

05 March 2016

By e-mail to;

Southwark Council Planning Applications
planningstatconsultees@southwark.gov.uk

Dear Sir/Madam

Re; Skipton House planning application ref 15/AP/5125

- **Objections**
- **EIR request for Financial Viability Assessment**
- **Request for a fresh standard consultation period**

I would like to make the following objections and requests relating to the above application on behalf of the Elephant Amenity Network/35% campaign.

1 The applicant has not completed the application form correctly (pdf version)
Question 17 Residential Units omits the boxes requiring information about the social rented, intermediate and Key worker housing.

2 The applicant's response to resident' concerns about affordable housing, raised at the public exhibition of the scheme on 8,9,10 Oct 2015, is partial and misleading. The applicant's response is that it is '...in discussion with the London Borough of Southwark regarding the location and quantum of affordable housing' (Statement of Community Involvement Part 2 Table Section 9). The application form (18 Dec 2015) clearly shows that there would be no affordable housing in the scheme. The number of units for the 'Proposed Market Housing Total' is given as 421 (Q17), which is the entire residential offer (covering letter to application 18 Dec 2015). This was not communicated to the public during the consultation.

3 The applicant's public consultation has been inadequate because it has not explicitly addressed the absence of affordable housing in the scheme. For example, none of the seven questions on the October exhibition feedback form asks whether the respondents would be happy if there were to be no on-site affordable housing (Statement of Community Involvement Part 2 Section 8).

4 The applicant has not addressed the 'Mixture of housing tenure and amount of affordable housing' noted as a 'Key theme from the Consultation Process' (Planning Statement 4.11) in any of the changes that have arisen out of the

consultation (Planning Statement 4.12). The applicant's response in Statement of Community Involvement Section 9 is inadequate for reasons given above, point 2.

5 The applicant misleads the authority by stating that there was 'similar' support to the 87% in support of 'the proposed mix of the development', for 'the delivery of housing...on-site' (Planning Statement 4.13). The absence of on-site affordable housing was not publicised during the consultation, the public were misinformed by this omission, so the figure of 87% is not a sound reflection of public support for the scheme.

6 We note that the scheme's residential density exceeds that set out in policy (Planning Statement 11.9) and also note that the 461 units will be inhabited by only 675 people – an average of 1.46 persons per unit (11.4). We find it difficult to reconcile the excess density with the relatively low number of people to be housed.

7 The applicant does not meet Southwark's policy requirement for 35% affordable housing and, by extension, does not meet the policy requirement that 50% of this be social rented housing. Southwark's policies for tenure mix in new developments are given in section draft Affordable Housing Policy section 4.2 (2011). The Core Strategy policy 6 (2011) requires that 35 per cent of all housing in new developments over 10 units is affordable; this includes the Elephant and Castle Opportunity Area (Core Strategy Fig 28). The emerging New Southwark Plan sets out the same 35% requirement (DM1). Saved Southwark Plan policy 4.4 (2007) requires that 50% of the affordable housing at the Elephant be social rented and 50% be intermediate (draft Affordable Housing Policy [2011] Table 4).

8 The applicant states that it '*will aim to provide what is deemed viable*' in the way of affordable housing (Affordable Housing Statement 4.22). This does not meet Southwark's sequential test for affordable housing (draft Affordable Housing Policy [2011]). The draft Affordable Housing Policy says '*As set out core strategy policy 6 we require as much affordable housing as is financially viable, with the policy requirement being a minimum of 35% affordable housing*' (draft AHP [2011] 9.3.1). The applicant's first aim must therefore be to provide 35% affordable housing. If the applicant cannot provide that affordable housing then '*...the first option is to discuss with the council how to ensure as much affordable housing as possible is provided on site. This may include varying the affordable housing tenure mix to be provided on site...*' (draft AHP [2011] 9.3.2). Southwark may, as a second step and '*in exceptional circumstances...allow the affordable housing to be provided off-site*'. A third step, again '*in exceptional circumstances...may allow a pooled contribution in lieu of on-site of (sic) off-site affordable housing. In these circumstances we require a payment towards providing affordable housing.. .*' (draft AHP [2011] 6.3.2)

9 We note the applicant's '*affordable housing offer*' and the applicant's claim that it '*will promote opportunity and choice for residents in ways that meet their*

needs and the strategic objectives for London and the Council.' (Planning Statement 7.33). The affordable housing offer is unspecified and so this claim is unfounded.

10 We note the applicant's statement that *'The level of affordable housing that could be delivered in conjunction with the Development, and its cultural offer, will be determined through discussions with Southwark Council and the submission and appraisal of a Financial Viability Assessment.'* (Draft s106 Agreement Heads of Terms Table 4.1). The delivery of affordable housing is a policy requirement. If the applicant cannot deliver the required amount of affordable housing, and Southwark is satisfied by the Financial Viability Assessment that this is the case, then it must discuss with Southwark how to deliver the most possible, according to the sequential test. There is no policy basis for a trade-off between affordable housing and other elements of the scheme. We object to any linkage between any cultural offer and the amount of affordable housing to be delivered.

11 We note the applicant's statement that *'Southwark Core Strategy Strategic Policy 6...requires as much affordable housing on developments as is financially viable, with a policy target of 35%'* (Planning Statement 11.19). This is not a correct account of the policy. The draft Affordable Housing Policy says *'As set out core strategy policy 6 we require as much affordable housing as is financially viable, with the policy requirement being a minimum of 35% affordable housing'* (9.3.1). 35% affordable housing is therefore a minimum, not a target. Further, there is also a 'presumption that affordable housing will be provided on the development site, in line with London Plan Policy 3.12' (draft Development Viability SPD Nov 2015, final para pg 14).

12 We note the applicant's assertions that the affordable housing cannot be delivered on site and their arguments that this development is one of *'exceptional circumstances'* (Planning Statement 11.19 – 11.30) with their conclusion that the affordable housing be provided either off-site or by way of an in lieu payment (11.28). The affordable housing contribution is not quantified; the applicant simply states that it *'will be determined with reference to the scheme's viability'* (11.29). The applicant also states that the amount of affordable housing *'will be established... in conjunction with the Council following consideration of the Financial Viability Assessment'* (11.20).

13 We are unable to make any comment on the merit of the applicant's arguments and conclusion without first seeing the Financial Viability Assessment. The assessment information is designed to assist Southwark to decide, when it determines the application, whether a proportion of affordable housing should be accepted which falls below the 35% level local policy requires. Whether Southwark should permit an exemption from this policy is a question of public importance, particularly for residents in the borough. Members of the public have rights recognised in domestic and European law to participate in the determination of the application and of the question as to the proportion of affordable housing. We

therefore request the full Financial Viability Assessment is published to allow us and others to make reasonable comments.

14 We also request that once published that there be a standard consultation period from the date of the assessment's publication. We make these requests under the Environmental Information Regulations. Should these requests be wholly or partly refused we further request that there is no determination of the application until the issues are resolved and the process for resolving them is exhausted, including, but not limited to, any referral to the Information Commissioners Office and the Information Tribunal.

15 We believe that these requests are in accordance with Article 1 of the Aarhus Convention (entitled "Objective") which provides that *"[i]n order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention". To these ends, Article 9(4) of the Aarhus Convention provides that the review procedures afforded by Articles 6(1) and 6(2) of Directive 2003/4/EC must "provide adequate and effective remedies, including injunctive relief as appropriate, and be [...] timely".*

16 We believe several factors add weight to these requests, these being; - that the affordable housing offer is less than that required by policy; that, notwithstanding that it is less than required, it is nonetheless not specified in any way eg by amount of in-lieu payment; that none of these affordable housing issues have been addressed during the public consultation; that there is an emerging draft Development Viability SPD (Nov 2015), which would require publication of the assessment *'in full prior to determination for all non-policy compliant schemes'* (DVG4.3) and that two Information Tribunal decisions have recently ruled that it is in the public interest for such information to be disclosed (the Heygate estate and Greenwich Peninsula developments).

In short there has been no *'public participation in decision-making'* about the affordable housing that will be delivered. Instead the affordable housing *'will be established... in conjunction with the Council following consideration of the Financial Viability Assessment'* (Planning Statement 11.20), an assessment to which the public has no access.

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17 Finally we ask that you make a response to these requests, including that for a fresh standard consultation period, within the 20 working days set down for FOI/EIR requests and to confirm at the same time that you will not make a decision

on the application or hold a hearing to recommend a decision until the issues raised in para 13 are resolved.

Yours sincerely

Jerry Flynn
(Elephant Amenity Network/35% campaign)