

ADDRESS: Unit L, East Cross Centre, Waterden Road, London E15	
WARD: Wick	REPORT AUTHOR: Gillian Nicks
APPLICATION NUMBER: 2007/2974 DRAWING NUMBER: Site plan.	VALID DATE: 21.01.2008
APPLICANT: Harringay Meat Traders Ltd C/o Agent	AGENT: R.W. Stevens Woodside 7 Woodlands Avenue Hornchurch Essex RM11 2QT
PROPOSAL: Section 17 Certificate of Alternative Appropriate Development for A1, A2, A3, B1, C1, C3, D1 and D2 uses.	
RECOMMENDATION SUMMARY: Issue Positive Certificate for B1, B2 and B8 use.	

ANALYSIS INFORMATION
ZONING DESIGNINATION: (Yes) (No)

CPZ		X
Conservation Area		X
Listed Building (Statutory)		X
Listed Building (Local)		X
DEA	X	

LAND USE DETAILS:	Use Class	Use Description	Floor space sqm				
Existing	B8 Sui generis	Storage/distribution Night club					
Proposed	A1 A2 A3 B1 C1 C3 D1 D2	Retail Financial and Professional Services Restaurants and Café Business Hotels Dwelling Houses Non-residential institutions Assembly and leisure	Not applicable				
RESIDENTIAL USE DETAILS:	Residential Type	No of Bedrooms per Unit					
Type		Studio	1	2	3	4	5
Existing	Not applicable	Not applicable					
Proposed	Flats	Not applicable					

PARKING DETAILS:	Parking Spaces (General)	Parking Spaces (Disabled)	Bicycle storage
Existing	-	-	-
Proposed	Not applicable		

CASE OFFICER'S REPORT

1. INTRODUCTION

- 1.1 The Land Compensation Act 1961 relates to compensation for the compulsory purchase of land. Where existing permissions and assumptions are insufficient to indicate the development value of a site, the act provides a mechanism by way of Section 17 for which planning permission can be assumed by means of a so called 'certificate of appropriate alternative development'.
- 1.2 A Section 17 Certificate Application is required to state what planning permissions would have been granted if the land were not to be compulsorily acquired. Circular 06/2004 states that where:
- planning permission would have been given for development of one or more specified classes and for any development for which the land is acquired, but would have been granted for any other development – a positive certificate be issued; or
 - planning permission would have been granted for any development for which the land is acquired, but would not have been granted for any other development – a 'nil' or negative certificate be issued.
- 1.3 The applicant must state whether or not they consider there are any classes of development which either immediately or at a future time would be appropriate for the land if it were not being acquired by an authority under CPO powers. The local authority is required to issue a certificate specifying what planning permission would in their opinion have been granted.
- 1.4 The Circular makes it clear that "the purpose of the certificate is to state what, if any, are those other forms of development". In determining this it is expected that the Local Authority take account of the normal planning considerations such as:
- the character of the development in the surrounding area;
 - any general policy of the development plan;
 - national planning policy; and
 - Other relevant considerations where the site raises more complex issues which it would be unreasonable to disregard.
- 1.5 Only those forms of development which for some reason or other are inappropriate should be excluded. Furthermore, the certificate can be at variance with the use shown by the development plan for the particular site. The Planning Inspectorates guidance note on Section 17 applications states that: "a certificate may not be refused for a particular class of development solely on

the grounds that it would be contrary to the relevant development plan” The purpose of this provision is to avoid the whole purpose of the certificate system being defeated, where land is allocated in the development plan for the use for which it is being acquired. It follows that the decision maker must ignore development plan policies with no function beyond the acquisition scheme-for example policies that earmark land for a road or school. But, may take account of broader policies – if the classes of alternative development suggested by the applicant or appellant would have been objectionable in the ‘no scheme world’”.

1.6 The circular sets out three main issues for reaching a decision

1. The physical considerations – i.e. the state of the land and the area in which it is situated;
2. The current and reasonably foreseeable planning policies; and
3. Identifying and **disregarding the planning consequences of the acquisition scheme and the underlying public purpose for it.**

1.7 Case law advises that all these issues must be considered at the date when the interests in land were acquired by the purchasing authority. This ‘date’ relates to the ‘relevant date’ (see History section below).

2. SITE CONTEXT (as referred to within Planning Application 2004/0132*)

2.1 The subject site is located on the western side of Waterden Road and forms part of a group of buildings known as East Cross Centre. The site is occupied by a part two, part three storey building. The two-storey element forms the eastern part of the building that faces Waterden Road and is occupied by a meat distribution company at ground floor level with a disco above. The westerly, three storey part of the building is variously occupied by offices, printers and a ballroom. Vehicular access to the site is obtained from the north.

2.2 Across Waterden Road to the east are allotment gardens. The adjoining site to the north is occupied by a bus depot with Hackney Stadium to the north thereof. To the north-west of the site are units E to H, which are two-storey type warehouse buildings. To the south is a building known as units A to D, which is a part five, part six storey building that is well set back from the road with car parking at the front. Unit A is occupied by a self-storage company.

2.3 The area is largely characterised by run down, low level, industrial/warehouse type buildings with large open areas, with the exception of the southern part of East Cross Centre, which is largely characterised by taller industrial buildings.

3. CONSERVATION IMPLICATIONS

3.1 The site does not lie within a Conservation Area.

4. HISTORY

* See History Section

- 4.1 **2004/0132** – ‘Outline application for the demolition of an existing two-storey building and the erection of a replacement part 5, part 6- storey office building with ancillary car parking provision’ approved in 2004.
- 4.2 Planning permission was refused at a neighbouring site (1 Felstead Street) for the ‘Erection of buildings ranging from 4 to 12-storeys in height to provide 960 sqm of Class A1 (retail) /A2 (financial services) / B1 (office and light industry) / D1 (non residential institutions) or D2 (assembly and leisure) with 123 residential units, comprising 49 x 1 bed, 43 x 2 bed, 21 x 3 bed and 8 x 4 bed and 2 x 8/10 bed units, together with associated car parking and landscaping. Demolition of existing buildings on site’. The grounds for refusal were as follows:
1. The proposal by reason of its height, scale, bulk, design and appearance would be out of scale and character with the surrounding townscape and would be to the detriment of the character and appearance of the street scene and surrounding area, contrary to policies ST1, ST2, ST4, EQ1, EQ3, EQ5, HO3 and H020 of the Adopted Unitary Development Plan and Policies 4B.1, 4B.2, 4B.7, 4B.8 and 4B.9 of the London Plan, PPS1 (Delivering Sustainable Development) and guidance on Tall Buildings by CABE and English Heritage.
 2. The proposed development would result in the loss of existing and/or potential employment generating floor space and thereby prejudice the employment potential of the site and the employment needs of the Borough contrary to Policies ST1, ST25, E2 and E5 of the Adopted Hackney UDP and to the Lower Valley Action Plan (Supplementary Planning Guidance).
- 4.3 Whilst this application was subsequently allowed by the Inspectorate on appeal, this judgement post dated the ‘relevant date’ and is considered irrelevant to the determination of this certificate application. From hereon it shall be referred to as the ‘appeal scheme’.
- 4.4 London Development Agency (LDA) acquired the subject site under CPO powers, namely the LDA Act 1998, Acquisition of Land Act 1981, Compulsory Purchase Act 1965 and the London Development Agency (Lower Lea Valley, Olympic and Legacy) Compulsory Purchase Order 2005.
- 4.5 The notification date on which notice was served upon the land owners subject to the above that the site would be acquired for the London 2012 Olympics was 16th November 2005. From hereon this shall be referred as ‘the relevant date’.

5. CONSULTATIONS

- 5.1 Date Statutory Consultation Period Started: 30th January 2008
- 5.2 Date Statutory Consultation Period Ended: 20th February 2008
- 5.3 Site Notice: Yes

5.4 Press Advert: Yes

5.5 Neighbours

Not applicable.

5.6 Statutory consultees

5.6.1 Cross London Rail Links Limited
No representation received.

5.6.2 East London Line Project
No representation received.

5.6.3 English Heritage
No representation received.

5.6.4 Environment Agency
Low environmental risk.

5.6.5 Greater London Authority
No representation received.

5.6.6 Hackney Police
No representation received.

5.6.7 Invest In Hackney
No representation received.

5.6.8 London Borough of Tower Hamlets
No representation received.

5.6.9 London Development Agency
The scheme which the applicant proposes as appropriate alternative development of the site would not have been permitted at the relevant date of November 2005. This is primarily because the uses proposed do not accord with the relevant Development Plan policies at the time and relevant planning history indicates that the scale and quantum of development proposed would not have been permitted in this location at the relevant date.

Notwithstanding this, consider an employment generating B1 use at a scale similar to that permitted by Hackney on the site in 2004 (part 5, part 6 storey building) would be acceptable. The existing B8 and D2 uses would also have been acceptable. Any development permitted on the site at the relevant date, would have been subject to planning conditions and a Section 106 Agreement securing significant community benefits.

5.6.10 London Fire and Civil Authority
No representation received.

5.6.11 London Thames Gateway

Without the benefit of proposed plans it is not clear whether the existing and approved employment floor space will be replaced. If there is any loss of employment floorspace then the proposal is unacceptable as it is contrary to policy.

Without the benefit of proposed plans it is difficult to assess the suitability of the proposed development in all other respects. It is considered that a 33 storey building containing the proposed number of uses would be an over development of the site in terms of density, residential amenity, poor public transport accessibility to the site (PTAL 2) and over reliance on the car.

At the time of assessment of the alternative development (November 2005), the Stratford City redevelopment had gained planning permission (February 2005), therefore this significant development has been taken into account. However it has not altered the LTGDC's observations (it does not impact on the employment policies and overdevelopment issues and the accessibility of the site would not improve significantly).

The LTGDC therefore considers that a substantial residential led mixed use development is unacceptable on this site. It is therefore recommended that the certificate of appropriate alternative development is not issued.

5.6.12 Natural England

No representation received.

5.6.13 Olympic Delivery Authority

Note that the site falls within the ODA administrative boundary and that as the relevant Local Planning Authority any actual application for planning permission would fall to be determined by the ODA Planning Authority.

Though not explicitly stated, it would appear that the dominant use being suggested as appropriate is, however, residential. Should this be the case this would not appear to accord with current local and strategic planning policy. Neither is it clear that the height and density that would be implied by this description is appropriate in terms of relevant policy.

Therefore, in coming to its conclusions in respect of the range and quantum of alternative uses that might be appropriately identified in the Certificate of Appropriate alternative development use the Council is encouraged to carefully consider the appropriateness of identifying residential or other uses that do not appear to accord with current adopted planning policy.

5.6.14 Primary Care Trust

No representation received.

5.6.15 Railtrack

No representation received.

5.6.16 Sport England

No representation received.

5.6.17 Strategic Rail Authority
No representation received.

5.6.18 Thames Water Utilities
No representation received.

5.6.19 The Countryside Agency
No representation received.

5.6.20 The Learning Trust
No representation received.

5.6.21 Transport for London
No representation received.

5.7 Other Council Departments

5.7.1 Arboriculture Officer
No representation received.

5.7.2 Conservation and Design:
No representation received.

5.7.3 Highways:
No representation received.

5.7.4 Housing
No representation received.

5.7.5 Policy
On the relevant date the following policy considerations applied:

1. London Plan 2004

3B.1 Developing London's Economy, and specifically 3B.5 Strategic Employment Locations :

“the Mayor will work with strategic partners to ... manage the varied industrial offer of the Strategic Employment Locations set out in Annexe 2”

“Boroughs should identify SELs in UDPs...”

Annex 2 in Table As.1 Preferred Industrial Locations under 9 Identifies Hackney Wick (part).

2. Hackney UDP 1995

Identifies the site as a Defined Employment Area. Policy E5 – retention of sites and floor space in Defined Employment Areas applies. Page 143 of the UDP includes a Note regarding development which would enhance the appearance of the Hackney Wick Waterden Road area, such as a retail unit which would match or exceed the jobs expected from B1, B2 or B8.

The DEA designation provides the Borough level interpretation of the London Plan requirement to manage the industrial offer, and define SEL boundaries. Although the London Plan 2004 did not have development plan status on the relevant date, it does provide a strategic framework and is a material consideration having gone through a process of public participation.

The policy conclusion is that the site (former East Cross Centre) is identified for employment. The applicant has suggested residential as an alternative development. Residential use of the site would not be acceptable, and this principle would apply to the consideration of an alternative proposal for a mixed development including part residential uses.

5.7.6 Pollution
No representation received.

5.7.7 Private Sector Housing
No representation received.

5.7.8 Transport
No representation received.

5.7.9 Waste Management:
No representation received.

6. POLICIES

6.1 Hackney Unitary Development Plan (UDP) (1995)

EQ1	-	Development Requirements
EQ3	-	Tall Buildings
EQ5	-	Infill Development
EQ7	-	External works and landscape
EQ9	-	Development and the River Lee Navigation Floodplain
EQ32	-	Shop Front and Shop Signs
EQ33	-	External Advertisements
EQ40	-	Noise Control
EQ41	-	Development Close to Existing Sources of Noise
EQ42	-	Air Pollution
EQ43	-	Development of Contaminated Land
EQ44	-	Water Pollution
EQ46	-	Recycling Facilities
EQ47	-	Renewable Energy
EQ48	-	Designing out Crime
H01	-	Provision of additional housing
H03	-	Other sites for housing
H06	-	Residential use of upper floors above shop units
H020	-	Planning Standards
E1	-	Development sites
E2	-	Development within Defined Employment Areas
E5	-	Retention of sites and floors pace within Defined

		Employment Areas
E8	-	Employment uses and nuisance
E14	-	Access and Facilities for People with Disabilities
E17	-	Retention of Off-street Service Facilities
E18	-	Planning Standards
TR1	-	New Pedestrian and Cycle Links
TR5	-	Improvements as part of Development proposals
TR6	-	Traffic, Access and Parking
TR7	-	Car Parking
TR8	-	Parking for People with disabilities
TR12	-	Road Improvements
TR16	-	Safety in Design
TR19	-	Planning Standards
R2	-	New Shopping development
R4	-	Local shops
R10	-	Cafes, restaurants, wine bars and 'take-away' hot food shops
R13	-	Shopfronts and shop signs
R18	-	Planning standards
CS2	-	Provision of Community Facilities as part of development schemes
CS4	-	Provision of Healthcare facilities
CS6	-	Provision of Education facilities
CS7	-	Sites and Premises for community and voluntary projects
CS8	-	Places of Religious worship
CS9	-	Provision of childcare facilities
CS10	-	Planning Standards
ACE1	-	New arts, culture and entertainment development
ACE2	-	Promoting the development of arts, cultural and entertainment facilities
ACE4	-	Art and Art Space
ACE7	-	Hotel Development
ACE8	-	Planning Standards

6.2 Supplementary Planning Guidance (SPG) and other documents

SPG1	-	New Residential Development
SPG11	-	Access For People With Disabilities

6.3 Proposals

Defined Employment Area Site No. 123 – Waterden Road, Hackney

6.4 London Plan (2004)

2A.1	-	Sustainability criteria
3A.1	-	Increasing London's supply of housing
3A.2	-	Borough housing targets
3A.3	-	Efficient use of stock

- 3A.4 - Housing choice
- 3A.6 - Definition of affordable housing
- 3A.7 - Affordable housing targets
- 3A.9 - Partnership approach and sub-regional development frameworks
- 3A.14 - Addressing the needs of London's diverse population
- 3A.16 - The voluntary and community sector
- 3A.17 - Health objectives
- 3A.18 - Locations for health centre
- 3A.21 - Education facilities
- 3A.22 - Higher and further education
- 3B.1 - Developing London's economy
- 3B.2 - Office demand and supply
- 3B.3 - Office provision
- 3B.4 - mixed use development
- 3B.9 - Creative Industries
- 3B.10 - Tourism industry
- 3B.12 - Improving the skills and employment opportunities for Londoners
- 3C.1 - Integrating transport and development
- 3C.2 - Matching development to transport capacity
- 3C.3 - Sustainable transport in London Borough of Hackney
- 3C.22 - Parking Strategy
- 3D.3 - Maintaining and improving retail facilities
- 3D.4 - Development and promotion of arts and culture
- 3D.5 - Sports facilities
- 3D.6 - Visitors accommodation and facilities
- 4A.1 - Waste strategic policy and targets
- 4A.6 - Improving air quality
- 4A.7 - Energy efficiency and renewable energy
- 4A.11 - Water supplies
- 4A.12 - Water quality
- 4A.14 - Reducing noise
- 4A.15 - Climate change
- 4B.1 - Design principles for a compact city
- 4B.2 - Promoting world-class architecture and design
- 4B.3 - Maximising the potential of sites
- 4B.5 - Creating an inclusive environment
- 4B.6 - Sustainable design and construction
- 4C.1 - The strategic importance of the Blue Ribbon Network
- 4C.2 - Context for sustainable growth
- 4C.8 - Sustainable drainage
- 5A.1 - Sub-Regional Development Frameworks
- 5C.1 - The Strategic priorities for East London Borough of Hackney

6.5 National Planning Policies

- PPS1 - Delivering Sustainable Development
- PPG3 - Housing

PPG4	-	Industrial, Commercial Development and Small Firms
PPS10	-	Planning for Sustainable Waste Management
PPG13	-	Transport
PPS22	-	Renewable energy
PPG25	-	Development and Flood Risk

7. COMMENT

The background regulatory position in relation to Section 17 applications has been provided above. It has been established that the date upon which consideration of this application and all relevant policies to be appropriated to it, is the 16th November 2005. Whilst currently the site falls within the Olympic Delivery Authority Area for determination, at the relevant date, they were not and it is entirely inappropriate to consider otherwise given the context of a Certificate 17 requiring consideration of a 'no scheme world'.

The applicant has submitted this Certificate on the basis that an appropriate mixed use development as follows would be acceptable at the site:

“thirty-three storey block plus two basement floors with mixed use. The lower two basement floors would be suitable for underground car parking, the lower above ground floors would be ideal for commercial/leisure use including a banqueting/meeting suite, crèche, gymnasium, hotel and with offices above, affordable housing and self contained “penthouse” type accommodation on the upper floors.

Considerations

The main considerations relevant to this application are:

The principle of the use
Design and appearance of proposed development

Each of these considerations is discussed in turn below.

7.1 The principle of the use

7.1.1 The application seeks a range of uses for approval within a mixed use scheme, each of which shall be dealt with in turn as to their accordance with policy in relation to the 'relevant date', and in consideration of the principle as part of a mixed use scheme.

A Class uses

7.1.2 The application seeks a positive certificate with the inclusion of A1, A2 and A3 Class uses. On the relevant date Council policy ST36 and R2 supported the provision of retail development where :

- The proposal does not undermine the vitality and viability of defined centres as a whole;
- Satisfactory standards of detailed design, layout and access;
- There being no unacceptable effects upon neighbouring uses and the environment of the surrounding area in terms of appearance, noise and disturbance;
- There being adequate highway capacity to accommodate traffic attracted including peak flows, either with or without adaptation;
- Maintenance of a satisfactory balance between retail and non-retail uses;
- Adequate car and cycle parking for staff and customers;
- Adequate servicing, to include the provision of rear service access where appropriate;
- Satisfactory means of access for shoppers arriving on foot or by public transport and for people with disabilities;
- Satisfactory provision for people with young children, and for people with disabilities commensurate with the nature and scale of the proposal; and
- Satisfactory provision for waste and recycling facilities commensurate with the nature and scale of the proposal.

Particular encouragement will be given where:

- Proposals which improve the range and quality of shopping, for example by providing specialist services, remedying deficiencies in provision or meeting the needs of ethnic minority communities; and
- Proposals which would maximise local employment opportunities.

7.1.3 Within a predominately employment area, the provision of retail and professional services is considered at odds with the policy presumption, and the general character of the area. Whilst as an ancillary use within an employment scheme; a shop in the form of a newsagent or other related use may be of benefit to employees, the strategic designation and the physical character of the area is considered to sit against this proposed use. For A2 Class use there is a proviso that these uses are for visiting members of the public. Given the lack of transport infrastructure at the relevant date and the predominately industrial character to the context of the site these public facing uses are considered to be inappropriate given this context.

7.1.4 The principle of A3 use is considered in the light of Council policy R10 where:

- The likely impact on the amenities of adjoining residential accommodation; and
- The cumulative environmental impact on the locality where a number of such uses already exist; and
- The likely effect of car parking on the free flow of traffic.

7.1.5 The first two points do not effect the site, and likewise the third is not considered to be of relevance at the time of the relevant date given the locality and the limited draw of users from the surrounding area. However, whilst the ancillary provision of a canteen for the benefit of on site employees, it is felt that the character of the area, as industrial, would be unsuitable for the accommodation of a restaurant or café.

B1 Class Use

- 7.1.6 The site is situated within the southern part of a designated Defined Employment Area (DEA). However, the site has no specific designations with proposals detailed within the UDP relating to northern parts of the DEA.
- 7.1.7 At the relevant date Council policies ST24, ST26, E1, E2 and E5 sought the provision of employment generating development within DEAs, opposing proposals that would result in a reduction of such floor space. These policies are an expression of the London Plan presumptions that also sought the safeguarding of strategic industrial locations, for which this site falling within Hackney Wick was so protected.
- 7.1.8 However, it is important to consider the range of acceptable B1 uses for the site, given its industrial context at the relevant date. Under the Town and Country Planning (Use Classes) Order 1987 (As Amended) the B1 use classes is sub-divided into:

B1(a): Offices
B1(b): Research and development; and
B1(c): Light Industry

- 7.1.9 In light of the extant outline planning permission at the relevant date, and the industrial context of the site, the full complement of B1 uses would have been accepted.

C1 Class use

- 7.1.10 This use covers hotels, and the applicant states that: *“the lower above ground floors would be suitable for commercial/leisure use including a ... hotel...”*. Council policy ACE7(c) states that favourable consideration shall be given to Hotel development upon sites not identified for such development that have: *‘good public transport links which are not located in predominately residential areas’*.
- 7.1.11 Whilst the site is not predominately residential, it is considered that its location is not such that it complies with the connectivity requirements under policy ACE7 (c). At the relevant date, it is considered that the introduction of the use would have been resisted, given the Employment designation within the London Plan, and local development plan. The applicant provides no detail as to their proposition to include this use within a mixed use development. There is no planning history to surrounding sites that would suggest the acceptability of this use at the Relevant Date. Therefore, it is considered that this use would not have been accepted within a mixed use development were an application have come forward at the relevant date to include this use.

C3 Class use

7.1.12 At the relevant date Council policy E2 states that “*Residential development will not normally be permitted within defined employment areas*”. Policy H03 of the London Borough of Hackney UDP states that residential development will normally be permitted where :

- a. Development of the site does not conflict with other policies, in particular with the retention of land and floor space for employment uses;
- b. The environment of the site is acceptable or would be made acceptable by the proposal in accordance with the policies in the Environmental Quality Chapter; and
- c. The proposed scheme is of a high quality with minimal disadvantages to residents in the surrounding area and is compatible with surrounding uses.

7.1.13 In consideration of residential use within a mixed use scheme at the Relevant Date, given the immediate site context as industrial/warehouse accommodation, this would not have been favourably considered. No planning history can be found for the relevant date that would indicate a presumption in favour of residential use in this part of the Defined Employment Area. The applicant presumes affordable housing and self contained “penthouse” accommodation would have been appropriate at the relevant date. However, given the requirement for a high provision of family sized accommodation (with direct access to a garden), notwithstanding that this would require a proportionate number of affordable units to be provided; the site characteristics would not be acceptable.

D1 use Class

7.1.14 This use class includes the provision of non-residential institutions, such as health centres, crèches, schools, art galleries, places of worship, education and training centres (NB not exhaustive). However, the applicant has specified that they seek the inclusion of a crèche. Ancillary to a principle use where the provision of a crèche would act to support the local labour base in the surrounding area, the inclusion of this use, where controlled by way of condition to restrict to this single element, is considered acceptable.

D2 use Class

7.1.15 This Class of use encompasses cinemas, music and concert halls, bingo and dance halls, swimming baths, skating rinks and gymnasiums (but not night clubs (NB not exhaustive list). The applicant specifies that they consider a gymnasium to be appropriate within a mixed use scheme. The LDA note that the site already had D2 use, and this use is also referred to within the Case officer’s report for the extant permission. However, the applicant has stated that the site operated a night club at first floor level. A ‘night club’ falls under sui generis use and as a use has not been sought under this application.

7.1.16 The applicant has not listed the uses that they would seek specifically under this Class use. In consideration of the site context, the range of uses that fall under it are not considered to be complementary given the surrounding site context, at the relevant date. In the ‘no scheme world’, it is considered unlikely that any alternative regeneration of the area could reasonably be foreseen that would

introduce mixed use development.

Other uses

7.1.17 Circular 06/2004 states that “*Planning Authorities are not restricted to consideration of the classes specified by the applicant*” under their consideration of a Certificate of Appropriate Alternative Development.

7.1.18 With this in mind, and given the context of the site at the relevant date, it is measured that the full complement of B Class uses (B2 and B8) would have been given favourable consideration in line with both National, Regional and Local policy.

6.2 Design and appearance of the proposed development

6.2.1 The applicant considers a landmark building equivalent to thirty three storeys (plus two basement floors) ‘*could easily be accommodated onto the site*’. Objection has been made to this, and the principles of a residential led scheme. These details are irrelevant with a Certificate 17 application as the purpose is not too specifically limit the quantum of floor space, density and height of buildings. It is solely the principle of the uses, collectively or otherwise, that is under consideration.

8. CONCLUSION

8.1 In summary, it is considered that use Class B1(a, b and c), B2 and B8 accord with the policy presumptions at the ‘relevant date’. A positive certificate is therefore recommended to include these uses subject to conditions and a Section 106 Agreement.

RECCOMENDATION A:

8.2 That a positive certificate be granted, subject to the following:

1. No building work shall be started until details, and where relevant these to include plans/sections and elevations showing the following details in respect of the development have been submitted to and approved by the Local Planning Authority and the relevant part of the development shall in all respects be carried out in accordance with the approved plans:

- (a) Siting of the buildings
- (b) design of the buildings including floor areas, height, massing,
- (c) external appearance,
- (d) means of access, including car parking and servicing arrangements
- (e) refuse including recycling provision
- (f) landscaping
- (g) Archaeological survey

REASON: In order that the Council is satisfied with the details of the proposed development and to ensure compliance with Policies EQ1, ST1 and ST2 of the

Hackney Unitary Development Plan.

2. An application for the approval of the reserved matters pursuant to condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990

3. The development to which this permission relates shall begin not later than whichever is the later of the following dates:- a) the expiration of three years from the date of this outline planning permission; or b) the expiration of two years from the final approval of reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: : To comply with Section 92 of the Town and Country Planning Act 1990

4. A Design Code shall be submitted to and approved by the Local Planning Authority prior to the submission of any reserved matters application. Any reserved matters applications shall demonstrate compliance with the Design Code or subsequent variation approved pursuant to this condition.

REASON: In order to ensure the highest quality redevelopment of the site based on specific urban design guidelines and to ensure compliance with Policy EQ1 of the Unitary Development Plan

5. Suitable and sufficient historical search and site investigations to determine the presence of contaminants, including ground exhaled gases, shall be carried out to the satisfaction of the Local Planning Authority. The **Full** results of the investigation and details of proposed remedial measures shall be submitted to and approved by the Council and implemented prior to the start of the development. Such details are to include an assessment of potential for the pollution of the water environment, measures to prevent the migration of contaminants, prevent pollution of ground water and surface water, including measures for monitoring, to protect future maintenance personnel.

REASON: In order to safeguard the amenities of neighbouring properties and the area generally and ensure compliance with policy EQ43 of the Hackney Unitary Development Plan.

RECOMMENDATION B:

That the above recommendation be subject to the applicant, the landowners and their mortgagees enter into a deed of planning obligation by means of a Section 106 Agreement of the Town and Country Planning Act 1990 (as amended) in order to secure the following matters to the satisfaction of the Assistant Director of Planning and the Secretary and Solicitor of the Council

- a. Green Travel plan;
- b. Code of construction charter;
- c. Sustainability framework – Breeam (Office);
- d. Commitment, participation and financial contribution towards local employment and training ;
- e. Financial contribution to any highway works.;
- f. Provision of refuse and recycling bins.;

- g. Flood risk assessment;
- g. Council's Legal Costs.



Signed..... Date: 27 April 2009

Steve Douglas
INTERIM CORPORATE DIRECTOR, NEIGHBOURHOODS &
REGENERATION

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