



SHANPAK LTD.

**ENSIGN COURT,
28 ENSIGN STREET,
LONDON, E1 8JQ**

**MANAGING DEVELOPMENT
DPD PUBLIC EXAMINATION**

**POSITION STATEMENT 635998
MONTAGU EVANS**

REF NO 635998

September 2012

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PLANS

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- ME 2 – Site Location Plan
- ME 3 – Surveyed Employment Clusters in LB Tower Hamlets
- ME 4 – Tower Gateway Public Transport Interchange POL

1.0 BACKGROUND

- 1.1 Representations were made by Montagu Evans on behalf of Shanpak on 15th July 2011. These objections related to the proposed designation of the Tower Gateway Preferred Office Location (Appendix 1), set out in the Site and Place Making Development Plan Document (Engagement Draft May 2011).
- 1.2 Following the publication of the Proposed Submission version of the Managing Development DPD, Shanpak and Barratt Homes East London made representations to the Council submitted by Montagu Evans on 9th March 2012 (Appendix 2). The representations followed the decision of the Council to downgrade part of the Preferred Office Location to a Local Office Location (Appendix 2).
- 1.3 The National Planning Policy Framework was published on 27th March 2012, after representations on the DPD were made.
- 1.4 The Core Strategy Glossary provides the following definitions of POL and LOL;
- “Preferred Office Location (POL)***
Area with major office development as the focus, with supporting uses such as gyms, hotels, restaurants and retail uses helping to achieve a sustainable office environment.
- Local Office Location (LOL)***
An area identified as being important to local employment and required for the retention and provision of office stock.”
- 1.5 Managing Development Plan Policy DM16 applies where office premises are located in POL's or LOL's as designated in the Plan. Change of use from office to other uses are subject to more onerous tests than offices located outside of these Designated areas. Policy DM15 applies to change of use to offices outside POL's and LOL's. Although less onerous this policy requires evidence of the marketing of vacant office premises for a year prior to the submission of a planning application for change of use.
- 1.6 Ensign Court is owned by Shanpak and is located in the proposed Tower Gateway Local Office Location (LOL).
- 1.7 An extract of the Proposals Map shows the boundary of the proposed LOL at Plan ME1. Ensign Court is located at the junctions of Dock Street and Ensign Street with The Highway and is shown on Plan ME2.
- 1.8 Pre-application discussions have taken place with the local authority for a development comprising 87 dwellings and a ground floor retail unit. A copy of the Council's pre-application response is appended at Appendix 3.

- 1.9 This position statement has been prepared to address the Inspector's issue as set out in the Hearing Programme Issue 4 that addresses Employment [Policies DM15 – 17 inclusive] which reads:

'Issue 3 are the employment policies consistent with the NPPF, the London Plan and the Core Strategy and/or supported by clear and robust evidence: are they reasonable and clear, deliverable and appropriate to local needs and circumstances, including to small and medium sized enterprises.'

2.0 SUMMARY AND RECOMMENDATIONS

2.1 With reference to Shanpak's objection its response to the Inspector's Issue 3 set out above can be summarised as follows:

1. Conformity with the Core Strategy

2.2 Shanpak consider that the proposed designation of a Local Office Location at Tower Gateway East is not consistent with the Core Strategy and is not supported by clear and robust evidence as;

- The proposed LOL was not identified in the Core Strategy.
- The Core Strategy evidence base did not consider the area nor did the consultants that prepared the evidence (URS) make recommendations for a Preferred or Local Office Location at Tower Gateway East.

2. Conformity with the Managing Development Plan Evidence Base

2.3 Shanpak consider that the proposed designation of a Local Office Location at Tower Gateway East is not supported by clear and robust evidence as:

- The evidence base prepared by Roger Tym for the proposed submission DPD did not identify the Tower Gateway East location as suitable for a Local Office Location.
- Roger Tym did suggest the Tower Gateway East as a 'possible addition' to the other Preferred Office Locations identified in the plan.
- This designation which appeared in the Engagement Draft of 2011 was deleted by the Council in its Proposed Submission revision of the DPD.
- The Council's response to Shanpak's objection to the Proposed Submission document did not refer to any evidence. It cited proximity to the City and other large floorplate built form in the area, as reasons to support the proposed designation.
- The Council's response to Shanpak's objection has to be considered in the context of evidence on the News International site opposite the proposed LOL. The URS report prepared to support the Core Strategy found that this large development site does not benefit from high or good public transport accessibility. The News International site is in B1-B2 use but it is not part of a Preferred or Local Office Location, and is a similar distance from the City as Tower Gateway East.

3. Conformity with the NPPF

- 2.4 Given the lack of clear and robust evidence the proposed designation is not consistent with the National Planning Policy Guidance on Local Plans set out at NPPF Para 157, 161 and 182. The absence of evidence means that the proposed designation is not 'justified' and is therefore not sound.
- 2.5 The guidance contained in the NPPF which requires a clear explanation for limiting the freedom to change the use is also relevant (NPPF Para 157). In this case there is an absence of an explanation sufficient to justify the proposed designation of an LOL, and the associated limitations that the designation entails when comparing the provisions of the relevant policy (DM16) with the policy that would apply where the offices were outside the designation location (DM15).
- 2.6 Paragraph 14 of the NPPF introduces the presumption in favour of sustainable development. The NPPF states:
- “Local Plan should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change.”*
- 2.7 The proposed LOL is not consistent with the above NPPF Policy. Shanpak consider that there is no clear explanation to support the application of the more onerous policies to apply to office accommodation as set out in Development Management Policy DM16, when compared with the more flexible policy that applies to office accommodation set out in DM15. Shanpak suggests that two years active marketing prior to considering an application for change of use as required by DM16 in LOL's is too inflexible to be seen to conform with the NPPF.

Recommendations

Delete the Tower Gateway LOL

- 2.8 Shanpak consider that there would be no harm arising from the deletion of the proposed Local Office Location at Tower Gateway East and that other policies would provide a suitable level of protection.

Amend Marketing Clauses in Policy DM15 and DM16

- 2.9 Shanpak would prefer Policy DM15 and 16 to require evidence of demand to be prepared by letting agents at the time of the submission or determination of applications, rather than allowing property to lie vacant for between one and three years before an application could be made with marketing evidence in support, as is the case with the policies as currently drafted. Shanpak consider the adoption of a demand test in policies DM15 and DM16 would more closely accord with the 'golden thread' that is advocated in NPPF guidance, than the current marketing test which

obliges landowners to hold properties for which there is no demand vacant in order to satisfy policy.

- 2.10 Shanpak recognise that its comments on policies DM15 and DM16 rely on guidance published after objections were made and exceptionally requests that its comments are taken into account.

Proposed Wording for DM15 and DM16

- 2.11 Proposed revisions to Policy DM15:

"1. the upgrading and redevelopment of employment sites outside of spatial policy areas will be supported. Development should not result in the loss of active and viable employment uses, ~~unless it can be shown, through a marketing exercise, that the site has been actively marketed (for approximately 12 months) and that the site is unsuitable for continued employment use due to its location, accessibility, size and condition"~~

- 2.12 Replace with:

"1. the upgrading and redevelopment of employment sites outside of spatial policy areas will be supported. Development should not result in the loss of active and viable employment uses, unless evidence can show that there is no demand for the premises, due to its location, accessibility, size, and location and that the site is unsuitable for continued employment use due to its location, accessibility, size and condition"

- 2.13 Revisions to Policy DM16:

~~"3. Where sites in Local Office Locations are vacant, development resulting in the loss of office floor space will only be considered where there is evidence, in a marketing exercise, that:~~

- ~~a. over a period of two years, active marketing (at a reasonable value for that area) has been carried out;~~*
- ~~b. the site is unsuitable (in terms of size and condition) for on-going employment use;~~*
- ~~c. other employment uses have been considered for the site; and~~*
- ~~d. the loss of office floorspace does not compromise the operation and viability of the wider Local Office Location."~~*

- 2.14 Replace with:

"The loss of office floorspace will only be considered where there is evidence that:

- a. there is no demand for the premises as offices;*
- b. the site is unsuitable in terms of size and condition for ongoing office use;*

- c. *the loss of office floorspace does not compromise the operation and viability of the wider LOL."*

3.0 ASSESSMENT OF POLICY

3.1 ***“Are the employment policies consistent with the NPPF, the London Plan and Core Strategy and/or supported by clear and robust evidence.”***

Introduction

3.2 Shanpak consider that there is no evidence contained in the evidence base to justify the inclusion of a Tower Gateway Local Office Location, or the proposed designation of the same are in an earlier iteration of the DPD as a Preferred Office Location. That being the case Policy DM16 should not apply to the area in which Ensign Court is located. Core Strategy Policy SPO6 and proposed policy DM15(1) would still apply.

3.3 This section briefly points to the absence of the evidence to support the designation based on the evidence use. Shanpak’s reasons for concluding that the proposed LOL does not conform with the NPPF needs no further explanation.

The Core Strategy

3.4 Core Strategy Policy SPO6 shows at page 66, Figure 33, a diagram of four Preferred Office Locations and the locations of three Local Office Locations. None of these notations embrace the Ensign Court or the proposed Local Office Location. Core Strategy Policy SPO6 makes it clear that the boundaries of POL and the LOL areas shown on Figure 33 will be defined in the Site and Place Making DPD (SPO6(2)).

3.5 Policy SPO6(3) identifies other areas where workspace in town centre, edge of centre, edge of town centre or main street locations will be protected. The site does not fall within any of these categories other possibly than a main street location.

3.6 The Evidence base used to define Core Strategy Office Location’s was the London Borough of Tower Hamlets Employment land study prepared by URS and dated 2009.

3.7 At page Recommendation 6 URS advised:

“Designate Clusters 5 (Canary Wharf North) Cluster 6 (Canary Wharf South) Cluster 9 (St Katherine’s Dock) Cluster 10 (Aldgate and Spitalfields and the Western third of C20) (Tobacco Dock and News International site as Preferred Office Locations as per the Council’s Interim Development Guidance. Development sites in the above clusters which have high levels of public transport accessibility should be intensified and promoted for office uses”

3.8 At Recommendation 7 URS advised:

"Designate Cluster II (Whitechapel Road) Cluster 16 (Mile End Road) and Cluster 25 (Mulberry Place Town Hall) and environs as local office locations to accommodate additional demand to small affordable and some secondary office space in the Borough including that servicing SME's."

"Cluster 12 (Brick Lane Area) as a predominantly retail, mixed use niche tourism area, is not suggested for any specific designations. However it might be suitable to accommodate some B1. Activities around the redeveloped Shoreditch station and Bishopsgate goods yard."

- 3.9 Plan ME2 is an is extract from the URS study and shows that the area in which Ensign Court is located was not identified in the study. Therefore the area was not recommended either for a Preferred Office Location or a Local Office Location. It is clear that the evidence at the Core Strategy stage did not support any designation of the area in which Ensign Court is located.

Compliance with the Managing Development Plan Evidence Base

- 3.10 The Managing Development Proposals Map shows a Local Office Location in addition to the 3 identified by name in Core Strategy Policy SPO6 (see plan ME1). The area now subject of the proposed designation appeared in an Evidence base document entitled Tower Hamlets Spatial Economy Study 2011 (EB63). See Plan ME4. The authors, Roger Tym, propose the 'Around Tower Gateway PT1 (East – possible addition) Preferred Office Location' (Figure 3.5 page 18).

Roger Tym notes:

'The Tower Gateway POL is difficult to define. It is fragmented into three separate sections as seen in Figure 3.5. It could however provide opportunities for more office space in the future because of its proximity to the City and to Public Transport.

The eastern section, between John Fisher Street and Ensign Street combine residential uses with office uses as well as a small industrial centre along Dock Street. It may present potential for intensification and expansion of office uses so we suggest the Council consider including it within a strong POL designation as opposed to a weaker Central Activities Zone designation (at least for new large offices).

- 3.11 The Council determined to abandon its Preferred Office Location designation as proposed in its Engagement Draft (of May 2011) to a Local Office Location in its Proposed Submission document. There is no evidence contained in Roger Tym's report to suggest that it has any characteristics that distinguish it as suitable for a LOL.

- 3.12 It should be noted that Roger Tym and Partners advocate the area due to its proximity to Public Transport. This contrasts with URS's view that the News International site has a relatively poor public transport access.
- 3.13 It also appears that the POL designation was to allow for large office floorspace development (the primary purpose of POL's) clearly the Council has concluded that the area is not suited to this form of development. That being the case there appears to be no grounds for identifying the area as a LOL, which the Council identify.
- 3.14 Finally in response Shanpak's objections to the proposed submission DPD the Council advise that its LOL policies should be retained as:
- *"the site's proximity to the City and to existing large floorplate built form in the area are suitable to accommodate existing or future built form capacity of over the lifetime of the plan. Please note that the Council review in the context of the LTH Spatial Economic Study, the POL boundaries where residential use exist and/or have been approved".*
- 3.15 Shanpak note that the Council does not refer in the above response to its evidence base. Shanpak note that there is no evidence that the area in which Ensign Court is located has any large floorplate built form. The Council has not retained the area as a POL but has proposed a LOL in its place. LOL's are designated to provide for local service offices. Shanpak consider that the Council should have reviewed the boundaries of all POL's and LOL's prior to the commencement of the Inquiry and await the outcome of the Council's deliberations before making further comment.