



Dear Councillor

Elephant and Castle Shopping Centre Planning Application 16/AP/4458

We would be grateful if you would give consideration to the following points when determining the shopping centre planning application. References are to the officer's report, 27 June 2018.

The improved offer

1. The improved affordable housing offer does not meet the Core Strategy requirement that 50% of affordable social rented housing should be social rented (about 165 social units) and includes 161 units of affordable rent at 80% market rent, in the shape of Discounted Market Rent (DMR), which is not envisaged in the Core Strategy (para 5.i, 368, 371, 380).
2. The committee cannot reach a reasonable decision on the application if the Applicant will not commit to either Build to Rent or Build to Sell on the West Site. The affordable housing policy requirements are different for each tenure and it is unreasonable to expect the committee to make a decision without knowing the exact tenure (para 5.iii)
3. The proposal to give first right of refusal to a bingo operator for leisure floorspace is not sufficient for the discharge the Council's public sector equalities duty (PSED) or sufficient mitigation measure. Please also see the Southwark Law Centre objection on this - [Neighbour consultation replies - SOUTHWARK LAW CENTRE 18/6/18](#) (para 5.vii, 125, 211, 226)
4. The Castle Square temporary retail facility that is to house displaced traders is not guaranteed and cannot be considered as a relocation site. It is also of very modest size, 300 sqm (compared to 550sqm in Perronet House) (para 6, 223)
5. The development will not provide sufficient space for displaced occupiers, contrary to the E&C SPD (para 78, 100)
6. The running-down of the shopping centre and loss of trade has equality implications. Please see the Southwark Law Centre objection on this - [Neighbour consultation replies - SOUTHWARK LAW CENTRE 18/6/18](#) (para 90)

Land use

7. There appears to be an evident shortfall in retail and leisure floorspace, measured against the 45,000 sqm policy requirement, which will not be bridged by this proposed scheme, which is the last major site in the opportunity area. Further, such a shortfall would disadvantage BAME traders because of the consequent loss of affordable retail units (para 92)
8. There will be a loss of community facilities through the demolition of the centre (para 106)
9. We would state that we understand UAL's need for new premises and recognise the value of its educational work. We believe that an equitable and fair development scheme can meet all the interests of the local community (in terms of housing, shops, leisure and travel) including those of UAL.
10. There will be a reduction of leisure floorspace (para 120, 143)
11. There will be a minimum net loss of 7,863 sqm of B1 class office floorspace, when the B class target for core site 39p, within the larger opportunity area, is 45,000 sqm and only 2,959 sqm has been built or consented to date (para 148, 149).

Equalities

12. That the officer's report has not correctly assessed the impact of the development on women. Whether or not there are fewer women business owners makes no difference to the detriment they may suffer by virtue of their gender (eg because family responsibilities may make it more difficult to relocate their business) and this has not been addressed (para 163).
13. The proposed development 'could impinge negatively on the ability of BAME business owners to run their business' (para 167)
14. There is a 'strong desire among business owners across all ethnic groups to continue operating their businesses following the redevelopment of the shopping centre' but 'confidence about their ability to return to the new shopping centre is low', and 'it is likely that the majority of existing businesses on the site would relocate elsewhere' (para 168).
15. There are 'potential concerns about how businesses would retain their existing customer base if they were required to move out of Elephant and Castle, particularly those which have been at the site for a long time (para 171).

16. The closure or relocation of two charities 'may give rise to health inequalities to those with protected characteristics, for instance BAME groups or young people' (para 174).
17. The mitigation measures will be secured by a s106, should the application be approved, but this may not be concluded until many months after a resolution to approve. We also understand from traders that they will have to leave the centre no later than 31 March 2019, rendering the measures nugatory (para 205).
18. The importance of meeting the affordable housing policy requirement for social housing (of about 170 units) is underscored by the dependence of BAME groups, women, families with children and young people on this tenure (para 208).
19. Perronet House, as with Castle Square, cannot be considered as a relocation site because it does not have planning permission (para 223).
20. The dates of availability of the affordable retail on the East and West sites make them impractical as relocation sites for the traders. The sites provide about half of the affordable retail space and will not be available until 2024 and 2029 (para 223, 236).
21. The bingo hall is mainly used by the elderly and people from BAME backgrounds and has an important social function. 94% of those interviewed visited at least once a week, 36% five times a week. Other bingo halls are too far away to be practical alternatives (para 224, 225)
22. The officer's report cautions that this mitigation measure depends upon a bingo operator coming forward but gives no indication of how likely this is (para 226).
23. Other mitigation measures lack credibility and the report confesses the Council may lack the power to enforce them; it cautions that members should note this (para 227, 228)
24. The loss of important music venues is noted and again members are advised to give this due regard (para 233).
25. The report acknowledges that 'some' businesses will cease trading, or relocate, but gives no estimate of how many in either case, without which we cannot judge whether the mitigation measures are 'sufficient', as it claims. The priority given to traders within the red line for onsite affordable retail will be of little use to many, given that it will not be delivered until 2024 at the earliest (para 235, 236).

26. The two existing charities in Hannibal House can only benefit from affordable premises if B class units come forward and this is not guaranteed (para 236)
27. We believe that the efficacy of the s106 agreement is best ensured by its final approval being taken by the planning committee (para 237, 238)
28. Officers caution members twice more of the importance of the equalities issue, particularly the loss of the bingo hall during the construction period. We note again that only groups with protected characteristics of age and race have been fully considered, not, for instance, gender groups or the young (para 242, 243, 244).

Affordable Housing

29. Build to Rent within the private rented sector (PRS) does not have any policy support from the Core Strategy. It only gains policy support the New Southwark Plan, which can only be given limited weight (para 351, 354, 356, 357, 368, 385)
30. The proposed affordable housing does not comply with the adopted Core Strategy policy which requires a 50/50 split between social rented and intermediate units. It also does not comply with emerging policy P4 because, whilst the social rented units would just exceed the minimum requirement, there would be too much Discount Market Rent and too little London Living Rent (para 363, 371, 385, 387, 388)
31. The Applicant will not confirm whether the West Site is to be Build to Rent or Build to Sell until after a planning permission is secured. We doubt that the committee can make a reasonable decision without knowing which form of housing it is approving. The viability implications of a mixed BtR/BtS are also not addressed in the report. The affordable housing requirements of BtR/BtS are different. The Applicant is only offering 38% of the affordable housing as social rented (116 units), not 50%; the report depends upon a viability mechanism to secure 50%, should the BtS option be taken. This is unacceptable; were the Applicant allowed this option they should deliver 50% social rented units unconditionally (para 365, 371)
32. We note that the revised proposal entails a loss of 12 affordable units (para 366).
33. The Mayor's Annual Monitoring Review 2017/2018 says that households with incomes of £60k- £90k should have their housing need met by intermediate for sale housing, rather than intermediate rent, as is the

case with this proposal. Discounted Market Rent (DMR) should also be affordable to incomes of £60k or less, whereas 47% of the DMR in the Applicant's proposal is for household incomes of £80k - £90k (para 369, 372, Table 379)

34. We understand that the Applicant is seeking RSL status. We would ask for clarification of who will be owning and managing the social rented units or when this will be decided (para 373, 382).
35. We note that the social rented units will not be available until the second phase (West Site). We understand that it is proposed that 75% of the free-market homes can be delivered, before the affordable units will be – this would put the social housing to the backend of the phase and earlier delivery should be required (para 374)
36. The income bands determining rent for affordable housing have been broadly reduced to three groups – social rent (A), London Living Rent (B, C) and DMR (G). We welcome the increase in social rented units, but not the reduction in London Living Rent (from 158 units in the original offer to 53) nor the increase in DMR (from 145 units in the original offer to 161). All the DMR homes are also at 80% market rent, making nearly half the affordable housing unaffordable for those who need it most (para 378, 379).
37. We note that DMR tenancies are shorter and less secure than social rent tenancies and count this as good reason for not adopting DMR as acceptable affordable housing (para 381, 382)
38. We are concerned about both the principle and practicality of reviewing DMR eligibility based on income, on renewal of leases (para 383)
39. We note that the social rents given in the table of £155-£216pw are high, certainly in comparison to most council rents (Table para 385)

Viability

40. We note that the Applicant cites viability as the reason for not complying with affordable housing requirements. We cannot give a full response to this because the full Financial Viability Assessment was only available to us from 22 June 2018. We note also that information establishing the Existing User Value (EUV), which is critical to establishing the viability of a site, is being kept confidential, contrary to Southwark's Development Viability SPD (para 388, 389, 399)

12.16 There is supporting information to underpin the EUVs. However, the reports contain information that is private and confidential to the existing landowner and cannot be divulged.

Pg 97 [Viability Report - FINANCIAL VIABILITY ASSESSMENT - NOVEMBER 2016](#)

41. We note that Southwark's valuation experts advise that a fully compliant affordable housing tenure mix could be achieved *'through rental growth and cost management over the construction period'*. Further, the report states that the Applicant has conceded that the growth in return needed for a compliant scheme is achievable and concludes *'Based upon current market data the advice is that there appears to be no reason why this approach could not deliver a fully compliant scheme'*. We also note that this conclusion was reached before the Applicant received £11.25m grant funding from GLA (para 371), which must mitigate the Applicant's risk. A reduced risk weakens the case for depending on a review mechanism to determine the final levels of affordable housing, rather than deciding those levels now. (para 393-396, 371)
42. We note that officers have yet to conclude whether or not this is the maximum reasonable quantity of affordable housing (para 398)
43. Depending upon a review mechanism to achieve fully compliant affordable housing is unreasonable, in the light of its 'achievability'. It shifts the risk to the council and removes an incentive to the Applicant to increase affordable housing, thereby making it less likely. It also takes no account of the improvement in the Applicant's financial position from the GLA grant funding (para 402- 405, 371).
44. We are not aware of any consultation regarding a new intermediate waiting list (para 406)

1 July 2018

