

STRATEGIC PLANNING COMMITTEE

Date of Meeting: **TUESDAY, 17 JULY 2018 TIME 7.30 PM**

PLACE: **COMMITTEE ROOMS 1 & 2 - CIVIC SUITE**

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**John Paschoud (Chair)
Alan Smith (Vice-Chair)
Abdeslam Amrani
Paul Bell
Bill Brown
Suzannah Clarke
Olurotimi Ogunbadewa
Joani Reid
James-J Walsh**

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

**Ian Thomas
Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 10th July 2018**

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Alison Bradshaw Committee Co-ordinator
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Catford Road SE6 4RU**

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Committee	STRATEGIC PLANNING COMMITTEE	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 17 JULY 2018

Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

Personal interests

There are two types of personal interest :-

- (a) an interest which you must enter in the Register of Members' Interests*
- (b) an interest where the wellbeing or financial position of you, (or a "relevant person") is likely to be affected by a matter more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.

*Full details of registerable interests appear on the Council's website.

("Relevant" person includes you, a member of your family, a close associate, and their employer, a firm in which they are a partner, a company where they are a director, any body in which they have securities with a nominal value of £25,000 and (i) any body of which they are a member, or in a position of general control or management to which they were appointed or nominated by the Council, and (ii) any body exercising functions of a public nature, or directed to charitable purposes or one of whose principal purpose includes the influence of public opinion or policy, including any trade union or political party) where they hold a position of general management or control

If you have a personal interest you must declare the nature and extent of it before the matter is discussed or as soon as it becomes apparent, except in limited circumstances. Even if the interest is in the Register of Interests, you must declare it in meetings where matters relating to it are under discussion, unless an exemption applies.

Exemptions to the need to declare personal interest to the meeting

You do not need to declare a personal interest where it arises solely from membership of, or position of control or management on:

- (a) any other body to which you were appointed or nominated by the Council
- (b) any other body exercising functions of a public nature.

In these exceptional cases, unless your interest is also prejudicial, you only need to declare your interest if and when you speak on the matter .

Sensitive information

If the entry of a personal interest in the Register of Interests would lead to the disclosure of information whose availability for inspection creates or is likely to create a serious risk of violence to you or a person living with you, the interest need not be

entered in the Register of Interests, provided the Monitoring Officer accepts that the information is sensitive. Where this is the case, if such an interest arises at a meeting, it must be declared but you need not disclose the sensitive information.

Prejudicial interests

Your personal interest will also be prejudicial if all of the following conditions are met:

- (a) it does not fall into an exempt category (see below)
- (b) the matter affects either your financial interests or relates to regulatory matters - the determining of any consent, approval, licence, permission or registration
- (c) a member of the public who knows the relevant facts would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

Categories exempt from being prejudicial interest

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Effect of having a prejudicial interest

If your personal interest is also prejudicial, you must not speak on the matter. Subject to the exception below, you must leave the room when it is being discussed and not seek to influence the decision improperly in any way.

Exception

The exception to this general rule applies to allow a member to act as a community advocate notwithstanding the existence of a prejudicial interest. It only applies where members of the public also have a right to attend to make representation, give evidence or answer questions about the matter. Where this is the case, the member with a prejudicial interest may also attend the meeting for that purpose. However the member must still declare the prejudicial interest, and must leave the room once they have finished making representations, or when the meeting decides they have finished, if that is earlier. The member cannot vote on the matter, nor remain in the public gallery to observe the vote.

Prejudicial interests and overview and scrutiny

In addition, members also have a prejudicial interest in any matter before an Overview and Scrutiny body where the business relates to a decision by the Executive or by a committee or sub committee of the Council if at the time the decision was made the member was on the Executive/Council committee or sub-committee and was present when the decision was taken. In short, members are not allowed to scrutinise decisions to which they were party.

Committee	STRATEGIC PLANNING COMMITTEE	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date: 17 July 2018

MINUTES

To approve the minutes of the meeting of the Strategic Planning Committee held on the 3rd April 2018.

MINUTES of the meeting of the STRATEGIC PLANNING COMMITTEE held in Rooms 1 and 2, Civic Suite, CATFORD SE6 on Tuesday 3rd April 2018 at 7.30 pm

PRESENT: Councillors: De Ryk (Chair), Bonavia, Curran, Hall, Coughlin and Reid.

APOLOGIES: Councillors: Paschoud (Vice-Chair), Clarke, Amrani, and Onikosi.

OFFICERS: Emma Talbot - Head of Planning, Michael Forrester – Major & Strategic Projects Manager, Paula Young - Legal Services, Simon Moss – Service Group Manager for Highways and Transport and Alison Bradshaw - Planning Committee Co-ordinator.

1. DECLARATION OF INTERESTS

Cllr Bonavia declared an interest as a Blackheath Councillor, member of the Blackheath Society and Lewisham Station Users Group. Cllr De Ryk declared an interest as both a Blackheath Councillor and member of the Blackheath Society. Both councillors stated that these interests were non-controlling and therefore not prejudicial to the planning application being considered at the meeting.

2. MINUTES

Councillor De Ryk (Chair), asked if Members agreed that the Minutes of the Strategic Planning Committee meeting held on 20th March 2018 were a true and accurate record. Members agreed and the minutes were signed by the Chair.

3. FORMER TESCO'S CAR PARK, 209 CONNINGTON ROAD, LONDON SE13 7LH

Emma Talbot stated that the planning application had come before the Strategic Planning Committee in December 2017 but was deferred; with the reasons for the deferral set out in the committee report. She then presented an overview of the scheme and planning context.

She reminded members that after a deferral, this strategic planning committee is for members to consider how the applicant has responded to the reasons for deferral. It is not an opportunity for members to revisit other aspects of the scheme and is for members to consider the applicant's response to the reasons for deferral.

Michael Forrester took members through the revised scheme; explaining the affordable housing mix revised offer of 16 social rent, 27 affordable rent and 30 discount market sale units. The developer had held a local meeting with residents on 4 January 2018, which officers consider is an appropriate level of public consultation. The applicant has made approaches to GLA for grant funding, but have been told that none is currently available.

Officers consider that the applicant has addressed the reasons for referral.

Cllr Bonavia queried why there was no change in the affordable housing provision, particularly as other Lewisham Town Centre developments had increased provision. Officers explained that the Housing Infrastructure Funding (HIF) was promoted by the Government to unlock housing where there is significant infrastructure that could not be provided unless funded. This scheme does not meet the HIF requirements and that officers have had the scheme independently verified by a viability consultant who found the scheme to be delivering the maximum level of affordable housing.

Cllr Coughlin expressed surprise that schools and NHS provision would not be seriously stretched by this development. Officers explained that Para 4.56 of the committee reported reviewed both school and GP provision within the area and this was considered appropriate. As the application is an EIA development, officers consider the scheme's impact and the accumulated impact. It is recognised that being a high-density, town centre scheme that the accommodation is not suitable for large numbers of families. Officers are working with CCG to review provision of health care and increasing capacity across the area.

Cllr Bonavia, expressed concerns about Lewisham station's capacity, entrance and exit, with platform 4 (closed for 8 years). Simon Moss explained that LBL will continue to lobby for the opening of platform 4. Timing is one of the uncertainties for the different proposals for the station at different scales. Internal capacity in the station is a key issue along with station access from the north.

James Moody (Meyer Homes) presented an overview of the revisions of the scheme that are intended to address the reasons for refusal. Laura Bradley, the landscape architect, explained that the sequence of spaces with wide footpaths will help to define Silk Square at the heart of scheme near the river and station. Aim to connect this space with Conington Green, provide incidental play spaces, integrated planting and stepped terraces.

Julian Barrett, EPR architects, explained that the Island building will be set in Silk Square. As the tallest building in Lewisham town centre, the inclusion of a viewing platform at the top of the building will benefit residents. He explained that S.106 contributions will be made to improve station access and that they had made a commitment to clear up the Silk Mills bridge area. Construction to start in 2019 and fully completed in 2022. 1st affordable unit will be available in 2021.

Cllr Curran stated that "Island Gardens" already exists and the scheme should be renamed to avoid confusion. He queried the location of the bus stops and expressed concern that building was too tall. He also requested a serious review of the walking routes as people will take the shortest route through the bushes. He raised concerns that the station will be over capacity, particularly around the station entrance, and asked whether a planning condition could prevent development until the station is improved.

Cllr De Ryk raised a number of concerns around the viewing platform, particularly the need for an appointment and that the platform would only be open for 2 hour slots, 10 days per year. She stated that if the developer was genuinely keen that people will want to use the platform, that a sustainable strategy for provision of the facility would be required and suggested a need for a ground floor strategy at the bottom to draw people to the building. She asked that the strategy included how the developer was going to embed the viewing platform into the community and make people want to come.

Cllr Curran suggested making the viewing platform open around the year and maybe including a café which would make the space more open and commercially viable.

Cllr Bonavia suggested that as the tallest building in Lewisham, it must be attractive, well designed and a vibrant space.

Mr Moody stated that they were discussing how to open up the viewing platform for more than 10 days per year and make it commercially viable. He agreed that steps were needed to work through how to make this a reality.

Cllr De Ryk reminded the committee that if they were not happy with the height of the building then the application should be refused. Cllr Coughlin, stated that we should not be considering the application on the basis of the viewing platform.

Cllr Bonavia, stated that because of the housing crisis we are very keen to push every application so check that the affordable housing percentage is the best that can be achieved. The % of London Living Rent or affordable rent units is too low, and therefore there was a need to make a good case to demonstrate that the public benefits of the scheme are high.

Mr Moody stated that they had worked hard to provide affordable rents, a registered housing provider and grant funding. Viability consultants had extensively reviewed the build costs, CIL and S106 contributions and river contributions.

Nick Patton on behalf of the Blackheath Society welcomed the idea of the scheme to redevelop an underused site. However, he stated that he did not think the reasons for deferral had been addressed and that it was not clear there was a public benefit with the proposal. He continued that the station overcrowding was getting worse at peak times and that the number of bus stops had been reduced in the area.

Endorsed comments to be made by Geoffrey Turley.

Geoffrey Turley, on behalf of the Ladywell Society endorsed Mr Patton's comments. He raised concerns about the opening up the river in accordance with LTC5. Michael Forrester explained that this planning application did not include the naturalisation of the river which would require a fresh planning application for this work. Mr Turley requested that the planning application for the river works is made in 1 year and completed within 3 years so that delivery of the river works is concurrent with delivery of the scheme.

Mr Walsh, a local resident stated that he was unaware of this planning committee until a few days ago. He raised concerns that the distances between his home, river and the development had been incorrectly measured and his house incorrectly classed as non-residential. He stated that his property would be overshadowed by the development and would lack privacy. He stated that he had not been consulted about the viewing platform and that the tower would be out of keeping with the area. The light levels in his house would be reduced below the minimum living standards in the kitchen, living area and bedroom.

Cllr Hall asked the objectors for their views on the level of public consultation. The amenity societies were initially impressed but were not convinced that the reasons for deferral had been successfully addressed. Mr Walsh did not agree that Meyer Homes have taken resident consultation seriously with just one hour meeting, which they did not attend.

The points raised by members and objectors were addressed by Emma Talbot. She re-stated that members should only be considering the scheme in front of them tonight in it's totality, including the height of the building. She stated that officers were satisfied that the hard landscaping was high quality and short cuts would not be taken. The site was located within the Lewisham Town Centre local plan. She explained that naturalisation of the river

was not appropriate at this time as the applicant owns one half of the river channel, whilst Tesco owns the other. Half a concrete channel removal would destabilise the river. However, half the cost of the future river works would be secured through the S.106 and would be delivered when the Tesco site came forward. She confirmed that the Environment Agency were in agreement with this approach.

Emma Talbot confirmed that all measurements, including daylight and sunlight were correct and set out in the committee report. Officers were confident that these had been properly considered.

Cllr De Ryk stated she was very confident that distances had been correctly referred to between the development and the existing property.

Emma Talbot explained that the consultation had been undertaken in accordance with our Statement of Community Involvement and that officers are confident that everyone that has commented on the scheme had been written to. Further consultation had been undertaken on the changes before the committee tonight.

The request for the river application to be made within 12 months was not for the planning committee to suggest. The long time scale for the river works was recognised because a third party was involved in the project.

Cllr De Ryk queried what would happen to the river works if the Tesco site did not come forward. Emma Talbot explained that there was a Ravensbourne River strategy and that we would look at the river changes if we had ownership and control of both sides of the channel. She confirmed that S.106 money was available from the Police Station scheme for general public realm improvements. There was concern from Members that this may not be enough to secure river works and that this did not amount to public benefit to justify the tall building.

Emma Talbot explained that the cleaning of the bridge and other areas would need to be a planning obligation. The management and use strategy of the viewing platform could be controlled by a properly worded planning condition.

Inherent uncertainty makes it very difficult to plan a resolution of transport issues. Rail service capacity will keep pace with development. There is a pipe line of projects set out in the committee report, particularly for the DLR.

The Mayor of London has highlighted Lewisham has one of four priority hubs, with the Bakerloo line extension. This scheme has made an appropriate contribution to mitigate any resultant increase in capacity issues. Station access is a key issue, including ramp to platform 4.

Councillor Curran moved a motion to refuse the application. It was seconded by Councillor Hall.

Members voted as follows for motion of refusal:

FOR: Councillors De Ryk (Chair), Bonavia, Curran, Hall, Coughlin and Reid AGAINST: None.

Standing orders suspended at 21.58

Reasons for refusal

Skyline, overbearing and concern about going over the datum level. Contrary to CS18 and LTC18. Applicant failed to make a case that the public benefit outweighs those public

concerns including reference to river. Affordability- clarify that the public benefit is the level of access to the viewing platform for the wider public and rivers works.

Access to platform 4 around access and capacity to enter the station, could be linked to LTC5 specific policy. This scheme on its own would cause over capacity issues, although TfL had not raised any concerns.

Two reasons for refusal. Members were happy that officers can make changes to the wording, email them to members and issue the DN.

The meeting ended at 10:04pm.

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STRATEGIC PLANNING COMMITTEE		
Report Title	Exclusion of the Press and Public	
Key Decision	No	Item No.
Ward		
Contributors	Chief Executive (Head of Business & Committee)	
Class	Part 1	Date: July 17 2018

Recommendation

It is recommended that in accordance with Regulation 4(2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 and under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 5, of Part 1 of Schedule 12(A) of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

4. FORMER TESCO'S CAR PARK, 209 CONINGTON ROAD, LONDON, SE13 7LH

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By virtue of paragraph(s) 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Committee	Strategic Planning Committee	
Report Title	Former car parks, Tesco Store, 209 Conington road, SE13	
Ward	Lewisham Central	
Contributors	Michael Forrester	
Class	PART 1	17 th July 2018

Reg. Nos.

DC/17/101621

Application dated

15.05.2017

Applicant

Ms H Phipps (Lichfields, on behalf of Meyer Homes)

Proposal

Construction of three buildings, measuring 8, 14 and 34 storeys in height, to provide 365 residential dwellings (use class C3) and 554.sqm gross of commercial/ community/ office/ leisure space (Use Class A1/A2/A3/ B1/ D1/ D2) with associated access, servicing, energy centre, car and cycle parking, landscaping and public realm works at the former car parks, Tesco Store, 209 Conington Road SE13.

Applicant's Plans and Documents.

10472-EPR-ZA-ZZ-TP-A-0100 rev 02; 10472-EPR-ZA-ZZ-TP-A-001 rev 02; 10472-EPR-ZA-AA-TP-A-002 rev 02; 10472-EPR-ZA-BB-TP-A-003 rev 02; 10472-EPR-ZA-CC-TP-A-004 rev 02; 10472-EPR-ZA-ZZ-TP-A-0101 rev 04; 10472-EPR-ZA-B1-TP-A-102 rev 02; 10472-EPR-ZA-GF-TP-A-103 rev 04; 10472-EPR-ZA-01-TP-A-104 rev 04; 10472-EPR-ZA-T1-TP-A-0105 rev 04; 10472-EPR-ZA-RF-TP-A-106 rev 05; 10472-EPR-ZA-AA-TP-A-0500 rev 03; 10472-EPR-ZA-BB-TP-A-0501 rev 04; 10472-EPR-ZA-CC-TP-A-0502 rev 04; 10472-EPR-ZA-DD-TP-A-0503 rev 03; 10472-EPR-ZA-EE-TP-A-0504 rev 02; 10472-EPR-ZA-FF-TP-A-0505 rev 04; 10472-EPR-01-GF-TP-A-0200 rev 04; 10472-EPR-01-01-TP-A-0201 rev 04; 10472-EPR-01-T1-TP-A-0202 rev 05; 10472-EPR-01-GF-TP-A-0203 rev 06; 10472-EPR-01-01-TP-A-0204 rev 04; 10472-EPR-01-T1-TP-A-0205 rev 04; 10472-EPR-01-15-TP-A-0206 rev 04; 10472-EPR-01-30-TP-A-0207 rev 04; 10472-EPR-01-T2-TP-A-0208 rev 04; 10472-EPR-01-33-TP-A-0209 rev 04; 10472-EPR-01-RF-TP-A-0210 rev 05; 10472-EPR-01-RF-TP-A-0211 rev 05; 10472-EPR-01-XX-TP-A-0212 rev 01; 10472-EPR-01-XX-TP-A-0213 rev 01; 10472-EPR-01-NO-TP-A-0400 rev 04; 10472-EPR-01-EA-TPA-0401 rev 04; 10472-EPR-01-WE-TP-A-0402 rev 04; 10472-EPR-01-SO-TP-A-0403 rev 04; 10472-EPR-01-XX-TP-A-0404 rev 03; 10472-EPR-01-XX-TP-A-0405 rev 03; 10472-EPR-01-XX-TP-A-0406 rev 03; 10472-EPR-01-XX-TP-A-0407 rev 03; 10472-EPR-01-XX-TP-A-0408 rev 03; 10472-EPR-01-XX-TP-A-0409 rev 03; 10472-EPR-01-XX-TP-A-0410 rev 03; 10472-EPR-01-XX-TP-A-0411 rev 03; 10472-EPR-01-XX-TP-A-0412 rev 03; 10472-EPR-01-XX-TP-A-0412 rev 03; 10472-EPR-01-XX-TP-A-0413 rev 04; 10472-EPR-01-XX-TP-A-0414 rev 04; 10472-EPR-01-AA-TP-A-0500 rev 04; 10472-EPR-01-BB-TP-A-0501 rev 04; 10472-EPR-02-B1-TP-A-0299 rev 04; 10472-EPR-02-GF-TP-A-0200 rev 07; 10472-EPR-02-01-TP-A-0201 rev 06; 10472-EPR-02-02-TP-A-0202 rev 06; 10472-EPR-02-03-TP-A-0203 rev 06; 10472-EPR-02-04-TP-A-0204 rev 06; 10472-EPR-02-05-TP-A-0205 rev 06; 10472-EPR-02-06-TP-A-0206 rev 06; 10472-EPR-02-07-TP-A-0207 rev 06; 10472-EPR-02-08-TP-A-0208 rev 06; 10472-EPR-02-09-TP-A-0209 rev 06; 10472-EPR-02-10-TP-A-0210 rev 06; 10472-EPR-02-11-TP-A-0211 rev 06; 10472-EPR-02-12-TP-A-

0212 rev 06; 10472-EPR-02-13-TP-A-0213 rev 06; 10472-EPR-02-RF-TP-A-0214 rev 06; 10472-EPR-02-ZZ-TP-A-0215 rev 02; 10472-EPR-02-ZZ-TP-A-0216 rev 02; 10472-EPR-02-ZZ-TP-A-0217 rev 02; 10472-EPR-02-ZZ-TP-A-0218 rev 02; 10472-EPR-02-ZZ-TP-A-0219 rev 02; 10472-EPR-02-ZZ-TP-A-0220 rev 02; 10472-EPR-03-ZZ-TP-A-0221 rev 02; 10472-EPR-03-ZZ-TP-A-0222 rev 01; 10472-EPR-03-ZZ-TP-A-0223 rev 01; 10472-EPR-03-ZZ-TP-A-0224 rev 01; 10472-EPR-03-ZZ-TP-A-0225 rev 01; 10472-EPR-ZA-ZZ-TP-A-0226 rev 01; 10472-EPR-02-EL-TP-A-0400 rev 04; 10472-EPR-02-EL-TP-A-0401 rev 04; 10472-EPR-02-EL-TP-A-0402 rev 05; 10472-EPR-03-EL-TP-A-0403 rev 03; 10472-EPR-03-EL-TP-A-0404 rev 03; 10472-EPR-03-EL-TP-A-0405 rev 04; 10472-EPR-03-EL-TP-A-0406 rev 04; 10472-EPR-02-XX-TP-A-0407 rev 04; 10472-EPR-02-XX-TP-A-0408 rev 03; 10472-EPR-02-XX-TP-A-0409 rev 03; 10472-EPR-02-XX-TP-A-0410 rev 03; 10472-EPR-02-XX-TP-A-0411 rev 02; 10472-EPR-02-XX-TP-A-0412 rev 02; 10472-EPR-03-XX-TP-A-0413 rev 05; 10472-EPR-03-XX-TP-A-0414 rev 04; 10472-EPR-03-XX-TP-A-0415 rev 02; 10472-EPR-02-XX-TP-A-0416 rev 01; 10472-EPR-02-XX-TP-A-0417 rev 01; 10472-EPR-02-XX-TP-A-0418 rev 01; 10472-EPR-02-XX-TP-A-0419 rev 01; 10472-EPR-02-XX-TP-A-0420 rev 01; 10472-EPR-03-XX-TP-A-0421 rev 01; 10472-EPR-03-XX-TP-A-0422 rev 01; 10472-EPR-02-GS-TP-A-0500 rev 04; 10472-EPR-02-GS-TP-A-0501 rev 04; 10472-EPR-03-GS-TP-A-0502 rev 04; 10472-EPR-02-EL-TP-A-0503 rev 03; 10472-EPR-02-EL-TP-A-0504 rev 04; 10472-EPR-02-EL-TP-A-0505 rev 04; BMD.200.DR.P001 rev c; BMD.200.DR.P101 rev c; BMD.200.DR.P102 rev c; BMD.200.DR.P103 rev a; BMD.200.DR.P104 rev c; BMD.200.DR.P106 rev a; BMD.200.DR.P107 rev B; BMD.200.DR.P108 rev a; BMD.200.DR.P201 rev b; BMD.200.DR.P202 rev a; BMD.200.DR.P300 rev a; BMD.200.DR.P301 rev c; BMD.200.DR.P302 rev b

Background Papers

Case File LE/150/E/TP
Local Development Framework Documents, SPG/SPD, The London Plan (Consolidated with Alterations since 2011) (2016), and Mayor of London's SPG & Best Practice Guidance

Designation

London Plan – Opportunity Area, Regeneration Area, Major Town Centre. Core Strategy – Regeneration and Growth Area, Lewisham Town Centre, Lewisham Town Centre Local Plan – 'Edge of Centre', Conington Road site S6 (allocation for residential-led mixed use development). Flood Zone 1 and Air Quality Management Area.

EIA Screening/Scoping

The Local Planning Authority (LPA) advised that an Environmental Statement (ES) would need to accompany a planning application in response to a scoping request made under Regulation 13 of the Town and Country Planning (EIA) Regulations 2011 (as amended) decision dated 6 December 2016, application reference DC/16/99000.

1.Introduction

- 1.1. This paper which is presented to Members and should be read in conjunction with the background papers of the 12 December 2017 Strategic Planning Committee Report and addendum report and the 3rd April 2018 Strategic Planning Committee Report.

2.Background

- 2.1. The application for the redevelopment of the former Tesco Car parks was submitted by Meyer Homes in July 2017 for the construction of three buildings, measuring 8, 14 and 34 storeys in height, to provide 365 residential dwellings (use class C3) and 554.sqm gross of commercial/ community/ office/ leisure space (Use Class A1/A2/A3/ B1/ D1/ D2) with associated access, servicing, energy centre, car and cycle parking, landscaping and public realm works.
- 2.2. This application was presented to the Lewisham Strategic Planning Committee on the 12th December 2017 with a recommendation for approval. This was deferred for the following reasons:
 1. A review of the affordable housing mix to ensure that it is locally sensitive (Reason for Deferral 1).
 2. A review of Building B1 to ensure that it is able to provide public benefit (Reason for Deferral 2).
 3. A review of the landscaping to ensure creative, and innovative spaces are created (Reason for Deferral 3).
 4. Transport capacity (Reason for Deferral 4)
 5. Improved consultation with neighbours from the Developer (Reason for Deferral 5).
 6. Consultation on small mitigation measures to Silk Mills Path (Reason for Deferral 6).
 7. Evidence of demand for workspace (Reason for Deferral 7).
 8. Impact on Infrastructure (Reason for deferral 8).
- 2.3. On the 3rd April 2018, an amended scheme was presented to the Strategic Planning Committee again with a recommendation from officers for approval. The applicant in revising the scheme has provided a public rooftop on a controlled access basis, further information with regard to landscaping, consultation, Silk Mills Path, workspace demand and infrastructure. Further information was submitted in relation to transport capacity including how the scheme would be developed in context of the long term Lewisham Interchange project.
- 2.4. Following a deliberation by Members, the application was refused permission on two grounds set out below.

1. *The proposed 34 storey building, by reason of its excessive height would detract from the established and emerging Lewisham Town Centre skyline and would appear overbearing at ground floor level, contrary to Policy 18 Location and design of tall buildings in the Core Strategy (2011) and LTC 19 Tall buildings in the Lewisham Town Centre Local Plan (2014). Furthermore, the proposals do not provide sufficient public benefit in terms of providing truly publicly accessible rooftop access, affordable housing or undertaking naturalisation of the River Ravensbourne to justify this height in this location.*

2. *The proposal fails to provide an access into Platform 4 of Lewisham Station, and fails to provide a secure commitment to its opening, to the detriment of access into Lewisham Station and its overcrowding issues, contrary to Policy LTC 5 Conington Road Policy Area of the Lewisham Town Centre Local Plan (2014).*

2.5. The Decision Notice also set out a statement of reasons for Members overturning the officer recommendation.

Members considered that a case had not been made for the height of this development, above the established and emerging skyline, and that there were not sufficient public benefits that would offset the impacts of a building of the height and massing proposed. The level of social housing in particular, was a concern with the level proposed not providing sufficient benefit or social gain to justify the scale of the tower and its impact.

Members also recognised that the existing station is subject to overcrowding at times and that there is a desire from the public and in planning policy to open up access into the station. The lack of certainty around the opening up of access from this side of the town centre coupled with the impact from the increase of residents as a result of this proposal was deemed to be unacceptable

3. Current Situation

3.1. The applicant has submitted an appeal against the refusal of planning permission to the Planning Inspectorate which the Council will need to defend.

3.2. Officers have therefore instructed Counsel opinion as to how the reasons for refusal best be defended at appeal and minimise any award of costs against the Council.

4. Public Interest Test

4.1 Members are requested to hear counsel's advice under "closed session" excluding members of the public and press. Part 4, Section C, paragraph 27.4 of the Council's constitution provides that committee may pass a resolution at any time excluding the public (including the press) from any meeting during which an item of business whenever it is likely, in the view of the nature of the business to be transacted or the nature of proceedings, that there would be disclosure to them of exempt or confidential information. Counsel's written advice and his oral advice is "exempt information" pursuant to paragraph 5 of Schedule 12A of the Local Government Act 1972 being "Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings".

4.2 In applying this exemption, the council has balanced the public interest in withholding the information against the public interest in disclosure. Information should only be exempt if it is in the public interest to make it so. Here, counsel's advice falls squarely as litigation privilege as it is advice arising out the applicant's planning appeal. The Information Commissioner has advised that litigation privilege would not expect to be waived in cases where disclosure might prejudice the rights of the authority to obtain access to justice.

4.3 Counsel's advice, as members will have read and will hear, speaks to the strengths and weaknesses of the reasons for refusal. Such advice and analysis by counsel to the council should be kept confidential so as not to undermine the council's defence of its position at appeal.

5. Urgency

5.1 Five clear days before any meeting of the Council, the proper officer is required to publish a report as to the business to be transacted. This has not happened in this case: the reason being, the officer's report could not have been properly finalised without having first sight of counsel's written opinion, which was not received until the morning of 17 July 2018, that is: on the same day as strategic planning committee meeting.

5.2 Part 4, Section C, paragraph 25.1 of the Council's constitution allows members to consider matters of such urgency notwithstanding that the report has not be included in the summons of the meeting.

5.3 This matter is of such urgency that it cannot be delayed to the next strategic planning committee meeting. The reason for this is that further delay would cause the council to be put at risk of incurring costs which it might otherwise avoid. That is: the applicant would have spent further resources, on such things as consultants fees and expert reports, in preparing their appeal, which the council would be liable to pay should those preparations be found to be unnecessary because the council then decides to withdraw or amend the reasons for refusal.

5.4 Part 4, Section C, paragraph 25.3 provides that the Chair of Strategic Planning Committee shall decide on the grounds of urgency as stated, whether or not the report shall be considered or deferred to a later meeting.

6. Equalities

6.1 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In summary, the Council must, in the exercise of its function, have due regard to the need to:

(a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

(b) advance equality of opportunity between people who share a protected characteristic and those who do not;

(c) foster good relations between people who share a protected characteristic and persons who do not share it.

6.2 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

6.3 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhuman-rights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

6.4 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

6.5 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what

public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

6.6 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

7. Recommendation

7.1 It is recommended that in accordance with Regulation 4(2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 and under Section 100(A)(5) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 5, of Part 1 of Schedule 12(A) of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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