

Addendum Planning Committee Report

London Thames Gateway Development Corporation

Planning Application LTGDC-09-109-FUL

Report of the Director of Planning

1. Introduction

1.1 This addendum report is to advise Members of the resolution of Newham's Planning Committee and of objections raised since the time of writing the committee report.

2 London Borough of Newham Committee Resolution

2.1 The application went before Newham's Planning Committee on the 14th of April where it was resolved to raise no objection to the proposal, subject to the satisfactory completion of a Deed of Variation to the original Section 106 agreement and planning conditions. Overall, the Council has confirmed that they consider the application to be acceptable with regard to the relevant UDP and London Plan policies.

3 Further Objection

3.1 One further objection has been received from the Biofuelwatch organisation questioning the mechanism by which the application is being assessed, namely as minor material amendment to an approved scheme under Section 73 of the Act. A representation was also made to Newham's Planning Committee asking that they defer the application for the following reason:

1. The extent to which Section 73 of the Town and Country Planning Act 1990 is able to be used to amend the scheme and that this should have been authorised by elected Newham councillors first.
2. The Newham planning policies which must be applied.
3. Air Pollution issues: the need for validation of the emissions data
4. Lack of consultation: statement of community involvement
5. A similar project in Southall in the London Borough of Ealing which awaits Public Inquiry report
6. The area should be the subject of a Strategic Environmental Assessment.
7. Inquiries into London City Airport
8. That the Corporation *"has a small staff who are removed from the demands of LB Newham's planning policy drivers and initiatives, and are not best suited to successfully negotiating planning gain"*

9. Regulation pre- and post- operation

3.2 In response to these comment, and also capturing the objection from biofuelwatch, Member should consider the following

1. Section 96A of the Planning Act 2008 allows local planning authorities the power to make minor material amendments to any planning permission having regard to the effect of the change to the permission as originally granted. In this case, the amendment is to the design of the building. In coming to the recommendation to approve, we have considered the issues that were originally considered with the grant of planning permission and found, if anything, an improvement in the situation overall.

The decision as to the materiality of the change is at the discretion of the Corporation, being the Local Planning Authority, and is not required to be "signed off" by Newham's councillors.

The type of fuel used in the generation of electricity is not at issue, and in any case is not a material planning consideration. The section 106 agreement is still valid which ensures reporting of the fuel procurement policies of Blue NG.

2. The scheme is in line with Newham's planning policies. This is evident from the original recommendation of the London Borough of Newham to approve the application in 2008 and the grant of planning permission by the Corporation in early 2009. The policy context of the site remains the same, and as such the land use principle is appropriate. Therefore, as detailed in the committee report, the minor amendment is also wholly consistent with Newham's policies.

3. Air quality is discussed in this report, however it has already been established that the air quality emissions are acceptable in the consideration of the original application. Newham's EHO has confirmed the air quality emissions were, and are now, within acceptable limits. Again, Member should note that the design changes are the principle point of consideration.

4. Despite not being statutorily obliged to do so, every person who objected to the original application has been consulted on this application. The details of the responses are contained within the committee report.

5. There is no reason to await an Inspector decision on any other site. No matter the outcome of the Southall appeal, planning permission in this case is already granted.

6. This point is immaterial to the design of the scheme.

7. Again, this point is immaterial to the design of the scheme.

8. This appears to be a personal view of the Corporation's capabilities rather than a reason to defer.

9. The Section 106 agreement, which is a publically available document, contains air quality, odour and noise monitoring obligations. Additionally, the new engine

configuration now requires EA licensing, which is another further level of environmental control that is now in place.

RECOMMENDATION: Remains to grant planning permission.

CASE OFFICER: Stephen Allen

Date: 21 April 2010