

# **STRATEGIC PLANNING COMMITTEE SUPPLEMENTARY AGENDA**

**16 July 2020**

The following report is attached for consideration and is submitted with the agreement of the Chairman as an urgent matter pursuant to Section 100B (4) of the Local Government Act 1972

**8 APPLICATION FOR DECISION - UPDATES** (Pages 1 - 4)

Report attached

**Andrew Beesley**  
**Head of Democratic Services**

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## Strategic Planning Committee

16 July 2020

### Updates

**ITEM NO 6: P1510.19 – Plot 22, Albright Industrial Estate, Ferry Lane.  
Pages 11-28 - Corrections**

**Page 12, Paragraph 1.2**

...**100,000** tonnes a year.

**Page 12, Paragraph 2.1**

£10,000 section 106 contribution for highways improvements: *The applicant was only made aware of this contribution very close to the Committee date. Therefore, they were unable to comment prior to the report being publicised. However, they have requested further justification for the requested sum. Should Members be minded to approve the development, officers would continue to negotiate this contribution with the Highways Officer.*

**Page 13, Paragraph 2.3; Page 21, Paragraph 9.27**

Condition 20 revised to: "Electrical Charging Points – Secured at **10%** passive and active".

*Additional, condition 27: No large lorry movement shall take place through the Rainham Conservation Area during or after construction.*

**Page 16, Paragraph 8.2**

**Three** neighbour response has been received as follows:

**Page 19, Paragraph 9.10**

The unit would be finished in grey aluminium powder cladding and **have a pitched** metal roof

**Page 23, Paragraph 9.38**

The GLA have since stated that they will review whether the 35% CO2 emissions requirement and confirm whether this is applicable to the scheme.

**Page 24, Paragraph 9.44**

The site is within Flood Zone **3** - having a **high** probability of flooding (**1 in 100** annual probability of flooding). The Environment Agency have confirmed that the development does not affect existing flood defences or increase the risk of flooding.

**Page 26, Paragraph 10.2**

The CIL fee is subject to any discounting of the existing floor area. The applicant has confirmed that the existing sqm (2,335sqm). Therefore, the resulting fee is £58,400 (*provisional sum subject to final checks*).

### ADDITIONAL REPRESENTATIONS

Additional representations have been received from Councillor Durant requesting the attachment of the below should Members be minded to approve:

- Condition ensuring no lorries from the development use the Conservation Area
- Informative regarding the installation of CCTV at the Tesco roundabout

*Officer Response: These will be attached if Members are minded to approve.*

**ITEM NO 7: P1604.17 – 148-192 New Road, Rainham. Pages 11-28**

Clarification

Page 31, Paragraph 4.2

The updates to the 27 February report did not include the late representation and officer comment included in the update report. For completeness – it is below:

Additional correspondence has been received from the adjoining business. The only additional matter raised that is not covered in the report is a request that if granting permission is considered appropriate, a condition should require all windows to be permanently fixed shut and no balconies to be installed.

In response, it is considered that such a condition would be unreasonable to impose on an outline application. As set out in the report, the details of mitigation should be submitted at the same time as the reserved matters showing the layout of the development which will include proposed position of rooms and windows and details of balconies (if any are proposed). That would be the appropriate time to assess whether the mitigation is acceptable rather than imposing constraints, which may not necessarily be required, at the outline stage.

Addition to Recommendation

Page 30, Section 2

It is recommended that the following be included:

That, should the Secretary of State decide to call in the application for his own determination, that the Local Planning Authority put forward a case that had it been able to determine the application, planning permission would have been granted for the reasons outlined in the report.

Update

Page 32, Paragraph 4.5

The Council's Public Protection Officer has reviewed the additional material and commented that the information confirms that the noise environment is such that without suitable mitigation, residents of the proposed development would suffer from unacceptable levels of noise and complaints from them would therefore be likely. The mitigation necessary, particularly to any rooms with a southern aspect would appear to be at the very limits of current performance levels for glazing and ventilation in terms of noise reduction. This would also rely on the units being perfectly fitted and maintained in perpetuity which may be difficult to ensure. Further, it is not possible to provide outdoor balconies above first floor level with acceptable levels of noise. The Public Protection Officer would prefer that at this stage the applicant commit that no bedroom windows or balconies be situated on the southern façade. Any windows, balconies and communal outdoor space elsewhere should be appropriately treated (e.g. winter gardens, suitable glazing, appropriate positioning of buildings) to ensure that noise is minimised in accordance with measures outlined in the additional report. The applicant has responded

to this request that they undertake that whilst Rainham Steel operate from this location, in connection with reserved matters details, no balconies or bedroom windows will be proposed to the southernmost facades. Furthermore, the Public Protection Officer has asked for clarification as to whether the measures proposed deal with future increases in activity at the Rainham Steel adjoining site as this will result in an increase in both the average noise level during the daytime and night time periods which will need to be addressed in any mitigation scheme proposal. The applicant has provided further information that the noise mitigation measures would be suitable for significant increases in activity on the adjoining site. This is acknowledged, however, until further assessments are provided with mitigation proposals at reserved matters stage, it would not be possible to accept that such measures deal with future noise scenarios that may involve intensification of the adjacent site. Further, the Public Protection Officer has commented that such future noise is difficult to predict and reinforces the view that any southern aspect rooms/balconies may be problematic in terms of noise protection. Given the undertaking given by the applicant, the Public Protection Officer considers that the suggested Condition 13 would ensure that adequate assessment of the mitigation measures proposed can take place at the reserved matters stage.

#### ADDITIONAL REPRESENTATIONS

Two additional representations have been received, from the same objector (the operator of the adjoining steel business), attaching letters from their noise consultant and solicitor. In summary, the issues raised are:

- The objector's noise consultant has reviewed the additional noise and overheating reports submitted by the applicant. The objectors noise consultant comments that whilst the report is more thorough and covers mitigation for internal noise, there are still overheating and ventilation concerns that need to be addressed.
- The objector's noise consultant and solicitor have both raised issues that the noise conditions are such that the applicant should enter into a legal agreement to indemnify the applicant for any costs arising out of any future complaint about their activities that is upheld/leads to action.

Officer Response: The issues raised in respect to noise are considered to be adequately covered in the officer report and the above update. It is considered that at this outline stage, it is possible to provide suitable mitigation measures as part of any reserved matters that would ensure a satisfactory noise environment and ventilation for future residents of the development. The external noise conditions and sensitivity of the nearest façade have been acknowledged by the applicant and the Council's Public Protection Officer has confirmed that it is possible to provide satisfactory details at the reserved matters stage, albeit that these will need to be carefully scrutinised. The suggested restriction/indemnity does not satisfy the requirements of S106(1) of the Town and Country Planning Act 1990. In addition, it is not considered necessary to have such an agreement to make the development acceptable nor reasonable to require the applicant, as part of this outline planning application, to indemnify the adjoining owner from any future action. In this respect, such a requirement does not meet the tests of Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010.

