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## LEWISHAM COUNCIL STRATEGIC PLANNING COMMITTEE THURSDAY 1 SEPTEMBER 2022 AT 7PM MINUTES

IN ATTENDANCE: Councillors: Suzannah Clarke (Chair), John Paschoud (Vice-Chair), Peter Bernards, Will Cooper, Mark Ingleby, Jack Lavery, Jacq Paschoud, Aliya Sheikh and James-J Walsh.

**MEMBER OF THE COMMITTEE JOINING THE MEETING VIRTUALLY** None.

**ALSO PRESENT UNDER STANDING ORDERS:** Councillor Rosie Parry

**APOLOGIES FOR ABSENCE** Councillor Louise Krupski.

NB: Those Councillors listed as joining virtually were not in attendance for the purposes of the meeting being quorate, any decisions taken, or to satisfy the requirements of s85 Local Government Act 1972.

### **OFFICERS PRESENT:**

Emma Talbot - Director of Planning

Michael Forrester – Head of Development Management

Geoff Whittington – Principal Planning Officer

Jeremy Chambers - Director of Law, Governance and Elections

Paula Young - Senior Planning Lawyer.

Clare Weaser – Clerk

### **ATTENDING VIRTUALLY:**

Aiden Cosgrave - Delva Patman Redler LLP – The Council's adviser on sunlight/daylight

### **Item No.**

#### **1 Minutes**

The Chair referred to paragraph 3.24 of the minutes. She said that it should be amended to read 'The proposal would use evergreens in the 5 metre height range. With this amendment it was:

RESOLVED that the minutes of the meeting of Strategic Planning Committee held on 13 July 2022 be confirmed and signed as an accurate record.

#### **2 Declarations of Interest**

None.

### **3 Sun Wharf, Creekside SE8**

- 3.1 The Planning Officer, gave an illustrative presentation recommending the grant of planning permission for the demolition of all existing buildings and comprehensive redevelopment to provide 3 new buildings ranging in heights of 3 to 19 storeys to provide 220 residential units (C3 Use Class) and 1,132sqm of commercial floor space (Use Class E) plus 311sqm of commercial floor space (Use Class E) in a container building, together with associated wheelchair accessible vehicle parking, cycle parking, landscaping, play areas, public realm, improvements to river wall and public riverside walkway and associated works at Sun Wharf, Creekside SE8
- 3.2. The Committee noted the report and that the main issues were:
- Principle of Development
  - Housing
  - Employment
  - Urban Design and Impact on Heritage Assets
  - Transport Impact
  - Living Conditions of Neighbours
  - Sustainable Development
  - Natural Environment
  - Public Health, Well-being and Safety
  - Environmental Impact Assessment
  - Planning Obligations
- 3.3 Following questions from members, the following points were discussed.
- The container building would be in place for some time, it was not a temporary structure
  - There was demand for commercial property space, but there would be a condition which required details of the marketing strategy.
  - There was a request for more detailed information regarding the impact of sunlight and daylight and the detriment it would have on neighbouring residences.
- 3.4 The Principal Planning Officer said that sunlight/daylight had been an issue throughout this application and one of the main reason for residents' objections. Block B2 was in close proximity to the Kent Wharf development; a distance of 20 metres. Some neighbours would be severely affected. A plan of the blocks mostly affected by the development was shown. In an effort to explain the severe harmful effects that the development would have on those residents and how many households would be affected, the Council's adviser on sunlight/daylight was asked for a detailed explanation.
- 3.5 Mr Cosgrave was then asked for more information regarding the level of effect of sunlight/daylight on residents and the number affected. He said that the applicant had updated their analysis and a report was produced on 25 February 2022. The report set out the number of window/rooms in the

various blocks that would be affected by the development. Out of 553 window in Kent Wharf, 482 would be impacted within the BRE guidelines for vertical sky components. 71 windows would be impacted to a greater degree than the BRE would normally recommend. Of those, 19 would have a minor impact, 24 moderate and 28 major magnitude impact. The second daylight test looked at how much of the room could have a view of sky. Out of 407 rooms tested, 376 were within the guidelines, 31 were outside these guidelines. Of those 31, 9 had minor, 7 moderate and 15 major magnitude impact on daylight. The applicant had then addressed sunlight; out of 139 windows, 118 impacted within the guidelines. Of the remainder, 17 would have adverse impacts to annual sunlight, 14 would have adverse impacts on winter sunlight. Mr Cosgrave used this information to calculate the major adverse impacts on the number of homes. There were 26 flats with major adverse vertical sky components impacts and 15 flats with a major adverse impact adverse sunlight effect.

3.6 Following this information, the following points were raised.

- 55% of the units would be dual aspect, 45% single. An assessment had been made to the sunlight/daylight to those units and would be acceptable with the surrounding development. The minimum pre requirement would be achieved. Single aspect units would not be north facing.
- Visuals were shown of the blocks where there would be major adverse harm.
- There was a question about the 26 flats with major adverse impact. They were located over 4 blocks. The flats that would have adverse impact on the windows to the major or only living space, included 9 in Broadside House; 3 were on each of the ground, first and second floors. A floor plan of Broadside was shown. In summary, there would be adverse impact of sunlight for 21 kitchen/dining rooms.

### **Applicant**

3.7 The agent and applicant addressed the Committee. Mr Murrell said that Peabody and Bellway had a long history of providing affordable housing in Lewisham and took great care to ensure their schemes were well designed and integrated into local communities. Since 2015, they had worked with Lewisham officers to develop the right design for the site. There had been changes to the design, and improvements made and there would still be 39% for affordable housing. The scheme had to be ready by March 2023 or grant funding from the GLA would no longer be available and the current affordable housing may not be sustainable. The proposed benefits to the local community were outlined. The agent said that residents' concerns about the development had been taken seriously, but

this had been balanced with what was needed to continue to provide new homes.

3.8 Mr MacArthur addressed some points that were raised by an objector who could not present their points to the last Committee:

- The tree planter had been addressed by officers in the last report and was covered in the 106 agreement.
- The final location new tree planters would be agreed prior to commencement of the works and consultation would take place at that time.
- Any proposal for the location of the trees would not permit the blocking of a fire exit regardless of location or ownership
- Any connections between Sun Wharf and Kent Wharf would be agreed by a party wall agreement this was not a material planning consideration.
- The site allocation would allow the sites to be joined up so that everyone could benefit from the new Creek walkways

3.9 The agent, Mr Hudson then addressed the Committee. He said that this application had previously been agreed and there were no new planning considerations in the report. He outlined the application and the many benefits that would be brought to the area as a result of the development. Officers supported the application. Significant time had been spent discussing sunlight and daylight issues, and their consultant was present to answer any questions on this matter. He asked members to consider the number of affordable houses for residents on their waiting lists.

3.10 Members then asked questions to the applicants and agent. The main points were as follows:

- There would be 46 affordable rented homes and 31 shared ownership.
- The container building was a permanent structure.
- The scheme was designed to be tenure blind. The entrances of private and affordable homes would appear the same with a concierge on site. Condition, maintenance and design of the spaces would be as one.
- Shipping containers last 35 years. If they were to be replaced or a permanent building erected, this would be a decision for the tenants and leaseholders and would be subject to a planning application

## Representation

3.11 Three objectors then addressed the Committee. The first objector said that residents were very anxious about the plans. He outlined the plans for the trees on Kent Wharf land and said that the applicant did not have permission from Kent Wharf management or the freeholder to place the

trees on this land. In a windy location, the trees posed a risk of injury for which the directors would be personally liable. They would block the view to and from the new public art gallery.

- 3.12 The second objector referred to the potential severe loss of light. BRE guidance states that loss of light should be no more than 20%. There would be 85% loss of day light and 100% sunlight and 71 windows would fail BRE guidelines. The worst affected homes would have retained daylight levels as low as 1.7% in their sole living spaces. He outlined the affects that the development would have on those residents who would be most affected. The GLA in response to a Freedom of information Request advised that they would never have approved such low residual light levels in this context. The Mayor of London expressed significant concern about these light impacts in the stage one review and the day light levels were 70% worse than at that stage. The applicant had referred to case law to justify the loss of light but the objector could not find any examples where the impact would be so extreme.
- 3.13 The objector asked a principal daylight and sunlight consultant to review the proposal and the residual light levels were described as very poor and that such low levels would have significant impact on human health. He said that the consultant also found that the applicant's justification that all major adverse effects were driven by overhanging balconies were 'not reasonable, it does not follow from the data'. He then outlined a number of claims with regards to trees, surveys, and light that the applicant had made that he considered to be untrue.
- 3.14 The third objector urged the Committee to refuse the application because she considered that a lot of the information was untrue. The application had been described as unreasonable, unsafe and unprecedented by independent agencies. She requested that the Council ask the applicant to submit an alternative layout. Residents would welcome a layout which relocated a significant portion of the B block units to the A block area.
- 3.15 Members asked questions of the objectors and the points raised were as follows:
- The blocks mainly impacted by loss of sunlight/daylight were Bowhouse Court, Broadside House and Portside Court. On the first four floors there would be sub 10% and in Appendix 4 of the report it outlined where a large number of the living room/dining rooms had a percentage of around 2%. Those homes that would have retained daylight levels as low as 1.7% would be unprecedented and the GLA had never approved levels so low and it would impact on human health.
  - One objector confirmed that currently, he had enough light for most of the day in his living areas. This would not be the case after completion of the development. He would lose his view of the sky and all of his natural light, forcing him to use artificial light. There had been an assessment of light for the new blocks and the applicant made assurance that these homes would have enough light. However, this

assessment had only been for south facing homes, not single aspect homes facing east.

- It was clarified that dual aspect referred to the existence of one window in the bedroom and the living area. The units in Kent Wharf face away from Sun Wharf. They only have one small bedroom, there is no other living space.

3.16 The Chair asked the objector for clarification about the response he had received from the GLA. The Council had not received a copy of this response. In the report, it stated that the GLA supported the stage 1 response. The objector said that there had been two stage one reports, one in 2019 one in 2020. In 2019 the stage one review said that there was significant concern about the light impact, there was silence on this point in 2020 but at that time there were major issues with the light data and needed to be heavily corrected, and there were still issues with the data. The GLA had not seen this data so had an elevated view of residual light levels.

3.17 Officers clarified that they had not received a formal response from the GLA about this matter. The objector said that the response had been part of a Freedom of Information request. The Chair said that members had to make a decision based on fact. She asked the objector whether the BRE had undertaken a formal assessment and that all the information sent to them was correct. The objector confirmed that the BRE had undertaken a full review of all the applicant documents relating to the daylight and sunlight provided on the planning portal. The planning lawyer advised that members had not seen that independent report. Members only had the objector's representations of what the BRE had said. She advised members to bare this in mind when considering what weight should be attached to this evidence. The BRE consultant was not in attendance should members wish to ask questions. The objector said that the BRE comments were sent to officers. The Head of Development Management said that officers had received detailed objections from objectors and that included email exchanges with BRE. It did not include a formal report review of the scheme's entirety in the same way that Delva Patman Redler had produced a formal response reviewing the applicant's report to the Council.

3.18 The Chair said that members required a full assessment as opposed to evidence requested by an objector. Members were taking the application seriously but they had to consider carefully how the information had been received and had to follow the guidance of the legal officer in this respect as to the weight attached to the information.

3.19 The Head of Development Management then outlined the process for the application. The Council makes a recommendation, Lewisham then re-refer that scheme to the GLA which was stage two. The Council's resolution would then be considered along with the application in its entirety. The GLA would then make a decision to allow the Council to make their decision, call in the decision or direct the Council to make a refusal. If the GLA did not make an approval at stage two, the application could be called in.

- 3.20 Councillor Parry then addressed the Committee. She said that she was speaking on behalf of all residents in Deptford. This included those at the meeting and other residents including those who were in desperate need of housing. She welcomed the efforts put into the plans and acknowledged that there were positives to the development. She thanked the applicants for the changes that had been made so far.
- 3.21 Councillor Parry said that there had been a breakdown of trust between the applicant and some residents of Kent Wharf. She highlighted some of the reasons for this, which included:
- River wall – the initial planning officer’s report stated that the Environmental Agency (EA) were in support of applicant’s proposal for residents’ service charges to be used to fund future work to the river wall. However, after a FOI request, it was noted that the EA had concerns about this funding strategy.
  - River wall – The applicant stated that Jones Hire would not allow them to carry out a survey of the river wall. Jones Hire said that was not in fact correct.
  - Fire brigade access – There had been discussion about using trees to offset the potential safety concerns due to high winds. The applicant had been asked whether they had the right to plant these trees on land that they did not own. The applicant said that they had permission subject to approval for the trees, which was not the same as having permission for the trees. However, this issue had been addressed in the most recent report.
- 3.22 The Chair asked the Principal Planning Officer to address the two issues of wind mitigation and the river wall as raised by Councillor Parry. Wind mitigation was addressed first and members were advised that full clarification would have to be made and tests done to ensure there was full wind mitigation on the site otherwise the development could not go ahead. There was then clarification regarding the river wall. The Principle Planning officer said that since the last meeting he had contacted the environment agency for further comment on who was responsible for the river wall including the maintenance. He read out the email as written. It stated that whilst the EA support the regular inspection and maintenance of the river wall structure, they have no formal comment on the funding strategy for such works. Their intention is that the applicant / successive owners should fund the works, with that requirement running with the land. Any arrangements which may be formed between the applicant / landowner and any residential or commercial leaseholders are not for the EA’s consideration.
- 3.23 The following issues were then discussed:
- The Environment Agency had drafted a condition with their legal team to ensure that there would be an intrusive survey undertaken for the river wall and all elements of the wall would be assessed.

- The Sand Martin/ Kingfisher bank was to be retained as part of the original proposal, but following discussions with the EA a new intertidal wall was proposed, with the subsequent loss of the Sand Martin/ Kingfisher bank. Planning conditions are in place to ensure that a replacement Sand Martin/ Kingfisher bank would be incorporated into the new river wall.
- Sunlight/daylight was discussed. A question was asked about how many properties had gone from BRE acceptable guidance to BRE non acceptable. Members were advised that Appendix 4 contained a list of all of those properties that would experience that major adverse. The Head of Development Manager gave a detailed summary of the information contained in this appendix.
- Mr Cosgrave gave a detailed explanation of how to compare current light standards to how they would be, and what impact that would have. He said that where there were VSC levels in single digits, particularly 5%, it was reasonable to conclude that it would compromise, significantly, the reasonableness of daylight and the experience for the occupier.
- It was noted that conditions could not be imposed to ameliorate the problem with the Winter gardens because it would not meet the legal test which requires land to be part of the development.
- There was general discussion regarding the potential gains and losses if the development was approved. There would be affordable rent from 46 units as well as shared ownership and development of an area that was needed in this part of the borough. However, this had to be balanced with the impact of light on the existing development

3.24 With 7 members voting for the application and 2 against it was,

RESOLVED that the following recommendations be agreed subject to the conditions and informatives set out in the report.

RECOMMENDATION (A) To agree the proposals and refer the application, this report and any other required documents to the Mayor of London (Greater London Authority) under Article 5 of the Town and Country Planning (Mayor of London) Order 2008.

RECOMMENDATION (B) Subject to no direction being received from the Mayor of London, authorise the Head of Law to complete a legal agreement under Section 106 of the 1990 Act (and other appropriate powers) to cover the principal matters as set out in Section 12 of this report, including other such amendments as considered appropriate to ensure the acceptable implementation of the development.

RECOMMENDATION (C) Subject to completion of a satisfactory legal agreement, authorise the Head of Planning to GRANT PLANNING PERMISSION subject to conditions including those set out below and such amendments as considered appropriate to ensure the acceptable implementation of the development

The meeting ended at 8.52 pm.

Chair