

To: Met Police, Cabinet Office and House of Commons Select Committee for Housing, Communities and Local Government

From: Cllr Andrew Wood, Councillor Canary Wharf ward, LBTH

Request for investigation into decision to approve Westferry Printworks by Robert Jenrick MP, Secretary of State

V1 2nd June 2020

This is a first summary of the key issues as regards Robert Jenrick's decision to approve Westferry Printworks planning application on the 14th January 2020, his decision is here.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/857952/20-01-14_DL+IR_Westferry.pdf

Written on the 2nd June 2020 and will be amended as new information received. I have submitted an FOI to MHCLG and the response is due 24th June, I know others have also submitted FOIs

Key Issue

It is my contention that having been closely involved with planning issues in Tower Hamlets (TH) for six years now including on this site that the Minister's decision especially when it was made are illogical and unexplainable. Something else is going on that is not yet in the public domain. The fundraising dinner attended by both the Minister and the developer are suggestive as are the Conservative Party contributions but not in themselves conclusive. But the Minister's decision so clearly benefitted the developer at the expense of Tower Hamlets residents that this needs to be investigated. The decision to approve the scheme maybe understandable but not the deliberate decision to time the decision so that the developer avoided paying approximately £40 million of Community Infrastructure Levy as well as only accepting 21% affordable housing.

It was the final reason why I quit as Conservative group leader on Tower Hamlets Council and a Conservative Party member, that after years of investigating alleged and actual corruption and fraud in Tower Hamlets to then have to investigate it in my own party was just too much.

Key Questions

- Why did the Minister make the decision on the 14th January 2020 explicitly in order to ensure it was made before the change in CIL rates on the 15th January? See Consent Order.
- Why did the Minister not deal with the affordable housing issue more explicitly given Inspectors advice? Why did he think this was the only scheme that could work on this site given evidence of other nearby schemes achieving 35% affordable?
- Why was the drop in the affordable housing offer from 35% down to 21% acceptable given that the only change in the schemes viability was the cost of the appeal (as construction work continued there was a limited delay on site)?

- Why did the Minister over-ride his Planning Inspector clear recommendation to reject this application?
- Why did Minister / MHCLG not defend the decision at judicial review and accept that the decision was “unlawful by the appearance of apparent bias”?
- Was the Tower Hamlets Council request for full disclosure of all information / documents as part of the judicial review the reason for not defending the decision? It would be useful to see what was in their request.
- What was in those documents? FOI submitted
- Where there any meetings held (other than the dinner) not in the public domain involving the developer, their agents and the Minister, SPADs, MHCLG? FOI submitted
- Did Robert Jenrick declare his ‘meeting’ at the November 2019 Carlton Club Conservative fundraising event with Richard Desmond, the N&S Commercial Director and senior Mace staff (at least 2 for a total of 4 people) internally or to Cabinet Office?
 - The tables probably seat 8-10 people, which means 4 of 8 or 4 of 10 people at the table represented the Printworks application. What did they talk about before Richard Desmond mentioned the Printworks? It is normal practise in local government to declare such contacts.
 - Who paid for Robert Jenrick’s meal? Arguably those paying for tickets did, was this declared?

Developer benefited from following;

- Not having to pay between £30 - £50 million of Community Infrastructure Levy, rounded to £40 million. Other similar sites nearby pay or will pay the levy.
- Planning permission granted against Planning Inspectors recommendations + LBTH vote to reject + GLA opposition.
- Only having to deliver 21% affordable housing, see Table 1 below for a comparison with other nearby sites, including;
 - Skylines, the most recent large development approved on the Isle of Dogs, 35% + CIL + primary school
 - Poplar Gas Works a similar site not far away also approved recently, also providing land for a secondary school, 35% affordable + CIL
 - and ASDA although not decided yet (the development is only a few minutes’ walk away) is comparable in terms of size and also providing a large primary school and community hub..

Table 1

Development & when decision made	Westferry Printworks 2016 1st application	Westferry Printworks 2020 2nd application	Skylines 2019	Poplar Gas Works 2019	ASDA 2020 (application not decided yet)
Location	Isle of Dogs, dockside	Isle of Dogs, dockside	Isle of Dogs, Marsh Wall	Aberfeldy, by river Lea	Crossharbour

Decision maker	Sir Ed Lister, Deputy Mayor for London	Robert Jenrick MP	LBTH Councillors	LBTH Councillors	Not yet decided
Height (tallest building)	30 storey	44 storey	48 storey	14 st. phase 1	32
Apartments, number of	722	1,524	579	2,800 overall 577 phase 1	2,015 overall 568 phase 1
Affordable Housing %	20% (increased from approx. 11% by Sir Ed Lister)	21% (was initially 35% but reduced in examination process)	35%	35% overall 39% phase 1	17% - GLA have rejected as wholly unacceptable
CIL	Zero	Zero (£30-50 million if approved 3 days later)	£9.4 million	£6.9 million phase 1	Will pay circa £55 million in CIL etc
Other main contributions	Land for secondary school, park, £800k for sailing centre to mitigate loss of wind, small community centre	Land for secondary school, less land for park, £1.1 m for sailing centre to mitigate loss of wind	Land for 2 form primary school + MUGA	Land for secondary school, 1-hectare park, bridge landing point	Rebuild of ASDA store, new 3 form primary entry school, large community hub, open space, bus parking, construction in 2 phases

I add ASDA as although not approved yet it is a very similar scheme. The 17% is a negotiating position, it will end up as a higher number.

ASDA 17% affordable + £55 million + large community hub + land for 3 form primary entry school + need to rebuild ASDA which means construction has to happen in 2 phases is a better offer then 21% affordable + £1.1 million + land for secondary school + community centre.

It is unclear when comparing these sites why the Printworks site can afford to offer the lowest benefits since it is arguably the most attractive location of the four and should be able to sell apartments at a premium. See comments about Late Stage Review later.

Glossary

LBTH = London Borough of Tower hamlets/Tower Hamlets Council

TH = Tower Hamlets

CIL = Community Infrastructure Levy

N&S = Northern & Shell

GLA = Greater London Authority

MHCLG = Ministry of Housing, Culture and Local Government

Community Infrastructure Levy (CIL)

Introduced in TH from April 2015, replaces cash element of S106 which had been a negotiated number. It is a 'tax' on developers to pay for new infrastructure to support development e.g. schools, GP surgeries, playground, etc. GLA calculated in 2017 that the Isle of Dogs and South Poplar area needs about £1 to £1.2 billion spent on new infrastructure in the area. £40 million is an important contribution to that.

It is formula based with a set rate for different areas depending on value - for each square meter of development the developer has to pay £x to LBTH who then spend the money on new infrastructure. The neighbouring area the charge was £200 per square meter for a residential development from April 2015.

Those rates set by LBTH following public consultation and are subject to a public examination by a planning inspector.

This site initially set at £0 per square meter based on cost of demolition and cleaning a former industrial site.

But LBTH decided to increase rates across TH, the process started in 2018 and was finalised on the 15th January 2020 with a vote by LBTH Councillors, this followed a public examination in 2019 where developers could and did challenge these new rates. This meant this site went from £0 to £280 per square meter = approximately £30 to £50 million, averaged at £40 million. It would be helpful if LBTH did an estimate of this total.

Defence offered by Robert Jenrick MP to national press

See responses by Robert Jenrick to John Stevens, Daily Mail at Sunday 31st May Downing Street news conference on the coronavirus pandemic.

<https://www.bbc.co.uk/iplayer/episode/m000k12f/bbc-news-special-coronavirus-daily-update-31052020>

At 16.45 or 45 minutes into programme

The minister said;

Housing crisis – nationally yes, but not on Isle of Dogs (IoD) or Tower Hamlets, we deliver more new homes than anybody else in the country. The IoD is the fastest growing small place in the country. TH the fastest growing Borough over last 20 years. We are building homes in excess of our own needs to meet London requirements.

Affordability crisis – if there is a crisis locally it is in the delivery of affordable homes, his argument was that a bigger scheme supplied more affordable housing, true but it should also be able to support more affordable housing as a %.

Judged on its merits – but against his inspectors advice

‘There was no bias in that decision’ – he agreed that there had been apparent bias and was therefore unlawful.

2016 Decision & viability challenge

Sir Ed Lister, the then Deputy Mayor for London in April 2016 made the decision to approve the earlier 722 home planning application.

Two of the main issues then were:

1. Affordable % as now
2. Wind flow through the buildings affecting sailing in the docks from the next-door sailing centre.

The developer only offered 11% affordable housing at that point, policy was 35% subject to viability Sir Lister commissioned external consultants to test the viability, they said 20% was deliverable based on the scheme at that point.

Sir Lister made the developer agree to this new higher number in return for approval.

It is unclear why Jenrick/MHCLG did not do so themselves in 2020.

2016 decision details here

<https://www.london.gov.uk/what-we-do/planning/planning-applications-and-decisions/public-hearings/former-westferry-printworks>

Why 21% affordable does not add up

2016 planning application agreed at 20% affordable housing.

Since then a number of nearby planning applications approved at higher %, see table 1. In fact most developments locally offer between 25% and 35% plus paying money for new infrastructure.

Demolition has already happened and basement dug, both reduce financial risk as two key costs now fixed and known.

Table 2 shows that many of the building costs are the same in both schemes, they are fixed costs so in principle a much bigger scheme should generate more profit and therefore a bigger affordable housing contribution. The higher you go the more expensive it is to build and you do lose economies of scale but a number of buildings have been built in London of a similar height so this is a proven process.

Table 2 Viability Comparison on Printworks site

	2016	2020
Apartments	722	1,524
Number of buildings	10	11
Cost of land	The same in both applications	
Cost of demolishing site	“	“
Utility connections to gas, water etc	“	“
Roads, public areas, green areas	“	“ public area smaller due to T5 tower
Marketing costs	“	“ as marketing the same site
Income from commercial rents	Slightly higher in 2020 as can charge higher rents as more customers on site	

Sales costs	Only slightly higher in 2020 due to commission, cost of sales office the same for both, although maybe open for longer as more units to sell	
Construction costs	Will be higher but not in proportion to size increase, for example number of lifts will probably be the same in 30 as 44 storey tower but may be more expensive due to longer cables, reception area size remains the same, basement & roof remains the same etc	
Income from apartment sales	Taller homes with better views attract higher prices, the taller the development the more apartments with views especially of central London, river Thames and Greenwich. Location means those views on this site less likely to be affected by later developments = should be able to achieve higher prices than some other scheme's	
Affordable housing %	20%	21%

Why when so many costs are common can this scheme only afford 21% with no CIL?

Other scheme's in less desirable locations but similar complexity achieving 35% plus CIL.

Yes, public examinations are expensive (LBTH cost £0.4 million), N&S likely to be higher but still a fraction of the total cost.

In early January 2020, post-election bounce in developments suggest that the industry was recovering from post Brexit issues. In early January 2020 nothing on the horizon to suggest that developments needed help to get built in this area.

The land was bought in 2000 as part of the acquisition of Express Newspapers, while it will have a balance sheet value (£10.5 million is total value of all land & building assets on N&S balance sheet end 2018) and the viability analysis will calculate a notional value but from a purely cashflow perspective, the scheme has no cashflow costs although cost of demolishing printworks maybe higher than other scheme's (but a known cost in 2020).

Late Stage Review

This is a complex area and will need more detail as well as expert guidance but the Minister / MHCLG may claim that the Late Stage Review is sufficient to deal with the affordable housing issue. Search the 14th January decision letter for the term 'late stage' to see background.

Late stage reviews are conducted once 75% of homes are sold or let. It compares actual sales values and construction costs to those forecast in the viability model. If the scheme is more profitable than forecast i.e. apartment sales values higher than forecast, then the developer has to make a cash contribution to build affordable housing elsewhere.

It is unclear as not in the public domain how successful these are as compared to the actual delivery of new affordable homes.

But section 32 (p7) of the Ministers letter says

The Secretary of State agrees with the Inspector that a late stage review would meet the tests in Regulation 122(2) and that this would be of some benefit although its effect would be limited (IR537).
My underline.

But his letter does not explicitly request a Late Stage Review in his list of conditions, see Annex B on p12 of the decision letter. And arguably should have requested an early stage review as well.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/857952/20-01-14_DL+IR_Westferry.pdf

So it is unclear whether a Late Stage Review will happen even if the developer has made a commitment to do so in the S106 and under what rules it is done. Speaking as an accountant with 20 + year's experience it is not clear how successful such a review could be if done based on the developers calculations. This is why it is much better to build affordable homes from the beginning.

Site History

- Printworks built 1984
- Site acquired by Northern & Shell in the year 2000 as part of Express Newspaper purchase
- Site ceases operation as a printworks 2012
- Spring 2014 public consultation starts on new 722 home scheme + new secondary school
- July 2015 planning application published by LBTH
- November 2015 deadline for LBTH to decide application, passes with no decision
- January 2016 N&S ask Mayor of London Boris Johnson to make the decision as no decision by LBTH
- April 2016 Sir Ed Lister, Deputy Mayor for London makes the decision to approve
- 2017 site demolished
- February 2019 basement dig complete
- July 2018 developer submits new larger planning application, 1,540 homes, taller buildings + new tower T5 but otherwise very similar to 2016 application
- Deadline to make a decision November 2018, no decision made (2nd time on this site)
- TH Council had cancelled a number of Strategic Development C'tees in 2018/19, not enough business so they were not that busy
- March 2019 developer appeals to Planning Inspector to make a decision as no news from LBTH
- Planning Inspector decides the Minister should make the decision (then James Brokenshire)
- July 2019 Robert Jenrick appointed Secretary of State for Housing, Communities and Local Government
- Public examination August 2019
- Fundraising dinner November 2019 involving Robert Jenrick and developer (at least 4 people)
- Planning Inspector confirms decision due to be made by 20th February 2020 according to letter following requests for how much time we had

- Decision notice issued 14th January 2020 together with Inspectors letter (Inspector recommended scheme be rejected)
- LBTH Council vote yes on new Local Plan and new CIL rates 15th January 2020
- GLA & LBTH launch judicial review challenge (very hard to find any information about either in public domain except for a few press releases)
- 21st May 2020 Consent Order signed quashing decision.

New Local Plan was more supportive of intense development on this site and already a factor in 2019 as planning policies gather weight as go through the process. So it cannot be the reason for why decision made on the 14th. Only CIL rates changed on that date.

Key Stakeholders from developer side

- Richard Desmond – owner of Northern & Shell
- Northern & Shell – owner of site, company owned by Richard Desmond
- Mace – construction company hired to build scheme as N&S have no development expertise
- Thorncliffe / Your Shout – PR consultancy
- Financial backers – unknown, it is normal for developments on the IoD to have financial backers to help fund construction in return for an equity share, usually partners are overseas investors. N&S balance sheet suggests N&S may not have enough financial reserves to fund this project by themselves so may need to borrow money or seek a partner.
- Lawyers - ?
- Architect - PLP

Please let me know if you have any questions, happy to assist,

Sincerely yours,

Andrew Wood

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