application is acceptable in strategic planning terms.

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