

1A Downs Road, London, E5 8QY

in the London Borough of Hackney

planning application no. 2015/0555

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

Demolition of all existing buildings and structures at the site and the erection of 4 buildings of between 1 and 15 storeys in height; comprising a minimum of 3,202 sq.m. of business use (Class B1) 517sq.m. flexible floorspace (Class A1, A3 and B1), 444sq.m. flexible floorspace (Class D1, D2, B1), a replacement waste facility (Sui Generis) and 79 residential units (Class C3); hard and soft landscaping; servicing facilities; parking; cycle parking; ancillary and enabling works, plant and equipment and associated development.

(n.b. This proposal description mirrors the Council's committee report description which highlights the amendments to the scheme since stage 1 - specifically the commercial floorspace changes and a reduction in the number of residential units).

The applicant

The applicant is **DSN Ltd** and Downs Road Ltd and the architect is **Lynas Architecture**.

Strategic issues

The proposal re-provides the **waste function** at this **safeguarded waste site** as required by the London Plan, Hackney Core Strategy and the draft North London Waste Plan. It will provide 10% **affordable workspace** and start up business units in the priority employment area (PEA) designated site which will be of higher quality than the existing warehouse (B8) provision at the site and secure a '**Ways into Work**' **contribution** to provide employment support to residents, through job brokerage, work placements, local labour programmes, supply chain management and programmes aimed at assisting small to medium enterprises (SMEs). No impact to local town centres has been identified and the matters concerning **affordable housing, design, inclusive access, play space, energy, drainage** and **transport** have been addressed.

The Council's decision

In this instance Hackney Council has resolved to grant permission.

Recommendation

That Hackney 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 21 April 2015 the Mayor of London received documents from Hackney 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 Category 1C of the Schedule to the Order 2008:

“Development which comprises or includes the erection of a building where the building is more than 30 metres high and is outside the City of London.”

2 On 3 June 2015 the Mayor considered planning report PDU/ 3487/01, and subsequently advised Hackney Council that the application did not comply with the London Plan, for the reasons set out in paragraph 79 of the above-mentioned report; but that the possible remedies also set out in that paragraph of that report could address these deficiencies.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. Since then, the application has been revised in response to the Mayor’s concerns. On 4 November 2015 Hackney Council decided that it was minded to grant planning permission, and on 9 March 2016 it advised 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 Hackney Council under Article 6 to refuse the application or issue a direction to Hackney 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 March 2016 to notify the Council of his decision and to issue any direction.

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

Update

5 At the consultation stage Hackney Council was advised that the scheme was generally acceptable in strategic planning terms but did not fully comply with the London Plan in relation to the following issues:

- **Waste:** The main strategic concern with this proposal is that the waste use/function at the site is protected, and that the tonnage throughput being achieved (and the maximum licenced throughput for the facility) at this site is retained. The additional land uses should not have a detrimental impact on the waste operations.
- **Employment:** An uplift in affordable employment space is required, which is not time limited and the Council should ensure that this is secured through the legal agreement. See below.
- **Town centres:** The applicant is required to undertake a sequential assessment to evaluate the likely impact of the retail uses within the neighbouring district centres.
- **Housing:** It is understood that the housing element of the proposal is to make the scheme viable. It is also appreciated that the need for affordable work space carries greater precedence at this site than the provision of affordable housing. This is the approach the Council has adopted with the applicant and the GLA is supportive of this, subject to an uplift being achieved in the affordable workspace proposed. The Council should share the assessment results of the viability study with GLA officers.

- **Density:** The applicant should clarify the density of the scheme based on the revised housing figures proposed.
- **Amenity space provision/ playspace:** The play space proposed on the site is welcomed, however further clarification of this is required.
- **Inclusive access:** The applicant is required to submit information relating to inclusive design to ensure compliance with London Plan policies 7.2, 7.5 and 3.8. Indicative plans of wheelchair units and lifetime homes are required to ensure that these will comply with the standards and these should be secured by the Council.
- **Design:** Further work is required to demonstrate that living and amenity space fronting the railway and close to the ATF will not be compromised by noise, vibrations and air quality issues. The architectural materials proposed create a high quality appearance and these should be secured by the Council through necessary conditions. The separation of the public realm and vehicular deliveries area along the new central street is welcomed. Matters raised with regards to the central street extending north of the site should be clarified due to the gains of connectivity and open space creation next to the Hackney Homes site.
- **Climate change:** Further revisions and information are required before the proposals can be considered acceptable and the carbon dioxide savings verified.
- **Flooding:** The proposals are not currently acceptable as they are likely to be subject to surface water flood risk which does not appear to have been considered as part of a Flood Risk Assessment (FRA). This is particularly relevant as the development proposes two levels of basement which could be at particularly high risk. The surface water drainage and attenuation measures, including the green roofs should be secured by way of conditions.
- **Transport:** Additional disabled car parking bays are required for the commercial operations at the site, further discussion is required to avoid cyclists speeding through the north-south route, clarification is also sought on the exact location of cycle parking facilities. The Council should secure appropriate pedestrian improvements, including wayfinding infrastructure to improve legibility. The Council should secure the DSP, CMP, CLP and travel plan by a S106 agreement which accords with TfL guidance. Reference should be made to the detailed transport comments above.

6 Taking each of the matters in turn, the following is noted:

Waste

7 Following the stage 1 report and further advice to the applicant and Council, GLA officers reiterated the GLA's policy position regarding the waste use at this site as per the stage 1 report which set out the hierarchy of steps that would be expected to be followed:

- Safeguard the waste site.
- Integrate the waste function into the proposal (as proposed by the applicant).
- Relocate the waste operations/site within the Borough or within the joint North London waste planning area sub-region. The applicant was advised to work with the Council to find an alternative site and to ensure that the replacement site should result in no loss of waste capacity.
- The applicant can explore if the capacity could be absorbed into another Authorised Treatment Facility (ATF) for End of Life Vehicles (ELV).

8 The applicant undertook a study and produced a report entitled "Existing ATF Treatment Capacity in North London". This looked at other North London Waste facilities which have capacity to cater for the licensed throughput of the application site's waste facility.

9 The report concluded that *“modelling up to the year 2031 shows a surplus capacity in metal recycling sites under all growth projections and modelling scenarios throughout the North London Waste Plan period. The north London area supports a large number of specialist recycling sites with large quantities being imported to north London for recycling.”*

10 Despite the surplus provision the proposal re-provides the safeguarded waste use at the site, as required by the London Plan (5.17), the Council’s Core Strategy (policy 32) and North London Waste Plan. It is understood from the Council and stated in the committee report that *“the proposed ATF has been externally reviewed by an independent Environmental Consultant on two occasions who raise no formal objection and confirm the facility will be able to provide the licensed throughput capacity of 600 tonnes per annum. A review mechanism is proposed to ensure the cost of leasing the facility reflects market rates and a range of conditions are proposed to safeguard against pollution and adverse amenity impact”*. The environmental permit capacity of waste throughput in tonnages has been retained at the site whilst being smaller than the existing provision. Further, the costs of operating in a basement will be subsidised to avoid the operational constraints identified by the independent review of the ATF by environmental consultants. The s106 also secures an ATF review mechanism to reflect leases at the equivalent market rates with leasing rates secured at £6-8 per square foot for the first three years, until the next three years when the Council will decide on the preferred rate.

11 As ATFs are not generally located in basements, the review did identify some potential operational constraints such as how the overall site and lift door operation will be managed to accommodate future users. Consequently the Council has set a condition which will require the developer to submit a management system/ working plan demonstrating how the ATF will be operated in consultation with the Environment Agency (EA), the permit issuing authority). This will also specify the measures to mitigate amenity impacts such as odour, noise and vibration. The existing EA permit can be transferred to the new facility if the existing operator returns or leases/transfers the new facility to another party.

12 The proposed development is therefore compliant with the London Plan.

Employment

13 The proposed development will provide 10% affordable workspace and a minimum of 3,202 sq.m. of B1 floor space in the Priority Employment Area (PEA) suitable for start up/incubator business units. The provision will be of a higher more modern quality premises than the existing B8 warehouse. The affordable workspace timeframe is subject to scheme viability, although the s106 draft states that the B1 use area should be offered to a Business Space Provider for a minimum of ten years. The agreement with the applicant is compliant with the Council’s policy DM16 and captures the affordable workspace provision as part of the s106 agreement and the residential element would not compromise the business operations.

14 A condition is also attached requiring specification for the fit out of the business (class B1) floorspace as well as a strategy for marketing this space to be submitted and approved. In addition to affordable workspace provision, a ‘Ways into Work’ S106 contribution of £201,501.91 has been secured which will provide employment support to residents, through job brokerage, work placements, local labour programmes, supply chain management and programmes aimed at assisting SMEs. The GLA support these provisions as the primary policy driver for this site is employment due to the PEA designation.

Town centres

15 The applicant was advised to assess the impact of the proposal on local centres at stage 1 as the site is not located within a shopping centre designation and proposes to provide 517sq.m. of A1/A3 retail. The applicant submitted a retail assessment to the Council which demonstrates that there are no redevelopment opportunities within these existing centres that could accommodate a similar scale of retail as proposed on site. The Council therefore concluded the proposed range of retail would not significantly impact on the viability and vitality of local centres.

Housing

16 The applicant proposes to provide no affordable housing units at this site. At stage 1, GLA officers considered this acceptable as it recognised the applicant is proposing to prioritise the provision of affordable commercial floorspace given the site's PEA designation. At stage 1 the affordable workspace offer was insufficient, however, following the discussions had between the Council and the applicant, it is apparent that the provision is now in compliance with Hackney Council's Policy DM16 as detailed earlier in this report. The Council's Strategic Property Services recommended to Hackney Planning Services that the proposed scheme mix of residential and commercial accommodation with a zero affordable housing contribution should be considered reasonable on viability grounds. GLA officers are content with the Council's approach and support the priority afforded to affordable employment generation at this PEA designated site.

Density

17 Whilst the density exceeded the suggested range in the London plan, the development is deemed acceptable in town scape terms as the site is an identified area for tall buildings and does not give rise to adverse amenity impacts (daylight/sunlight and highway impacts) and therefore meets London Plan policy 7.4.

18 In terms of the ATF alongside the other uses at the site, Hackney Officers and the Environment Agency have agreed on a condition requiring a detailed management system/working plan demonstrating how the Authorised Treatment Facility will be operated, to include measures to mitigate amenity impacts such as odour, noise and vibration to be submitted for approval, in consultation with the Environment Agency.

19 It can be concluded that the development, despite it's high density would be of exemplary design and offer excellent housing quality, meeting the Mayor's Housing SPG standards and thus supported.

Amenity space provision/ playspace

20 The play provision would be fully inclusive – as addressed in the section below.

21 At stage 1 the applicant stated that Hackney Downs, which is near to the site provides open space and play space for children and a creche type facility will be provided on site for the benefit of residents, employees and the public alike off the boulevard through the block D north core.

22 The nursery is positioned in the north-western corner of the site with direct access to the playspace. It will have a secure entrance with a video entrance phone to the nursery unit.

23 The creche space has a mezzanine with direct access to the playspace and a double height volume. It also benefits from windows on three facades. The playspace provision is in addition to the creche which exceeds the GLA requirement of 114 sq.m. of playspace provision to be made on site and will provide 150sq.m. Three plots are proposed on the ground floor comprising plot one at 45sq.m and two plots referred to as plot 2 at 5sq.m. each and plot three at roof level at 95sq.m. all of which are supported.

Inclusive access

24 It is noted that the application will comply with Lifetime Homes standards and 8 of the units (10%) are to be wheelchair adaptable. Whilst the proposed standard of accommodation is compliant with London Plan policy 3.5 the Council should note that as of 1 October 2015 the Government's technical housing standards came into effect. The Mayor adopted the new technical guidance through the Minor Alterations to the London Plan (MALP), published 14 March 2016. However, in advance of this the Mayor has released a policy statement setting out that from 1 October 2015 the relevant London Plan policy and associated guidance in the Housing SPG should be interpreted by reference to the nearest equivalent new national technical standard.

25 As such the Council should include a condition to secure the Building Regulation standards M4(2) and M4(3). Given that the scheme has a lift access to all residential floor elements, GLA officers do not consider it onerous to the developer for the current conditions for access to be replaced with the latest standards. The new Housing SPG is also on the GLA website for reference.

26 Wording for this condition should read as follows: the Council should include a condition to secure the Building Regulation standards M4(2) and M4(3), with the reason justification as set out above.

Design

27 The residential unit number decreased from the stage 1 to stage 2 submission to address concerns the Council had with the massing/townscape impact of the main block. The resulting reduction removed the 'slab' like effect (as originally submitted) and gives a more articulated response to the scheme's design which is supported as the GLA had advised the applicant to provide an explanation for the inclusion of a building of such height in this location. The changes address both the GLA and Council's concerns with massing and height, whilst optimising the site's potential. The key details are also secured through relevant conditions.

28 Further work was required to demonstrate that living and amenity space fronting the railway and close to the ATF will not be compromised by noise, vibrations and air quality issues. The Council has assessed the likely noise impacts and has concluded that the existing surrounding context reflects what the new –predominantly C3 and B1 uses would be exposed to. A range of conditions covering internal ambient noise levels, acoustic treatment, vibration, dust management and plant noise restriction are attached to the proposal to mitigate against noise and other impacts.

29 At stage 1, the applicant was asked to provide further information that demonstrates how the level change between the street level and raised area of playspace can be addressed to provide fully inclusive access for wheelchair users and people with limited mobility. The applicant has clarified that the lift core to the north block of building D will provide level access to the playspace, making this a fully inclusive areas for wheelchair users and people with limited mobility as well as people with prams etc.

30 The applicant explored further the inclusion of a route through the estate at the northern end of the site however there are two pieces of land towards the rear of the site which are underutilised and the subject of fly tipping and dark creating an area of antisocial behaviour. This area is also fenced off and therefore the applicant has opted to create a direct route between Rectory Road and Hackney Downs Park instead.

31 Overall the massing has been reduced, the commercial areas maintained with minimal variations and the residential units have been reduced. These changes have been made post submission of the scheme through consultation with Hackney Council's design team and are in accordance with local aspirations. The GLA has no further comments to make in this respect.

Energy

32 Overall the Council proposes two conditions to the CHP and energy centre and GLA officers have commented on those below to ensure that London Plan policies are being adhered to adequately.

33 In relation to the concerns raised at stage 1 for demand for cooling to ensure compliance with London Plan Policy 5.9- to reduce the risk of overheating, the applicant has stated that ventilation will be provided through mechanical ventilation heat recovery (MVHR)- heat recovery ventilation, also known as HRV, and that all standard assessment procedure (SAP) models now pass the overheating criteria.

34 Further information was requested regarding the blinds which were proposed to deal with overheating although no further information has since been provided. The Council has stated that the requirement for blinds will be included in the conditions.

35 The applicant was required to provide further information on the expected running hours of the CHP engines and the proposed management arrangements, as this will have a significant impact on financial viability for the CHP proposal. Details of the total number of running hours has not been provided, however the applicant has stated that the CHP will run on full load for 8 months. The applicant has provided additional information on how the CHP has been sized, including taking a conservative approach by not including the heat load of the dwelling in order to ensure that the CHP is fully utilised and not oversized. The applicant has stated that this approach has been taken due to commercial heat load being larger than the dwellings and that the peak load for the dwellings will occur outside of the office hours. While the approach to ensuring the CHP size is not oversized is acknowledged, the office space and residential building are of similar areas and therefore the load for the residential element is likely to be a sizeable proportion of the total heat load. The applicant should, therefore, ensure that the CHP size is reviewed at the detailed design stage to include for all building uses in order to maximise the proportion of heat from CHP across the site.

36 For the sale of electricity the applicant has stated that this will be subject to further assessment at a later design stage. The applicant has, however, provided further information on how the electricity from the CHP will be prioritised and purchased by the occupants and has confirmed that they will be able to provide it at a reduced cost to grid electricity.

37 GLA officers have noted that whilst matters relating to PV were addressed, it appears the PV will be positioned flat, which would require cleaning and so the Council should ensure there is a maintenance regime to clean the panels. The Council has said this will be secured by condition.

Drainage

38 Following the Stage 1 comments, the applicant has submitted a document produced by BWM entitled Code for Sustainable Homes: Flood Risk and Storm Water Attenuation Assessment, dated October 2014, with June 2015 updates. This document does recognise the surface water flood risk at the site and goes on to list a number of potential design/engineering mitigation measures. The list of measures is acceptable although there is no firm commitment to which, if any, of these would be required.

39 There are two proposed conditions relating to surface water drainage, however, these focus on the design and maintenance of the SUDS features rather than the flood risk mitigation measures.

40 Therefore a suitable planning condition should be applied to any planning permission requiring the detailed surface water flood risk mitigation measures to be agreed with LB Hackney Lead Local Flood Authority Officers. The Council has agreed to this.

Possible wording for a condition could be as follows:

Prior to commencement of works detailed design measures to mitigate the potential risk from surface water flooding must be submitted to the local planning authority and agreed in writing in consultation with LB Hackney Lead Local Flood Authority.

Reason: to reduce the likelihood and impact of potential surface water flooding.

Transport for London's comments

41 At Stage 1, a number of issues were raised; this includes site access, disabled car and cycle parking, and servicing.

42 Despite TfL's request for additional disabled spaces on site to comply with London Plan car parking standards, the applicant advised that the requirement to re-provide the existing waste facility on site has limited space for further provision; Hackney Council has subsequently agreed this level of provision is adequate. TfL is pleased that the site will be designated as 'car free' and future residents will not be eligible for local on-street permits via a 'car free' agreement, to be secured by planning obligation.

43 Further to clarification from the applicant, TfL now considers that the proposed level of cycle parking is consistent with the latest 2015 London Plan cycle parking standards, which is welcomed. TfL is content that the requirement to submit details of cycle parking for Hackney Council's approval has been secured by condition.

44 With regards to access, the applicant has confirmed that only panel vans or smaller size vehicle will only be allowed to access the main site, which will be controlled and only between 8-9am and 5.30-6.30pm daily. Other vehicles will have to utilise the proposed loading bay accessed from Rendlesham Road. TfL considers this arrangement is acceptable and is content this will be secured via a delivery & servicing plan (DSP), along with a construction management and logistics plan (CLP) by appropriate conditions.

45 TfL is pleased that the delivery of the finalised travel plan has been secured by Hackney Council along with a car club contribution of £6,950, which includes the first year member for each of the 79 residential units (£3,950) as well as the provision of one on-street bay (£3,000). Hackney Council has also secured local footway improvement via s278 agreement under Highways Act 1980.

46 In summary, TfL considers that the proposal is London Plan compliant.

Response to consultation

47 Hackney Council publicised the application by sending notifications to 359 adjoining owners and occupiers. The Council also issued a press advert and site notices. The statutory consultation period ran between 6 March 2015 to 19 October 2015.

48 The Council received 161 objections and 101 comments of support, which were received through a combination of petitions and individual letters. A summary of the nature of comments received is detailed below.

Summary of representations objecting to the scheme:

- Will give rise to overlooking and privacy problems;
- Will lead to a loss of light and overshadowing to surrounding residents and reduce outlook;
- The petrol station should be retained as residents rely on it;
- Construction will lead to noise, dirtiness, dustiness and impact to wildlife;
- Give rise to adverse highway impacts;
- New schools and hospitals will be required as a result of the development
- Additional lorries and vans will create noise and pollution impacts;
- Object to no affordable housing being provided given the substantial uplift in commercial and employment space being proposed in the scheme;
- The proposed buildings are too big and the 15 Storey building will be imposing;
- Oppose the retention of the car breakers yard in the heart of a residential area;
- Other sunny days apart from the 21st March should be used in the daylight assessment (*The BRE guidance requires overshadowing testing to be carried out on 21st March*);
- A third party right of light consultancy requested no decision is made until the daylight sunlight assessment reflects the layouts and uses of adjoining 13-17 Rendlesham Road. (The daylight sunlight assessment was subsequently amended following further research into adjoining building room uses, following which, no additional comments from the landowner were received.)
- The development does not respect the surrounding townscape
- Will cause overcrowding and noise;

Summary of representations in support of the scheme:

- The existing site is underused and the redevelopment plans would significantly improve the area;
- The commercial space and the jobs will have a positive impact on the community;
- Support provision of nursery, play area and places to eat and drink;
- Support the quality of design and public realm;
- Will make the area more vibrant;
- The residential plans will be a great asset and the employment opportunities are very exciting.
- Support the amount of open space provided;
- Retail provision will benefit local residents;
- The development will make Hackney Downs a tourist attraction, allowing people to visit;
- The redevelopment will provide a significant increase in jobs to the area and the quality of residential apartments look good.
- The plans to move the breakers yard out of site and to the basement are welcomed.

Summarised comments from Councillor Desmond:

- I have been in contact with the developer of this site, providing feedback and informal guidance, in what I consider to be the interests of the ward, for some time.
- This is a very important development for Hackney Downs, which will provide a significant number of flexible work units, help to regenerate the area and offer significant employment opportunities. The success of Hackney Downs studios and other similar schemes shows the high level of potential demand for work units; these have been designed in a particularly attractive way, within a cobbled setting. Feedback from residents implied that a retail unit would be useful within the complex. With regard to the residential aspect, I would have

preferred a mixed development including social housing, I know from my discussions that the number and style of the apartments will cross-subsidise the initial cost of the work units.

- The footprint of the development seems acceptable, its' height must be evaluated by officers, there does not appear to be any significant shadow that could breach BREAM guidelines.
- Overall, I support the development, subject to the result of further consultation and feedback from local residents.

Statutory consultees

49 The following statutory consultees responded:

- **Environment Agency:** raised objection due to the application being considered to pose low environmental risk to flooding, controlled waters and the water environment. An informative regarding deep piling on site is recommended.
- **Network Rail:** raised no objection, however it detailed requirements for the safe operation of the railway and the protection of Network Rail's adjoining land, commenting on: future maintenance, drainage, plant and materials, scaffolding, piling, fencing, lighting, noise and vibration, landscaping, permitted and non-permitted shrub/trees and vehicle incursion.

It also stated that the developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land;
- affect the safety, operation or integrity of the company's railway and its infrastructure;
- undermine its support zone;
- damage the company's infrastructure;
- place additional load on cuttings;
- adversely affect any railway land or structure;
- over-sail or encroach upon the air-space of any Network Rail land;
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.
- **Hackney Parks Forum:** No comments received
- **Primary Care Trust (PCT):** No comments received
- **Met Police:** No comments received
- **EDF:** No comments received
- **Fire and Emergency:** No comments received
- **English Heritage –The Greater London Archaeological Advisory Service (GLASS):** Recommend no archaeological requirement

- **Hackney Society:** Summary of comments submitted during a previous iteration of the scheme – There appears to be an overly strict interpretation of policy, which instead of securing the best outcome for the site arrives at a compromise which doesn't satisfy anyone. We have serious concerns about the retention of the car breakers facility, which is far better suited to peri-urban and industrial landscapes. The apparent requirement to retain the breakers yard creates large, complex and expensive constraint. It should be omitted from the scheme and a proportion of commercial floorspace be secured as affordable instead. Development could certainly be dense and high, but should be more distributed to provide a coherent townscape. The slab block is overbearing and will restrict natural light levels. The provision of lowered courtyards will restrict light and ventilation to commercial units. A strict control of material quality and detailing is critical and should be secured by condition. The absence of visible rainwater pipes should be addressed and landscaping proposals need to account for the reality of life of the external spaces as semi private yards.
- **Thames Water:** No objection, subject to Piling Method Statement condition.

50 Overall, the various objections and issues raised have been suitably addressed in this report, the stage 1 report and the Council's report through the use of planning conditions, informatives and provisions within the draft Heads of Terms of the section 106 agreement- as per the committee report.

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

51 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 a planning obligation, which satisfactorily addresses the matters raised at stage 1, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

52 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 (the next four words are optional) 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

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

54 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.

55 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

56 Overall, the proposal demonstrates affordable employment delivery whilst being residentially led due to scheme viability and this is supported. The waste designation will be retained through the refitted ATF at the site. The retail impact work demonstrates no harm to the existing centres. This facility is intended to support new employment functions and the scale/density will not impact elsewhere and therefore the scheme is supported in terms of good strategic planning in London.

57 All matters raised at stage 1 on waste, retail, housing, design, inclusive access climate change, drainage and transport policy issues have been addressed. The new conditions recommended by GLA officers in discussion with the Council for inclusive access, energy and drainage should be included to make the scheme fully compliant with the relevant London Plan policies.

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