

Committee	STRATEGIC PLANNING COMMITTEE	
Report Title	PLOT 08, 15 and 22, CONVOYS WHARF, LONDON, SE8 3JH	
Ward	Evelyn	
Contributors	David Robinson	9 June 2020

Reg. Nos.

DC/18/107698

DC/18/107620

DC/19/111912

## 1.0 EXECUTIVE SUMMARY

- 1.1 The Reserved Matters Applications have been brought before members for a decision as permission is recommended for approval, and there are three or more valid planning objections received in relation to each application, and as the application pertains to a site of strategic importance.
- 1.2 These reports were prepared prior to the outbreak of the COVID-19 global pandemic and were due to be presented the 24<sup>th</sup> March Strategic Planning Committee. The reports have been reviewed by Officers, who maintain the conclusions reached as being appropriate and in line with policy and the Outline Planning Permission.
- 1.3 This committee of the 9<sup>th</sup> June will be the first virtually held Strategic Planning Committee in an online format. An opportunity has been given to those who wish to make representations at this meeting, by notification in writing by letter and emails setting out that the need to formally register with the committee clerk in advance so that they can be formally invited to participate into the online meeting. The meeting will be broadcast for those wishing to observe, but not take part.
- 1.4 An Outline Planning Permission (OPP) has been granted on the Convoys Wharf Site for the demolition of all non-listed structures at the site, and comprehensive redevelopment (to include retention and refurbishment of the Grade II Listed Olympia Building) to provide up to 419,100m<sup>2</sup> of mixed use development comprising up to:
- 321,000m<sup>2</sup> residential (Class C3) (up to 3,500 units);
  - 15,500m<sup>2</sup> business space (Class B1/live/work units);
  - 2,200m<sup>2</sup> for up to three energy centres;
  - 32,200m<sup>2</sup> working wharf and vessel moorings (Class B2 and sui generis);
  - 27,070m<sup>2</sup> hotel (Class C1);
  - 5,810m<sup>2</sup> retail, financial and professional services (Classes A1 and A2);
  - 4,520m<sup>2</sup> restaurant/cafes and drinking establishments (Classes A3 and A4);
  - 13,000m<sup>2</sup> community/non-residential institutions (Class D1 and D2),
  - 1,840 car parking spaces, together with vehicular access and a river bus facility.
- 1.5 The following list indicates the main scope of matters approved in the Outline Planning Permission:
- mix and quantum of floorspace including the maximum number of residential units;
  - the location of development plots including minimum and maximum dimensions and limits of horizontal and vertical deviation;
  - the siting (subject to limits of deviation) and massing of the three towers;

- vehicular and pedestrian access and egress points to and from the site;
  - the amount and location of publicly accessible open space;
  - public rights of way and private open space;
  - the maximum number of car parking spaces,
  - location of on-street parking for public and taxis,
  - bus stop zones and coach drop-off zones; and the size and location of the wharf and a river bus facility.
- 1.6 Given the above, the applications for Reserved Matters in relation to Plots 08, 15 and 22 can only consider the following:
- **Layout (in accordance with the OPP parameters)**
  - **Scale (in accordance with the OPP parameters)**
  - **Appearance**
  - **Landscaping**
  - **Access**
- 1.7 The Reserved Matters Application for Plot 08 proposes 456 private residential units totalling 35,750sqm and at ground level 1,450sqm of retail uses (Class A1/A2) and 200sqm of restaurant / bar uses (Class A3/A4).
- 1.8 The Reserved Matters Application for Plot 15 proposes 124 residential units (65 London Affordable Rent and 59 Shared Ownership), and at ground floor level 800sqm of office use (Class B1), 300sqm of retail uses (Class A1/A2)
- 1.9 The Reserved Matters Application for Plot 22 proposes a building providing 785sqm of floorspace on the existing jetty. The building would initially be used as a temporary marketing suite, then be converted into a use class falling into the permitted A3 (café/restaurant) and A4 (drinking establishments) use classes. This plot also proposes a riverbus pontoon comprising a canting brow attached to the northernmost part of the existing jetty, leading to a new floating pontoon with covered waiting area.
- 1.10 The Outline Planning Permission set out development parameters that each plot of the Development Site should comply with. The Reserved Matters Applications for Plot 08, Plot 15 and Plot 22 outline that the proposals in respect of each of these plots would be in accordance with the development parameters.
- 1.11 The proposals demonstrate a high quality of design across all three plots and set a precedent for future plots coming forward in relation to the Development Site. The proposals for P08 and P15 are considered to present a valuable contribution towards housing in the borough totalling 42% of the annual output for the adopted London Plan target or 34% of the annual output for the Draft London Plan target. Additionally, the proposals for Plot 15 provide a valuable contribution towards the delivery of affordable housing in the borough with 65 London Affordable Rent and 59 Shared Ownership units.
- 1.12 The Reserved Matters Applications have been considered in the light of relevant policies and standards as well as representations from third parties. The reserved matters are in conformity with the approved development parameters for the scheme (scale, massing, floorspace, mix of uses, extent of public realm) and the submitted details satisfactorily address the relevant policy considerations. The proposals are also in accordance with the principles set out in Strategic Site Allocation in the Core Strategy.

- 1.13 Given the above, the Reserved Matters Applications for Plots 08, 15 and 22 are recommended for approval subject to conditions.

## 2.0 INTRODUCTION

### Background to Outline Permission at Convoys Wharf

- 2.1 In April 2013 an outline planning application for the comprehensive redevelopment of the Convoys Wharf site was submitted to the Council. The outline application was subsequently called in by the then Mayor and approved on 10 March 2015. The sequence of events leading to this determination is outlined below.
- 2.2 Under Sections 2A-F of the Town and Country Planning Act 1990 and the Town and Country Planning (Mayor of London) Order 2008, the Mayor of London has significant and extensive powers in relation to planning applications in Greater London which are of potential strategic importance (PSI application). Such applications include development comprising:
- the provision of more than 150 dwellings (Category 1A)
  - development outside central London with a total floorspace of more than 15,000m<sup>2</sup> (Category 1B (c))
  - development which comprises a building more than 30 metres high outside the City of London and more than 25 metres high and is adjacent to the River Thames (Category 1C)
  - development to provide a passenger pier on the River Thames (Category 2C)
  - development which occupies more than 4 hectares of land which is used for a use within Class B1, B2 or B8 of the Use Classes Order, and which is likely to prejudice the use of that land for any such use (Category 3B)
  - development which does not accord with one or more provisions of the development plan in force in the area and includes the provision of more than 2,500m<sup>2</sup> of floorspace for a use falling within any of Class A1, D1 and D2 (Category 3E)
  - development for a use, other than residential, which includes the provision of more than 200 car parking spaces in connection with that use (Category 3F)
  - development in respect of which the local planning authority is required to consult the Mayor by virtue of a direction given by the Secretary of State under article 10(3) of the GDPO (Category 4).
- 2.3 The Mayor's powers include power to direct LPAs to refuse planning permission for a PSI application in certain circumstances. In certain prescribed circumstances, the Mayor also has power to direct that he is to act as local planning authority for the purpose of determining a PSI application.
- 2.4 The site is also the subject of a safeguarding direction in respect of the wharf on the site which direction required prior notification to the Mayor of any planning application for development within the safeguarded area. Accordingly, the outline application was duly referred to the GLA for its consideration in May 2013. The Mayor of London issued his Stage 1 report in July 2013.
- 2.5 In October 2013, the applicant made a request to the Mayor of London for him to exercise his powers under the Town and Country Planning (Mayor of London) Order 2008 to act as local planning authority in the determination of the planning application. In response to this request the Council made representations to the Mayor that it should remain as local planning authority. However, by letter dated 30

October 2013 the Mayor of London advised the Council that he would determine the application.

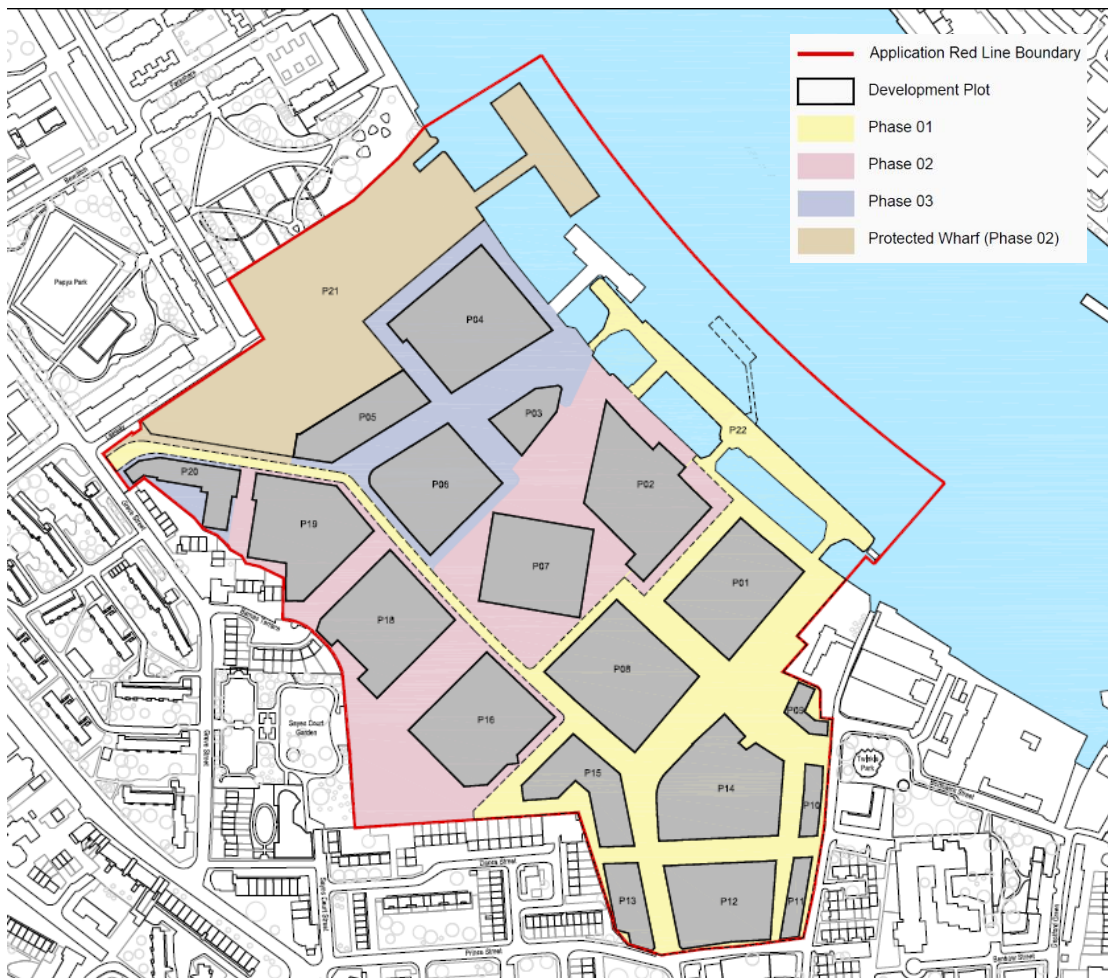
- 2.6 The effect of the Mayor of London's decision to act as local planning authority in this case was that the London Borough of Lewisham had no formal planning powers in the determination of this application, the grant (or refusal) of planning permission, the scope of conditions or the content of any S106 agreement. The GLA however invited the Council to participate in discussions with the applicant, Hutchison Property Group (then Hutchison Whampoa), prior to the GLA determining the application.
- 2.7 The Council was also able to submit to the GLA its observations on the proposals and had the right to present its case to the Mayor of London at a representations hearing prior to the Mayor's determination of the application. Additionally, whilst the function of agreeing any S106 obligations rested with the Mayor, the Mayor was obliged to consult the Council before agreeing the S106 agreement.
- 2.8 Prior to determining the application, the Mayor of London held a Public Hearing on 31 March 2014. Lewisham Council made representations objecting to the proposed development and recommended refusal. Following the hearing, the Mayor of London resolved to grant outline planning permission subject to completion of a legal agreement under section 106 of the Town and County Planning Act.. The section 106 legal agreement was concluded on 10 March 2015, and outline planning permission was granted by the Mayor of London on the same date.
- 2.9 The Mayor of London has directed the London Borough of Lewisham Council to determine subsequent Reserved Matter applications and Discharge of Conditions applications following the approval of the outline permission.

#### Scope of Approved Outline Planning Permission

- 2.10 The following list indicates the main scope of matters approved in the outline planning permission:
- mix and quantum of floorspace including the maximum number of residential units;
  - the location of development plots including minimum and maximum dimensions and limits of horizontal and vertical deviation;
  - the siting (subject to limits of deviation) and massing of the three towers;
  - vehicular and pedestrian access and egress points to and from the site;
  - the amount and location of publicly accessible open space;
  - public rights of way and private open space;
  - the maximum number of car parking spaces,
  - location of on-street parking for public and taxis,
  - bus stop zones and coach drop-off zones; and the size and location of the wharf and a river bus facility.
- 2.11 The outline planning permission was granted for the demolition of all non-listed structures at the site, and comprehensive redevelopment (to include retention and refurbishment of the Grade II Listed Olympia Building) to provide up to 419,100m<sup>2</sup> of mixed use development comprising up to:
- 321,000m<sup>2</sup> residential (Class C3) (up to 3,500 units);
  - 15,500m<sup>2</sup> business space (Class B1/live/work units);
  - 2,200m<sup>2</sup> for up to three energy centres;

- 32,200m<sup>2</sup> working wharf and vessel moorings (Class B2 and sui generis);
- 27,070m<sup>2</sup> hotel (Class C1);
- 5,810m<sup>2</sup> retail, financial and professional services (Classes A1 and A2);
- 4,520m<sup>2</sup> restaurant/cafes and drinking establishments (Classes A3 and A4);
- 13,000m<sup>2</sup> community/non-residential institutions (Class D1 and D2),
- 1,840 car parking spaces, together with vehicular access and a river bus facility.

2.12 The development is divided into 22 separate plots. Each plot is defined by a set of parameters (described in further detail in the assessment below) that fix its location within the site and its shape, the maximum and minimum height, width and length of each building within the plot and the extent of podiums. The parameters also fix road widths. The 22 development plots, 3 phases and safeguarded wharf are indicated in image 1 below:



*Image 1: Convoys Wharf Outline Plot and Phasing Plan (as amended by DC/18/107740)*

- 2.13 The development is to be delivered in 3 phases over a 10-15 year build out programme.
- 2.14 The suite of planning obligations agreed within the section 106 legal agreement includes the following. Please note that this is not an exhaustive list.

*Community Infrastructure and Projects*

- Primary school - delivery of a 2-Form entry primary school, with an option for increased capacity to 3-Form entry;
- Secondary and post sixteen education - £440,000 (up to £881,000 subject to viability);
- Local open space - £560,000;
- Local heritage and public art - £300,000;
- Community Trust - £250,000;
- Community projects (Lennox and John Evelyn Centre – subject to business plans) - £250,000;
- Feasibility study for the Lennox Project - £20,000;
- Healthcare Facility (subject to a lease with a Healthcare provider - £643,724 in lieu);

### *Housing*

- Delivery of at least 15% affordable housing and a review mechanism
  - At not less than 30% Affordable Rent Dwellings;
  - At not less than 70% Intermediate Dwellings
  - Wheelchair Housing

### *Employment*

- Wharf infrastructure and activation;
- Local employment and training initiatives (including the affordable business space at subsidised rents);
- Employment and Training Contribution - £500,000;

### *Transport*

- Contributions towards highways works to Deptford High Street, Prince Street, Grove Street, Evelyn Street, Oxestalls Road, Deptford Church Street/ Deptford Broadway Junction and other highways in the vicinity - £1,417,500
- Further s278 Highway works to New King Street (widening and public realm improvements) and to northern section of Deptford High Street between Deptford Station and the Evelyn Street/New King Street;
- Pedestrian and cyclists improvements to Deptford Church Street/A2 junction;
- Delivery of river pier for timetabled passenger services and associated land facilities and financial contribution to Riverbus service - £3,000,000;
- New and diverted bus service (plus capacity enhancements to existing services on Evelyn Street) - £5,750,000;
- New and enhanced off-site bus stops - £147,500;
- Travel Plan for each use (including Travel Plan measures, car club spaces);
- Provision of Controlled Parking Zone - £250,000;
- Air Quality Monitoring - £100,000;
- Delivery of on-site spine road, Thames Path extension and a network of public pedestrian and cycle links within the site;
- Safeguarding of sites for two cycle hire docking stations;
- Monitoring costs - £400,000

### *Other matters*

- Provision of Design and Access Panel to assist the submission of Reserved Matters Applications;

- Provision of Cultural Steering Group;
- Olympia Building Strategy
- Energy strategy (including prioritisation of SELCHP connection);
- CCTV scheme.

### **3.0 SITE DESCRIPTION**

- 3.1 Convoys Wharf is a site (including existing jetties) of approximately 16.6 hectares (41.2 acres), representing about 50% of Lewisham's River Thames frontage. The majority of the eastern side of the application site forms the administrative boundary with the London Borough of Greenwich. The remainder is formed by the boundary with the Shipwright's Palace (listed Grade II\*) which is located in Lewisham. The surrounding area is predominantly residential with the Pepys Estate and Pepys Park to the west and the Sayes Court Estate to the south. The Pepys Estate, including Aragon Tower, ranges from 3 storeys to 8 storeys with three tall buildings; two at 24 storeys and Aragon Tower at 30 storeys. The Sayes Court Estate is predominantly 3 to 5 storeys with some 11 storey blocks. The site is bounded by Leeway to the north west, properties on Grove Street/Prince Street, Barnes Terrace and Dacca Street to the south and Watergate Street to the east with properties ranging from 2 to 5 storeys.
- 3.2 Existing access to the site is via an entrance at the junction of Prince Street and New King Street. Evelyn Street (A200) and the northern end of Deptford High Street are approximately 100m to the south. Cycle Super Highway 4 is proposed along Evelyn Street and is due to commence in June 2020 and be completed by Summer 2021. In terms of public transport services in the area, a number of bus services (47, 188, 199, N1, N47) run along Evelyn Street and one service (199) is routed along Grove Street (although not adjacent to the site). The nearest mainline stations are at Deptford and Greenwich (services to/from Cannon Street and Charing Cross via London Bridge), DLR services are at Greenwich Cutty Sark and Deptford Bridge, Underground services at Canada Water and Overground services at Surrey Quays.
- 3.3 Approximately 9 hectares of the site is a protected wharf and as indicated above, the wharf is subject to a Safeguarding Direction issued by the Secretary of State in June 2000 under powers in the Town and Country Planning Act 1990 and the Town and Country Planning (General Development Procedure) Order 1995. The wharf within the site red line boundary is not currently operational.
- 3.4 The site has a substantial and significant history having been the site of the Royal Dockyard since the 16th century and also the location of Sayes Court Garden and house, once occupied by John Evelyn. This history is visible with the Grade II listed building within the protected wharf area, Olympia Warehouse, constructed as cover to Slipways nos. 2 & 3 in the former Deptford Royal Dockyard. Gateposts at the junction of Grove Street and Leeway and the river wall are also listed Grade II. Other historic features on the site are archaeological remains which include the site of a Tudor Store House (a Scheduled Ancient Monument), a basin to the front of the Olympia Warehouse, the double dry dock and Sayes Court House. English Heritage has identified Convoys Wharf as an Area of Archaeological Priority where significant buried remains of the former Royal Dockyard are likely to exist. Recent archaeological investigations have shown that a number of archaeological features survive below ground.
- 3.5 A group of mature trees on the northeast corner of the site adjacent to the Shipwright's Palace (which lies outside the application site boundary) are subject to

a Tree Preservation Order, as are trees located along the south-western boundary of the site.

- 3.6 The north-west corner of the Convoys Wharf site sits within the protected viewing corridor of St Paul's Cathedral from Greenwich Park and the wider setting consultation area in the foreground and middle ground.
- 3.7 Up until recently, there were 33 buildings on the site which were of late 20th century construction, save for the Olympia Warehouse which dates from 1846. In early 2011, a number of the modern warehouse buildings were demolished. There are now 5 buildings retained on site, including the Olympia Warehouse.
- 3.8 The site has a public transport accessibility level (PTAL) spanning across 1a, 2, and 3.
- 3.9 The site is within the Deptford Creek/Greenwich Riverside Opportunity Area as identified in the London Plan 2016. Convoys Wharf is designated as a Strategic Site within the Core Strategy and is located within the Regeneration and Growth Area.
- 3.10 Directly to the west of Convoys Wharf is the Oxestalls Road Strategic Site (also known as The Wharves, Deptford) which has planning permission for 1132 new dwellings in buildings ranging from 4-24 storeys. Phase 1 is under construction. Further west is the Plough Way Strategic site which is formed of four plots; Marine Wharf West, Marine Wharf East, Cannon Wharf and sites in Yeoman Street. All have planning permission with the total number of 1244 approved units. The Plough Way sites are now complete.

## **4.0 RELEVANT PLANNING HISTORY**

### Background

- 4.1 The site has relatively a limited formal planning history but has a long and significant history as a naval dockyard dating from the 17th century. This has left an important legacy in the form of archaeological remains on and adjacent to the site. The site was used by Convoys, a subsidiary company of News International Plc, for the importation and transhipment of newspaper products up until September 1999. Following the closure of Convoys operations parts the site were used for storage purposes but it has been vacant since 2010 and various modern buildings demolished.

### Early Discussions

- 4.2 Following the relocation of Convoys' operations to the Medway, News International Plc prepared proposals for a predominantly residential development comprising around 1,200 dwellings, 20,000m<sup>2</sup> of employment space plus community, retail and leisure uses. A formal application for a 'screening opinion' to establish whether an Environmental Impact Assessment was required to accompany a planning application for the proposed development was submitted to the Council however no planning application was subsequently submitted at that time.
- 4.3 In the light of this initial approach, and to inform the Council's position in the event of a planning application being submitted, the Council commissioned the London School of Economics Cities Programme to prepare an Urban Design Framework for the site. This explored options for the redevelopment of the site and the contribution it could make to the area as a mixed use site. Their report, produced in July 2001,



identified a number of possible uses for the site in particular the potential for arts and cultural uses to respond to the presence and growth of this sector in the Deptford area. It also identified the possibility of the site accommodating tall buildings, although no detailed appraisal was undertaken on this matter. The report was never formally adopted by the Council as Supplementary Planning Guidance but helped to inform discussions for the redevelopment of the site.

#### 2002-2011

- 4.4 In 2002 News International submitted an application for the comprehensive mixed use redevelopment of the site. The scheme was an Outline application and divided the site into 17 development parcels. The application proposed development of up to 447,045m<sup>2</sup> of floorspace comprising:
- 4.5 337,980m<sup>2</sup> of residential space (Class C2 & C3), 3,514 dwellings of which 35% were to be affordable units
- 4.6 72,730m<sup>2</sup> of employment space (B1, B2, B8). The application proposed 39,415 m<sup>2</sup> of B1/B8 space, and 33,315 m<sup>2</sup> of wharf-related space. The wharf use included a waste recycling facility (referred to in the application as a 'Sustainable Business Park') capable of handling up to 50,000 tonnes per year, plus a boat repair yard and river bus service.
- 6,945m<sup>2</sup> retail space (A1, A2).
  - 3,370m<sup>2</sup> of restaurants/bars (A3/A4).
  - 23,320m<sup>2</sup> of cultural/community space (D1).
  - 2,700m<sup>2</sup> of leisure (D2) space.
  - 2,318 car parking spaces (1,995 residential and 323 non-residential).
  - a wharf with associated vessel moorings. The application identified an area for the reconfigured wharf, reducing the footprint of the safeguarded area from to approximately 1.8 hectares.
- 4.7 At its meeting on 26 May 2005 the Council's Strategic Planning Committee, resolved to grant planning permission for the development subject to conditions and completion of a S106 agreement, and subject to the application first being referred to the GLA. The application was duly referred, but the referral was subsequently withdrawn at the request of the GLA in the light of concerns the GLA had with the application, in particular, relating to the safeguarded wharf, affordable housing and transport matters. There then followed a series of meetings between officers of the Council and GLA to try and resolve the outstanding concerns.
- 4.8 By 2009, an agreement had been reached between the GLA and then owners of the site Hutchison Whampoa regarding the future of the safeguarded wharf and in October 2010 Hutchison Whampoa formally amended the original 2002 application. The 2010 amendments were for a broadly similar development however the wharf size was increased, relocated to the north west side of the site and proposals for a sustainable business park on the Wharf omitted.
- The amended application was for the comprehensive redevelopment of Convoys Wharf to provide a mixed-use development of up to 445,200m<sup>2</sup> comprising:
    - up to 337,980 m<sup>2</sup> (3,514 units) residential (Classes C2 & C3)
    - up to 19,100m<sup>2</sup> employment space including up to 2,200 m<sup>2</sup> for 3 potential energy centres (Classes B1, live/work units & B8)

- wharf with associated vessel moorings (Class B2 & sui generis) (32,200 m<sup>2</sup>)
- up to 6,400m<sup>2</sup> retail (Classes A1 & A2)
- up to 4,520m<sup>2</sup> restaurants/cafes and drinking establishments (Classes A3 & A4)
- up to 15,000m<sup>2</sup> community/non-residential institutions and assembly and leisure (Class D1)
- up to 30,000 m<sup>2</sup> hotel (Class C1)
- up to 2,700 m<sup>2</sup> leisure (Class D2)
- a river bus facility
- 2,318 car parking spaces together with vehicular access from Grove Street and amended access arrangements from New King Street.

4.9 Following a review of the application the Council wrote to the applicant in March 2011 advising of a series of concerns with the proposals, including deficiencies in the environmental statement. A formal request under Regulation 19 of the 1999 EIA Regulations was issued and amendments and further information was submitted to the Council in July 2011.

4.10 Having reviewed the submission and received comments from the GLA, English Heritage and Design Council CABE, the Council wrote to the applicant in November 2011 advising of continuing concerns with the application. These included the response to the heritage of the site, the scale of proposed buildings and the wide-ranging parameters applied for. This application was subsequently formally withdrawn by the Applicant.

#### 2012-present

4.11 In 2012, the Applicant engaged a new masterplanner, Farrells, to review the scheme and prepare a new masterplan. This was the subject of the outline planning application which was approved by the Mayor of London in March 2015, as outlined in detail above.

4.12 The applicant is now discharging reserved matters and conditions against this outline planning permission.

## **5.0 THE PROPOSALS AND SCOPE OF ASSESSMENT**

5.1 These applications seek to discharge the reserved matters for Plot 08, 15 and 22.

5.2 An application for the approval of reserved matters is not an application for planning permission. In respect of applications, for approval of reserved matters the Town and Country Planning (Development Management Procedure) (England) Order 2015 states only that applications “must include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the matters reserved in the outline planning permission”.

5.3 Condition 20 of the OPP is set out below. The 'Reserved Matters' required to be approved are the details referred to as layout (20(i)(a)), scale (20(i)(b)), appearance (20(i)(c)), access (20(i)(e) and landscaping (20(i)(f)). The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines the reserved matters as:

- (i) **layout**: the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;
- (ii) **scale** - the height, width and length of each building proposed within the development in relation to its surroundings;
- (iii) **appearance** - the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;
- (iv) **landscaping** - the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes
  - (a) screening by fences, walls or other means;
  - (b) the planting of trees, hedges, shrubs or grass;
  - (c) the formation of banks, terraces or other earthworks;
  - (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
  - (e) the provision of other amenity features;
- (v) **access**: the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

5.4 An application for approval of Reserved Matter is not an application for planning permission. In terms of formal requirements, the Town and Country Planning (Development Management Procedure) (England) Order 2015 states only that applications for approval of reserved matters “must include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the matters reserved in the outline planning permission”.

5.5 It is important to note that as OPP has been granted, the principle of the development and those elements of the development that have already been approved in outline (including the road layout, the overall quantum and mix of uses, the scale, height and massing of buildings and the general layout of the site as identified on the approved parameter plans) do not form part of the current application and are not matters for reconsideration as part of the determination of the proposed reserved matters or other matters submitted for discharge/approval under conditions.

5.6 Condition 20 provides as follows:

- i) Development other than works approved under Condition 21 shall not commence in a Phase or Sub-Phase or Plot approved under Condition 22 until layouts, plans, sections, elevations and other supporting material for that Phase. Sub-Phase or Plot detailing:
  - a) Siting and layout of the buildings and other structures;
  - b) Scale and design of the buildings (including floor areas, height and massing);
  - c) External appearance (including samples of the materials and finishes to be used for all external surfaces and including but not limited to roofs, elevation treatment and glazing);

- d) Measures to appropriately mitigate any potential overlooking issues (including details of proposed privacy screening);
  - e) Means of access (and details of surface treatments) for carriageways, cycleways, footways, footpaths and pedestrian access routes (identifying those which are to be publicly accessible) and routes to/from car parking and cycle storage/parking;
  - f) Hard and soft landscaping and planting, site boundary treatments of all publicly accessible open space and all private open space (including play space, private residential amenity space and communal residential amenity space); and,
  - g) Impact study of the existing water supply infrastructure (to determine the magnitude of any new additional capacity required in the system and a suitable connection point – for approval by the Local Planning Authority in consultation with Thames Water) have been submitted to and approved in writing by the Local Planning Authority.
- ii) The details of publicly accessible routes required to be submitted pursuant to part (i)(e) of this Condition shall include timescales for completion of such publicly accessible routes by reference to the occupation of residential units within the Phase, Sub-Phase or Plot in which they are to be provided.
  - iii) The development shall in all aspects be carried out in strict accordance with the details approved under this Condition.
  - iv) Not more than the relevant threshold of residential units as specified in the details approved pursuant to part (ii) of this Condition shall be occupied until the publicly accessible routes have been completed in strict accordance with the details approved pursuant to part (i) of this Condition.

## **6.0 OTHER MATTERS AND RESPONSE TO OBJECTIONS**

Representations have been received in relation to a number of matters in relation to the Section 106 Agreement of the Outline Planning Permission, which are not material to the determination of the Reserved Matters Applications.

### Initial Viability Appraisal

- 6.1 The viability of the wider scheme was assessed at the OPP stage and in consequence, a minimum provision of Affordable Housing Dwellings equal to 15% (by Habitable Room) of the total number of Dwellings (by Habitable Room) was required within the Development as a whole. This is to be provided in a 30/70% split Affordable Rent Dwellings to Intermediate Dwellings
- 6.2 The Section 106 agreement provides for the level of Affordable Housing within the Development to be subject to several viability reviews as it progresses, the purpose of the review is to assess whether there is additional profit can then be required to be applied to increase the affordable housing commitment. A review cannot reduce the level of provision of Affordable Housing Dwellings below the Affordable Housing Base Provision of 15% (or increase it above the policy target of 50% provision) and so the Owner shall remain obliged to deliver at least the Affordable Housing Base Provision within the Development.
- 6.3 Prior to submission of the reserved matters application, as required by the Section 106 Agreement, the Owner submitted an Initial Viability Assessment. This has been reviewed on behalf of the Council by a third party specialist consultant. The review

concluded that there was no surplus profit at this initial stage (being the first plots on the first phase) which could be applied to increase the affordable requirement. The review did note that the application of future growth and inflation identifies potential for improvements in return as the scheme progresses. As such, there is potential to identify a surplus at later reviews.

### Cultural Steering Group

- 6.4 The Section 106 Agreement requires that the owner shall establish the Cultural Steering Group by no later than 3 months after the date of the Planning Permission.
- 6.5 Paragraph 6.3 of the Fourth Schedule of the Section 106 Agreement states that the role of the Cultural Steering Group will be to:
- (a) assist in advising on the formulation, development and delivery of the Initial Cultural Strategy and the Updated Cultural Strategies and other cultural commitments of the Development as required; and
  - (b) to monitor and review implementation of the approved Initial Cultural Strategy and approved Updated Cultural Strategies and to consider and advise upon any steps it considers could be taken to make the approved Initial Cultural Strategy and/or (as the case may be) the approved Updated Cultural Strategies more effective in achieving their objectives.
- 6.6 Paragraph 6.2 of the Fourth Schedule of the Section 106 Agreement states that the membership of the Cultural Steering Group shall comprise:
- (a) 1 representative of the Owner (as may be nominated from time to time);
  - (b) 1 representative of the Council (as may be nominated from time to time);
  - (c) representatives from such other groups, bodies or organisations as shall be considered appropriate to the work of the Cultural Steering Group as may be agreed between the Council and the Owner
- 6.7 It is also required that the Cultural Steering Group (CSG) shall have a minimum core group of 6 members (of which 4 shall be cultural representatives), unless otherwise agreed by the Owner and the Council.
- 6.8 The CSG was established and the first meeting of such was held on 8<sup>th</sup> January 2017.
- 6.9 Paragraph 6.6 of the Fourth Schedule of states that “the Cultural Steering Group will meet quarterly or at such greater frequency as may be reasonably necessary from time to time”. Since the first meeting of the CSG, there has only been one further meeting on 3<sup>rd</sup> December 2018.

### Cultural Strategy

- 6.10 The Outline Planning Permission and Section 106 agreement require that the applicant provide a Cultural Strategy in relation to the approved scheme. The S106 outlines the following items as being Cultural Strategy Commitments:
- Programme of temporary and permanent cultural interventions and education
  - projects on the Jetty Park.

- Work with Visit London and others to attract visitors to Deptford.
- Destination strategy.
- Riverside “promenade experience”.
- Spaces for start ups, incubators, creative industries, offices and studios in Phase 1.
- Work with universities and colleges to provide affordable creative industry units as
  - part of a commitment to provide 8,000 square metres of cultural space.
  - "Creative Deptford" programme.
- A “meanwhile programme” of temporary uses that will encourage ideas for projects that promote, celebrate and interpret the Site's history, including ideas for the hoardings, live events, festivals, skills and education that may include:
  - Providing a forum for receiving ideas and proposals that appeal to the community.
  - Establishing a meanwhile ideas competition and provide a website to hold the best ideas.
  - Appointing a co-ordinator developer to manage the programme.
  - Providing logistical management support.
  - Actively engaging and encouraging the participation of local people, schools, business organisations, the cultural sector and other parties.
  - Providing a programme of available spaces.
- Encourage design team to reference the Site’s ecology, history and heritage in their proposals.
- Work with available historical archives and local experts to develop history and heritage principles to assist the project team and create a commissioning programme.
- Develop a series of cultural projects that celebrate the key archaeological sites and other heritage assets.
- Appoint curators and artists to work alongside the architects, engineers and landscape architects on the public spaces, buildings, river edge and foreshore.
- Promote a naming strategy for squares, streets and buildings.
- Develop communication materials on Convoys Wharf including a publication on the history and heritage of the site and its archaeology.
- Seek to use surviving historic artefacts and materials on site or in situ within constraints of the Convoys Wharf masterplan.
- Explore planting schemes that will be inspired by the legacy of John Evelyn and his original gardens at Sayes Court.
- Create a youth forum to explore ideas of how young people can get involved in their neighbourhood.
- Directed play and activity strategy including art led commissions and developing play activities for all ages.
- Arts and crafts in public.
- Set up an estate management structure to run the leisure and recreation offer and maintain the public realm.
- Use local and specialist knowledge to inform project briefs and creative ideas.
- Develop a commissioning bible and project toolkit for the project team offering advice and guidance on commissioning process.
- Specialised event and cultural management for the Olympia building.
- Lead artists, project artists and lead curator.

6.11 In relation to an Initial Cultural Strategy, paragraph 5.1 of the Fourth Schedule of the Section 106 agreement states that:

- 6.12 “Not fewer than 40 Business Days prior to the date of submission of the first Reserved Matters Application in respect of Phase 1, the Owner shall submit the Initial Cultural Strategy to the Council for its approval and the Owner shall not submit the first Reserved Matters Application in respect of Phase 1 unless either the Initial Cultural Strategy has been approved by the Council or a period of 40 Business Days has elapsed since the date of submission to the Council of the Initial Cultural Strategy.”
- 6.13 Prior to submission of the first Reserved Matters in respect of Phase 1, the applicant submitted their Initial Cultural Strategy on 19<sup>th</sup> April 2017. This was subsequently refused by the Council on 8<sup>th</sup> June 2017. The primary reasons for refusal are summarised as follows:
- Lack of understanding how the core intentions of the Strategy will be delivered in practice and how much opportunity for genuine local engagement there will be.
  - Lack of concrete commitment to action or principles that would help facilitate community engagement
  - Lack of detail of how the voice of local people or the arts sector will be heard.
  - Programme of available spaces for meanwhile uses needed to be provided and officers wanted to understand how this would be advertised/publicised.
  - No information as to how the local arts sector would be engaged
  - No indication of affordability so spaces offered to the community
  - No programme for activation of the ‘Jetty Park’
- 6.14 Given the applicant provided an Initial Cultural Strategy not fewer than 40 days prior to submission of the first Reserved Matters Application, the applicant has met their obligations with regard to paragraph 5.1 of the Fourth Schedule of the Section 106 Agreement.
- 6.15 Paragraph 5.2 of the Section 106 Agreement states that “The Owner shall not Occupy more than 250 Dwellings in Phase 1 until the Council has approved the Initial Cultural Strategy.”
- 6.16 Given the wording of paragraph 5.2 of the Fourth Schedule, the applicant is not obliged to have an approved Initial Cultural Strategy until after the occupation of the 250<sup>th</sup> unit in Phase 1.
- 6.17 An update to the Cultural Strategy was submitted to LB Lewisham on 19 October 2018 with a further formal submission made to on 2<sup>nd</sup> January 2020.

#### Current Position in relation to Cultural Strategy and Cultural Steering Group

- 6.18 The Council is in the process of assessing the contents of the updated Initial Cultural Strategy as received on 2<sup>nd</sup> January 2020, and have sought to assess this in conjunction with a community consultation process.
- 6.19 The community consultation was commenced through an initial stakeholder’s consultation event held on 25<sup>th</sup> February 2020. This event sought to get feedback from key local stakeholders as to what the contents of the Cultural Strategy should be, who should be involved in the development of the document, and how a final Cultural Strategy might look and serve to benefit Deptford and the local community.
- 6.20 It is anticipated that this is the first of many events, which will help shape the contents and form of the Cultural Strategy and feed ideas to the applicant and the Cultural Steering Group.

- 6.21 It is anticipated that this is the first of many events, which will help shape the contents and form of the Initial Cultural Strategy and feed ideas to the applicant and the Cultural Steering Group.
- 6.22 It is noted that the Initial Cultural Strategy is an evolving document and must be agreed with the Council at latest, prior to the occupation of 250 units, as required by the S106 provisions. The document will continue to evolve through community consultation which would be overseen through the Cultural Steering Group (CSG).
- 6.23 As noted above, since the first meeting of the CSG in January 2017, there has only been one further meeting on December 2018, which is contrary to the requirements of the S106 agreement, which require the group to meet at least quarterly. Accordingly, the Council have advised that this is unacceptable and contrary to the requirements of the S106
- 6.24 The Council is working with the applicant to agree how this process can be recommenced and inform the production of an acceptable Initial Cultural Strategy.
- 6.25 As a result, the applicant has recently appointed a specialist consultant 'Forty Shillings' who are currently undertaking further community engagement and local consultation to ensure that the Deptford community is involved in influencing and informing the Cultural Strategy. In parallel with the wider consultation the applicant is also working with Really Local Group, to bring forward a meanwhile and temporary use programme for the site, as part of the Cultural Strategy
- 6.26 Following the initial key stakeholders meeting, it is anticipated that the applicant and Council will organise more frequent consultation events with the community in relation to the contents of the Cultural Strategy. The feedback and ideas received from the community will be taken to a reconvened CSG which will use this information to inform an updated and continually evolving Cultural Strategy.

### **Social Infrastructure**

- 6.27 A number of representations received refer to social infrastructure, namely, health and education. The impacts of the proposed development on social infrastructure were assessed at OPP stage and the Section 106 agreement attached to the OPP secured many contributions and requirements as outlined at the beginning of this report. They are not relevant issues for the consideration as part of a Reserved Matters application.

#### Healthcare

- 6.28 The Section 106 agreement secures a Healthcare Facility of not less than 650 square metres to accommodate not less than 4 General Practitioners and incorporating a range of healthcare facilities. This is to be provided within either Plot 12 or 13 within Phase 1 or Plot 16 in Phase 2. If it is provided in Phase 1, then it must be delivered no later the occupation of 1,200 dwellings in Phase 1. If it is Phase 2, then it is to be provided no later than the occupation of 750 dwellings in Phase 2.

#### Education

- 6.29 The Section 106 agreement secures provision of a Primary school building together with outside play areas. The school is to be provided within Plot 16 or such other plot as agreed by the Council. The final location of the school is to be formally agreed with the Council prior to the submission of the Reserved Matters Applications for Plot



16. The Owner cannot Occupy more than 2,300 Dwellings (or such number of Dwellings as may be agreed between the Council and the Owner) unless the Primary School has been delivered and Leased to the Education Provider.

## **7.0 'Timing out' of Outline Planning Permission**

- 7.1 Voice4Deptford (and others) have objected to the proposals on the basis that the outline consent has expired. Officers have taken legal advice on Voice4Deptford's argument. The conclusions are set out below.
- 7.2 Condition 1 of the Outline Planning Permission requires that applications for approval of Reserved Matters must be made within 13 years of the date of the OPP (so prior to 10 March 2028) and that the development must be begun not later than the expiration of 2 years from final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. Condition 1 does not require all of the reserved matters to be approved before any part of the development can commence. Condition 20 is the relevant condition in that respect. This clearly enables individual Plots to proceed once the reserved matters for the Plot and other details required by Condition 20 (and any other Conditions required to be discharged prior to commencement) have been discharged/approved.
- 7.3 The statutory provision dealing with time conditions on outline permissions is Section 92 of the Town and Country Planning Act 1990. Section 92(2)(a) prescribes the standard time requirement, namely, that reserved matters approval must be applied for within 3 years of the date of the outline permission and the development implemented within 2 years of final approval of reserved matters or in the case of approval on different dates, the final approval of the last RM to be approved. Section 92(4) allows the LPA to substitute different time periods (whether longer or shorter). In the present case, the Mayor of London substituted 13 years for the 3 year period.
- 7.4 Voice4Deptford's argument is that as the permission is to come forward in phases, it necessarily follows that Section 92(5) of the 1990 Act required different time periods to be specified for each phase and that if different time periods are not specified, the default periods of 3 years for application for RMAs and 2 years for implementation are deemed to apply to each phase.

That argument is considered to be misconceived. Subsection (5) provides that the LPA:

- (5) .....may also specify, or direct that there be specified, separate periods under paragraph (a) of subsection (2) in relation to separate parts of the development to which the planning permission relates; and, if they do so, [*emphasis added*] the condition required by paragraph (b) [or (c) – not applicable as it relates to Wales] of that subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole
- 7.5 Section 92(5) does not have automatic effect where a development is to be carried out in phases. The language of the sub-section is clearly permissive and it simply gives a **discretion** to LPAs to **choose** to prescribe different timescales for different parts of a development. **If they do so**, then the different timescales prescribed for submission of reserved matters and commencement in relation to those parts of the development will apply. It is clear (by virtue of the words underlined above) that the second part of 92(5) only applies where different time periods have been specified

for different parts of the development and there is no room for any deemed/default timescales as suggested by Voice4Deptford.

- 7.6 The GLA chose not to so specify prescribe different time periods in respect of parts of the development. That was an approach which was totally open to it.
- 7.7 It is therefore considered that the outline permission has not been timed out as suggested by Voice4Deptford and the time period for submission of reserved matters in respect of the development remains at 13 years. Condition 20 also enables individual Plots to proceed once the reserved matters for the Plot and other details required by Condition 20 (and any other Conditions required to be discharged prior to commencement) have been discharged/approved.
- 7.8 Voice4 Deptford's detailed submissions also maintain that works already carried out on site do not amount to implementation of the planning permission. Officers consider this issues to be concluded as above, but it is addressed below for completeness.
- 7.9 Condition 20 referred to above expressly permits works approved under Condition 21 to proceed ahead of approval of reserved matters under Condition 20. The developer applied for and was granted discharge of/approval of the details required under Condition 21 relating to the carrying out of 'Advance Works', including provision of a haul road, as well as the discharge of other conditions required prior to carrying out those works. The Advance Works were carried out and completed in 2016. They are considered to involve the carrying out of a 'material operation' for the purposes of Section 56(4) of the 1990 Act - under Section 56, development is to be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.
- 7.10 Voice4Deptford's argument that these works did not commence the development appears to rely on the definition of 'Commencement' under the Section 106 Agreement which excludes certain preparatory works. The Section 106 Agreement defines what is 'Commencement' only for the purposes of Section 106 Agreement and the coming into effect of certain obligations. It does not, however, remove the operation of Section 56 of the 1990 Act which determines whether the development has begun under the planning permission. It is considered that the works carried out can reasonably be considered to involve a material operation for the purposes of Section 56 and the development can reasonably be taken to have been begun by those works.