

OLYMPIC DELIVERY AUTHORITY

ODA PLANNING COMMITTEE

SUBJECT: FINAL MINUTES OF 69th COMMITTEE MEETING
Held on 24 August 2010 at 18.00

Old Town Hall, Stratford, 29 Broadway, London E15 4BQ

Present:

Lorraine Baldry	Chairman
David Taylor	Deputy Chairman

Local Authority Members:

Cllr Terry Wheeler	LB Waltham Forest
Cllr Geoffrey Taylor,	LB Hackney

Independent Members:

Mike Appleton
Celia Carrington
William Hodgson
Janice Morphet

Officers in attendance:

Vivienne Ramsey	ODA, Head of Development Control
Anthony Hollingsworth	ODA, Chief Planner Development Control, Planning Decisions Team
Richard Griffiths	ODA Legal Adviser, Planning Decisions Team (Pinsent Masons)
Saba Master	Committee Secretary

**1. APOLOGIES
(AGENDA ITEM 1)**

- 1.1. There were apologies from Cllr Rofique Ahmed, LB Tower Hamlets, Cllr Conor McAuley, LB Newham, and Dru Vesty

2. UPDATES, ORDER OF BUSINESS, AND REQUESTS TO SPEAK (AGENDA ITEM 2)

- 2.1. There were updates for Item 5 and 6.
- 2.2. The order of business was unchanged.
- 2.3. David Morley (David Morley Architects) requested to speak on Item 5. Mr Kevin Mansell (member of the public), Mrs L Rahmen (member of the public), Jerome Frost (ODA Design and part of the Arcelormittal Orbit Client Group), Kathryn Findlay (Ushida Findlay architects), Peter Rogers (Project manager for the Arcelormittal Orbit Client Group), Daniel Bosia, (Arup), James Lough, (Arup) and Malcolm Ross, (Olympic Park Legacy Company) requested to speak on Item 6.

3. DECLARATIONS OF INTEREST (AGENDA ITEM 3)

- 3.1. The Secretary read the following statement:

'Members of this Planning Committee need to declare personal interests relevant to the agenda at the beginning of each meeting of the Planning Committee.

'Members will see that the paper for Item 3 which has been circulated lists interests which they have declared which appear to be personal interests relating to Item 5 and 6.

'Would Members please confirm that the declarations of personal interests listed in the paper for Item 3 are correct; and state if there are any other interests you wish to declare?'

'Personal interests are prejudicial if a reasonable member of the public with knowledge of the relevant facts would conclude that the nature of your personal interest is such that your judgement of the public interest is likely to be affected. If, by virtue of your personal interest you have been involved in decisions about these proposals, you may have a prejudicial interest. In that circumstance you would need to leave the meeting during the consideration of that item. In light of the agenda before you this evening, please state whether or not any of the interests declared are prejudicial interests?'

Members confirmed that the declarations of personal interests recorded on the paper for Item 3 were correct and that none were considered prejudicial.

4. MINUTES AND MATTERS ARISING (AGENDA ITEM 4)

- 4.1. Outstanding action: The Head of Developmental Control agreed to send an email, to the Committee members or bring a plan to the next meeting, to clarify details of the land in the Olympic Park being retained by the LDA (6.3 of the minutes).
- 4.2. The Committee

AGREED the Minutes of the 68th Planning Committee Meeting.

5. APPLICATION NUMBER 10/90224/FUMODA – Water Polo (AGENDA ITEM 5)

*Construction of temporary buildings and associated back of house accommodation for use for sports, leisure and entertainment purposes within Class D2 for use as a facility for water polo during the 2012 Games.
Land within Planning Delivery Zone 1 to the north west of the F10 Bridge, south west of the Loop Road and east of the F09 Bridge.*

- 5.1 A presentation was given by David Morley (David Morley Architects). He explained to members that the Water Polo venue was a temporary venue, with a limited budget but located on a prominent site. He explained that the venue would be designed as a kit of parts, with a minimal design so that parts could be easily inserted or removed. He also explained that accessibility and diversity issues had been imbedded in the concept. Photos were shown to illustrate the work undertaken with LOCOG on the visual appearance of the venue, with complimentary colours being chosen in respect of the other venues nearby. Illustrations of the venue from different parts of the Olympic Park, such as the F10 Bridge and the north side of the Park, were shown to the Committee.
- 5.2 A PDT Officer gave a presentation on the application and summarised the key points from the committee report. The officer explained that the application was a slot in application, as the design falls outside of the parameters of the 2007 consent. Detailed approval was being sought for the venue and outline planning permission for two modular buildings adjacent to the venue (hybrid application). To illustrate this, the officer referred to pages 4- 5 of the committee report and to plans 3 and 4 in the Appendix to the committee report (pages 82-83).
- 5.3 A PDT Officer explained that sustainability was one of the key considerations covered extensively in the committee report. Plan 16 in the Appendix to the committee report (page 95) set out the elements that would be reduced, reused or recycled. Officers were satisfied that this would be in accordance with the sustainability targets under the 2007 consent and National planning policy guidance.
- 5.4 A PDT Officer explained that extensive consultation took place with CABE, LB Newham, LB Tower Hamlets and the ODA Built Environment Access Panel, all of whom were satisfied with the application. Whilst LB Tower Hamlets did not wish to object to the application, the Officer commented that the LB Tower Hamlets did raise a concern over the entrance to the venue and referred to a summary of their concern at page 23 of the committee report. The proposals have since been revised in light of these comments and Officers are in agreement with CABE over the sensitivity of the design.
- 5.5 Overall, the Officer explained that the proposal was considered to be suitably designed, creating a distinctive and original architectural statement, with a significant contribution to the Games. The application is consistent with the 2007 consent as well as complying with Section 5 (5) of the London Olympic Games and Paralympic Games Act 2006, the London Plan and the LB Newham Unitary Development Plan.
- 5.6 The Update report contained seven amended conditions (number WPOD.13, 1, 20, 25, 33, 34, 35). Conditions WPOG.3 and WPOD.37 in the main report would

be deleted as they replicate WPOD.15 and 16 and WPLT.22 respectively. The PDT Officer reported that, after discussion with the applicant, condition WPOD.17, WPOD.18, WPOD.13 (part iii) and WPOD.14 (part v) would remain unchanged. PDT considered Venue Lighting (WPOD.17) at night as an important part of the appearance of the Olympic Park after dark for spectators in the Park and television broadcasts. In terms of WPOD.18 (public realm landscape), the applicant wanted to delete reference to soft landscaping as no soft landscaping is proposed. As the condition requires details of both hard and soft landscaping, Officers considered that no amendment is required as if there are no soft landscape elements, this can be explained in the details when submitted to PDT. The internal "Look & Feel" (WPOD.13 part iii) was queried by the applicant. However, officers took the view that as a temporary venue with a lot of exposed scaffolding within the venue, the final look and feel of the internal space was important.

- 5.7 A Member asked whether the various kit parts would be purchased and re-sold or rented and returned to the hire market. The applicant explained that it would be a combination of both but that discussions were still in progress. A Member asked how certain the applicant was that bought elements could be re-sold. The applicant team replied that they were as certain as they could be at this stage.
- 5.8 A Member asked about how noise levels would be monitored. A PDT Officer explained that a Stage D acoustic report as well as discussions with LB Newham had been undertaken. As the venue was for a temporary (three week) period and as the venue would be located at a sufficient distance from residential areas so as not to have a detrimental impact, no further insulation to the venue was required.
- 5.9 A Member asked about why the main elevation of the venue was not fully lit. Although the Member was supportive of a lighting strategy further clarification was required on low level lighting and the overall strategy. A PDT Officer drew attention to the proposed condition on Venue Lighting.
- 5.10 A Member asked about the expectations of the LOCOG overlay. The applicant explained that the "Energy Burst" would be part of the overlay but that there was no expectation of further work unless already shown in the diagram (limited to the plinth to the main elevation). The applicant confirmed that the lower level to the external stair structure would be blue painted timber or metal panels.
- 5.11 There being no further questions the Chairman moved to a vote and the Planning Committee **RESOLVED** that:

The Committee:

APPROVED full planning permission and outline planning permission subject to:

- i) The conditions listed in the committee report with the removed, amended or replaced conditions as stated in the Update Report
- ii) The informatives listed in the committee report.

6. APPLICATION NUMBER 10/90250/FULODA – ArcelorMittal Orbit (AGENDA ITEM 6)

The construction of a sculpture for the Olympic & Paralympic Games and Legacy phases including two observation/viewing platforms (sui generis with ancillary A1 and A3 café use), entrance pavilion, hard and soft landscaping including crowd control measures and a plaque, surface and foul water drainage, plant compound, lighting, blue badge car parking and access to and servicing of the sculpture. Preparatory works for the application site to include remediation and ground works and laying of a utilities corridor.

Within the concourse of Planning Delivery Zone 2 to the north-east of Bridge H04

- 6.1 A PDT Officer gave a presentation on the application and summarised the key points from the committee report. The officer explained that the application was for the approval of the 114m high ArcelorMittal Orbit structure as a visitor attraction with viewing platforms and ancillary support buildings, landscaping and blue badge parking proposed on the concourse within PDZ2. It would be built in time for the 2012 Games and would remain into Legacy. As the Orbit was not included with the 2007 planning applications for the Site Preparation and Olympic Facilities, a full planning application has been submitted accompanied by an EIA Environmental Statement, with the likely significant environmental effects summarised within the committee report.
- 6.2 A PDT Officer explained that consultees, including the four host boroughs, LTGDC, GLA, OPLC, ODA, LOCOG and technical consultees were generally supportive or raised no objections. CABE raised concerns in its initial response on a number of design details, but had subsequently updated its comments on receipt of further information from the applicant. CABE's updated comments were summarised in the Update report. Officers were satisfied that the issues now raised by CABE could be satisfactorily addressed by conditions both in the main report and as amended in condition AOD.40 in the Update report.
- 6.3 A PDT Officer explained that public responses were mixed, referring Members to both the consultation appendix (Appendix 5 to the committee report), the summary of received public comments (Appendix 6 to the committee report) and to the additional objections and comments received as summarised in the Update report. The objections raised were mainly in relation to the design and appearance, funding, and a perceived lack of public consultation by the Mayor of London on the shortlisted options for the design of the sculpture. Public support was in the form of the sculpture being an exciting design, a new landmark and a good attraction to the Olympic Park. The PDT Officer reported to Members that Officers are satisfied with the quality of the materials, finishes and detailed elements for the sculpture, with conditions being recommended to ensure preservation of the visitor experience and design quality.
- 6.4 A PDT Officer explained the key considerations in the committee report, which included:
- 6.4.1 Consideration of the principle of the development, with regard being given to the national, regional (London) and borough policies; LB Newham UDP, and the application of section 5(5) of the London Olympic and Paralympic Games Act 2006. The Officer referred Members to the legal opinion contained in Appendix 7 to the committee report, which stated that in accordance with section 5(5)(b) of

the London Olympic and Paralympic Games Act 2006, particular regard must be had by Members to the contribution that the ArcelorMittal Orbit is predicted to make in maximising the benefits to be derived after the Games.

- 6.4.2 Townscape and visual impacts of surrounding areas and across London. It was concluded that the ArcelorMittal Orbit would not adversely affect designated views but would enhance the designated panoramas in London by adding an interesting shape to the skyline, without being intrusive in these views.
- 6.4.3 The location in the Park and the integration of the ArcelorMittal Orbit. The Officer stated that alternative locations had been considered by the applicant, but that the chosen location was considered to represent the most appropriate position for both integration and impact reasons. Officers agree with the applicant's assessment as summarised in the committee report. Officers also consider that the sculpture and its associated buildings and landscape acceptable and to contrast well with the Stadium and the Aquatics Centre. Officers are satisfied with the quality of the materials, finishes and detailed elements, with conditions being recommended to ensure preservation of the visitor experience and design quality of the development.
- 6.4.4 Sustainability. The Officer reported that the applicant had provided additional information on sustainability and that Officers were satisfied with this additional information (this information is set out in the committee report). The Officer referred Members to the recommended conditions to ensure at least 55% recycled content is used in the steel for the ArcelorMittal Orbit, to ensure reductions in energy and water use, to cover waste management and to ensure the reduction of carbon emissions in line with Schedule 11 of the 2007 Section 106 agreement for the Olympic development. A BREEAM rating of "Very Good" would be achieved, with "Excellent" being pursued, based on site wide credits.
- 6.4.5 The Environmental Impact Assessment (EIA). The Officer reported that the EIA focused on archaeology, ecology and townscape and visual impacts as these were considered to have likely significant environmental effects. Other topics were scoped out of the EIA as, following discussion with PDT's environmental advisors, the impacts were not considered to have likely significant environmental effects. The EIA concluded there would be no significant adverse environmental impacts on archaeology, ecology or townscape. However, mitigation measures would be required, and it is recommended that these be secured either through a planning condition (a list of recommended conditions were included in the committee report) or the Section 106 legal agreement. The proposal is therefore considered to comply with relevant sections of the London Plan and the LB Newham UDP.
- 6.4.6 Section 106 agreement. The Officer reported to Members that the recommendation to approve the development was subject to the recommended conditions and also to the completion of a section 106 agreement, the summary Heads of Terms of which were appended to the committee report (Appendix 8). This would secure the carrying over of applicable obligations contained in the 2007 Section 106 agreement for the Olympic Development, post-construction survey and any necessary mitigation regarding TV reception impact; secure compliance with Olympic Park site wide approved strategies and documents; secure the blue badge, cycle and coach parking; ensure the re-provision of tree planting and cycle parking displaced by the Orbit; require specified maintenance, operational and ticketing management strategies for the Orbit; operational

reviews, and ensure that there would be no incompatibility with Olympic Park planning permissions. The Update report provided further clarification of the draft Heads of Terms. Conditions are proposed over the construction and operational phase regarding noise and event management plans.

- 6.5 Overall, the Officer concluded that the ArcelorMittal Orbit proposal was in compliance with national, London Plan and Newham UDP policies. It would also be a cultural attraction to the Olympic Park, have the potential to be an early win for the post-Games Park in accordance with the provisions of section 5(5)(b) of the London Olympic and Paralympic Games Act 2006 (which requires that particular regard must be had to maximising the benefits to be derived after the Games), and there would be no significant adverse environmental effects. Mitigation, such as the control of the lighting scheme, would be achieved through conditions and the Section 106 agreement as appropriate.
- 6.6 The Update Report contained 11 amended conditions (number AOD 32, 33, 34, 36, 40, 44, and 45, AOL. 31, 44, 45, and 46) and an amended informative. The Update Report also contained additional responses to the consultation from the London Fire and Emergency Planning Authority, Environment Agency, LB Tower Hamlets, CABE, ODA Built Environment Access Panel, and seven further public responses. The Update Report set out an amended recommendation to approve the application, the principal change to which was the removal of the need to refer the application to the Government Office for London (as it does not breach any of the relevant thresholds for referral).
- 6.7 Mr Kevin Mansell, member of the public, addressed the Committee stating his objections to the ArcelorMittal planning application. Mr Mansell explained that he believed that the ArcelorMittal structure was a construction that the skyline would be better off without. It would be a fairground attraction. The height of the structure, together with its lack of artistic integrity and lack of inspiration, would detract from other venues/buildings in the Olympic Park. Mr Mansell commented that a lesser height, although still unfavourable, would not be as disastrous. The present design and height of the sculpture was akin to an unloved aristocratic folly imposed on the public and would depress the quality of life in the area. The viewing platform was arranged so that the main views would be to the west and not to the east of London. Mr Mansell considered that a conflict of interest could be seen with Mr Mittal being a panel member of the Mayor's judging panel for the sculpture in the Olympic Park and the need for steel in the sculpture. In addition, Mr Mansell stated that there was a lack of transparency without the other designs considered by the panel being made public by the Mayor of London.
- 6.8 Mr Mansell was highly critical of the consultation process carried out by the applicant around the ArcelorMittal Orbit. He questioned the lack of television and radio publicity and the inappropriateness of gathering public comments without the public having sight of a model of the ArcelorMittal Orbit structure. He referred to over 80% of comments being in objection from the public consultation undertaken (Appendix 6 of the committee report) and concluded that rather than being a mixed reaction as described by PDT Officers in the committee report, this was overwhelmingly an objection to the proposal from those who had commented. A summary of the objections included comments about the large size of the structure, the structure being another "red elephant", the complexity with this colour, why the structure was not based on a more "English" idea, as well as the lack of elegance, poise and symmetry. Mr Mansell quoted CABE's comment that "the public's view will be particularly important in helping PDT to

decide if this is the right project in the right place”, yet the Update Report refers to CABE recommending conditions should the planning authority be minded to grant. Mr Mansell believed that if CABE had been aware of the public consultation then the logic of their review would equal rejection.

- 6.9 Mr Mansell questioned the Olympic Park Legacy Company's observation that the ArcelorMittal “cannot be seen to be a high art installation as it will fail to attract the repeat visitations”; the GLA view of the structure as a “way finding object”, in an era of satellite navigation; and the ODA's view of the structure being a once in a lifetime opportunity and investment for East London. Mr Mansell commented that the design has no cultural or historical links to the area, and is in contrast to the Angel of the North which is a genuine work of art.
- 6.10 Mr Mansell highlighted two main areas in the committee report of particular concern to him. Firstly, the construction of a Cauldron, (for the Olympic Torch) could cause a cluttered appearance with the ArcelorMittal Orbit. He believed that the committee report failed to consider the impact of these two structures and did not provide adequate explanation about future plans for a Cauldron. He commented that a failure to consider the cumulative impacts would be grounds for “appeal”. Secondly, there was no reference in the report to security issues surrounding the ArcelorMittal Orbit or the potential threat of a terrorist attack. Airport style security would detract from the visitor experience.
- 6.11 In conclusion, Mr Mansell reiterated his view that the ArcelorMittal Orbit was largely “unloved”, that the public consultation had been highly critical with less than 20% public support, that the structure was more of a fairground attraction (Blackpool rather than the Eiffel Tower), that it fails key planning tests in that it does not promote high quality and inclusive design; does not respond to the local context; neither creates or reinforces local distinctiveness; it would not be allowed elsewhere in London; it does not enhance public realm, and is not comprehensible at a human scale. The structure defies the standard planning conditions of attractiveness. He claimed that the ArcelorMittal Orbit would always be referred to as “The London Eyesore”.
- 6.12 A Member asked for clarification regarding whether Mr Mansell was representing any particular group. Mr Mansell clarified that he was not but that, in his opinion, his views were shared by a many number of people, referring to the Facebook page and online petition against the Orbit.
- 6.13 Mrs L Rahmen, a member of the public, addressed the Committee, stating her objections to the ArcelorMittal planning application. She seconded Mr Mansell's comments and stated that she did not like the ArcelorMittal Orbit and that she spoke for a great number of private citizens when she claimed that the ArcelorMittal Orbit was too costly and did not sound like good housekeeping; too large (with particular concern of resulting wind turbulence); had an over-rated expectation of the potential number of visitors (the London Eye would be a preferable attraction); and would be an unfavourable presence (an ‘admonishing finger’) over the East End of London.
- 6.14 A presentation was given by Jerome Frost (ODA Head of Design, representing the Orbit Client Group) and Peter Rogers (Project manager for the Orbit client group). Jerome Frost explained to members that the concept for the ArcelorMittal Orbit dated back to 2007/08 when it was agreed that some form of attraction was required in the Olympic Park for people to visit the Park and to encourage

investment in the Park. The Mayor of London took on the role of generating ideas for the attraction and of bringing forward the necessary private investment.

- 6.15 Jerome Frost explained that fifty six of the world's eminent artists were approached for ideas, with twenty two providing submissions and three being short listed. The winning concept was chosen by an Advisory Panel from the Arts Sector. Illustrations of Big Ben and the Angel of the North were shown to the Committee as examples of landmarks which were controversial when proposed and which have generated discussion and intrigued visitors ever since. The ArcelorMittal Orbit was the winning design as it would provide multiple viewing and entry experiences as well as having varying appearances.
- 6.16 Jerome Frost explained that the choice of location of the ArcelorMittal Orbit was very important and that the location was selected, out of three possible sites, due to its close proximity to public transport. The chosen location would also act as an anchor to the southside of the Olympic Park and would not adversely affect LOCOG crowd modelling for this part of the Park. The ArcelorMittal Orbit was seen as a further attraction to persuade the public to visit the Olympic Park, especially to draw people from Westfield. The lower topography of the location would help to add to the drama and dominance of the structure in the southside of the Olympic Park and the open concourse area where it would reside, juxtaposed with the Stadium and Aquatics centres in both Games and post-Games forms. He explained that the impact of the structure was considered including the perception from a distance. There would be a subtle impact and fleeting, intermittent views from the surrounding parts of East London, with the Olympic Park being able to accommodate a structure of this scale. The design quality and the detail provided for CABE far exceeded the usual expectation at this stage in a design. The detailing is critical for a successful piece of art.
- 6.17 Peter Rogers (Project Manager for the Client Group) explained to members that the project (including maintenance) was financially viable and would not require public funding in the future. The ArcelorMittal Orbit was not just a viewing platform but an "experience" and an interactive structure. The many millions of television viewers watching the Games would see the structure and be encouraged to visit, which would benefit the local area. The designer, Anish Kapoor, would be engaged as an advisor/consultant, post Games, for the ongoing life of the structure. Peter Rogers stressed the time critical nature of the project and how the finance was imbedded in this. The structure would be required to be completed by January 2012 with the opening of the ArcelorMittal Orbit in May 2012.
- 6.18 The Chair requested that Members first ask any questions of the Officers and applicant about the scheme before commenting on the proposal. A Member asked for clarification, in relation to Mr Mansell's claim, that the views from the platform would be limited to the west of London only. The applicant explained that there would be a 360 degrees view through the mesh walkway of the structure.
- 6.19 A Member asked for clarification about the design changes that are anticipated post Games as the Committee had not been informed of any such changes. The applicant explained that there were no plans to change the design but that there were likely to be minor internal changes, such as artwork on the internal walls.
- 6.20 A Member asked about the wider landscape and commented on the large amount of hard landscape and questioned what the impact of this would be in relation to

the structure. The applicant explained that the images shown to the Committee were of Games time only. As yet the applicant had not been provided with any information from LOCOG on the number and appearances of the buildings LOCOG anticipate to construct and occupy on the concourse around the Orbit. Applications for amendments to the location of trees and vegetation identified for post Games transformation were yet to be finalised. A PDT Officer explained that a condition of the Park and Public Realm Post Games Transformation planning permission required the applicant to submit an interim land use and landscape strategy for PDZ2. This would include both temporary and permanent landscape proposals. As such, work on a suitable landscape setting for the Orbit outside of the application site was secured. Inside the red line boundary, the requirements in the recommended Section 106 agreement and conditions would ensure any future detail was satisfactory.

- 6.21 A Member asked for further information about the business case, in particular on viability and the robustness of predicted visitor numbers. The Executive Director of the Olympic Park Legacy Company (OPLC) responded that a minimum of 350,000 visitors per year was needed to ensure that the structure was financially viable (including maintenance costs). Any further visitors above this figure would ensure a profit. Members were referred to table 1 in the OPLC letter at Appendix 3 of the committee report. This table provided the visitor numbers for comparator London visitor attractions. It was also explained that the OPLC considered the Orbit to be integral to the future marketing and use of the Olympic park as a whole and not just as a stand alone attraction.
- 6.22 A Member asked for an explanation regarding the security issues, with particular reference to potential terrorist threats. The applicant reported that work had been undertaken with ODA Security, Security Services and the Metropolitan Police with the design incorporating the assessments provided. The applicant team confirmed that the structure had been designed to be blast resilient. Further work would be ongoing through the commissioning stage. Post Games, the OPLC would continue to work with the Security Services and Metropolitan Police. The Security Operations Plan was currently work in progress.
- 6.23 A Member asked for clarification regarding progress on the installation of the cauldron for the Olympic flame. The Head of Design at the ODA reported that the ODA was not working on a design or concept for the cauldron at the approved location and parameters. Given the size of the approved cauldron, a detailed design would need to have been approved and construction work commenced by now in order to complete in time for ODA handover of the stadium to LOCOG. The Head of Development Control confirmed that outline planning permission with parameters had been granted for the cauldron as part of the 2007 Olympic facilities planning permission. However, no subsequent reserved matters detailed approval had been given to any cauldron structure and that such an application was not on the ODA forward programme for town planning submissions. The Head of Development Control reported to Members that at the present time, provision for a cauldron looks likely to be located within the Stadium. The ODA legal advisor explained to members that whilst one of the speakers against the application had stated that there had been no cumulative assessment of the cauldron and Orbit structure by the PDT, this was not the case. Both the EIA submitted and PDT's assessment of the proposal had included an assessment of the cumulative impact of both structures. This was confirmed in the Committee report.

- 6.24 A Member asked for assurance regarding the contractual legal relationships between the various parties and the consequences of one of the parties terminating their involvement. The ODA legal advisor explained that the freehold owner of the application site (which will be the OPLC following transfer of the land from the LDA which is due to take place shortly) would be responsible for complying with the Section 106 agreement. The ODA legal adviser confirmed that as the freehold owner of the application site, OPLC would be party to the Section 106 agreement, so the agreement would bind the freehold land. Under Section 106 of the Town and Country Planning Act 1990, the agreement would run with the land and would therefore bind successors in title to the application site. In addition, the Section 106 agreement had been drafted so that it binds the OPLC and the special purpose vehicle, ArcelorMittal Orbit Limited. Regarding the planning conditions, the ODA legal advisor confirmed that conditions also run with the land and that any body that constructed, maintained and operated the ArcelorMittal Orbit would have to comply with the conditions attached to any planning permission granted. A member suggested that it would have been useful to have a diagram of the various relationships and responsibilities relating to the Section 106 agreement going forward.
- 6.25 A Member asked for clarification that CABE's concerns relating to the design and the design concept had been addressed by robust conditions. A PDT Officer confirmed that conditions were recommended which would capture the practical issues of the detailed design as required by CABE. Permitted development rights had been removed to ensure that all subsequent works and changes to the structure could be controlled. In terms of suitable integration with future adjoining legacy development, a PDT Officer confirmed that the OPLC would be bringing forward the Legacy Masterplan Framework in spring 2011 and design development work for the LMF had already taken into account the potential implications of the Orbit for the form of legacy development within and adjoining PDZ2.
- 6.26 A Member asked for clarification from the applicant about the programme for construction. The applicant reported that although the construction programme was tight, it wasn't necessarily the construction of the structure that was critical. The critical element was the procurement of steel and other parts which would only be committed once a planning permission was granted. In short, planning consent would unlock the finance for the procurement to commence.
- 6.26 A lengthy and varied discussion took place where members discussed and raised the following main issues:
- 6.27 A Member explained that they felt uneasy about the application due to comments from CABE stating that they were dissatisfied and unenthusiastic with the design. The Member believed that the changes to the design had not been sufficient enough to incorporate CABE's concern over the design entrance and the viewing platform. Instead of issues being resolved, elements seemed to have been justified. The Member also commented that there was no evidence of any iterative design process and that given that this was a project of national importance more time should have been spent on the design. The Member observed that given the care that had been undertaken on the evolution of the townscape of the Olympic Park, the ArcelorMittal Orbit was being imposed without the same degree of thought and consideration. Whilst the Member confirmed that they had no problem with the principle of the application, the

Member did question the need for an additional visitor attraction, citing the Stadium and Aquatics Centre being visitor attractions in their own right.

- 6.28 A Member recorded their disappointment that the sculpture had been selected without public consultation, recognising that how the Mayor of London selected the winning design was not a planning consideration. The Member explained their concern over the number of public objections, observing that there appeared to be no sense of local support and no obvious link between the structure and its context. However, the Member commented that given the scale of the scheme and its public profile, the actual number of objectors seemed relatively limited, with no petitions having been submitted nor had any major anti-groups been set up to oppose the scheme.
- 6.29 A Member expressed concern about the operational management of the ArcelorMittal Orbit. The Member believed that this would be vital to the success of the structure and needed to be implemented from the start of the project. The Member also questioned the level of animation, post Games, which was required citing the lack of animation at the Beijing Olympic Games and the Athens Olympic Games. Another Member questioned whether tourists/visitors would want to visit the ArcelorMittal Orbit more than once and whether there would be a preference for the London Eye, which is more central. Concern was raised that the minimum number of visitors required to make the Orbit viable, would not be achieved.
- 6.30 A Member pointed out that the designer, Anish Kapoor, is an internationally recognised sculptor. The design of the ArcelorMittal Orbit structure is consistent with Anish Kapoor's portfolio and his admirers / international fan base would want to come and view the structure. The Member believed that although the ArcelorMittal Orbit was a challenging concept it was right to make a place in the Olympic Park for such an artistic endeavour. The Member also considered that the Orbit's presence in the Olympic Park would assist in securing the legacy of the Park, attracting visitors and boosting the local economy.
- 6.31 A Member pointed out that the redesign of the structure had not taken into account all of the practical aspects particularly the operation and the setting of the structure and further work was required on this element. PDT Officers acknowledged that there was further design development required but that this was suitably covered by the recommended conditions. Another Member questioned the design context of the structure in terms of the integrity of the whole Olympic Park, particularly the proximity to and relationship with, the main Stadium. However, the evolution of the design since the pre-application stage was acknowledged.
- 6.32 A Member described the business case as weak particularly given that Members were being advised that particular regard should be given to the desirability of maximising the benefits to be derived after the Games (in accordance with section 5(5)(b) of the London Olympic and Paralympic Games Act 2006). There appeared to be a focus on "a tower" to make the Olympic Park a success post Games, irrespective of any other potential structure/attractions. Similar concerns about the impact on the setting of the carefully considered Olympic Park townscape were expressed and the potential impediment to the wider Park initiatives was also stated as a concern.
- 6.33 In response to the Member comment on the robustness of the business case, the ODA's legal advisor commented that as well as the contents of the OPLC letter at

Appendix 3 to the committee report, Members had heard the public response of the OPLC as a not-for-profit company responsible for the long term planning, development, management and maintenance of the Olympic Park with respect to visitor numbers, viability and the role of the proposed Orbit as part of the future of the Olympic Park as a whole. As such, Members were advised that there was sufficient evidence presented to support the weight to be given to section 5(5)(b) of the London Olympic and Paralympic Games Act 2006 as stated in the Officers' report. The legal adviser also advised Members that they needed to balance the predicted benefits of the application (section 5(5)(b) of the London Olympic and Paralympic Games Act 2006) with the other planning considerations relevant to this application.

- 6.34 A Member acknowledged the brilliance of the engineering proposed, but questioned the relevance of the location of the sculpture in both Games and post-Games phases. The Member also questioned whether the structure was really needed to be constructed in the pre-Games phase. There appeared to be antagonism between the need versus the design issue.
- 6.35 A Member commented that both the London Eye and the Dome have been catalysts for regeneration of the South Bank and Greenwich peninsula and have animated these areas, and that the Orbit had every potential to assist in ensuring the lasting legacy of the Olympic Park. A number of Members questioned the relatively limited amount of time spent on the project and the pressure this has now brought on decision making. A Member acknowledged that the Mayor's selection process had been poorly managed, but the scheme has improved since the pre-application proposal. With some more limited design development time, the scheme could benefit significantly. A Member stated that there would be significant benefit in involving an operator/client in the scheme as soon as possible should planning permission be granted and generally, having considered the proposal, the merits outweighed the concerns raised. A Member commented on how other venues/structures on the Olympic Park had taken many years in design development and were excellent, elegant buildings and not frivolous or playful like the ArcelorMittal Orbit, which would compromise these other venues/structures on the Olympic Park.
- 6.36 A Member stated that it was clear that the Park needed something to continue interest and stimulate investment in the Park following the Games. The scheme had continued to improve and with excellent infrastructure connections to Stratford, including the HS1 train from Kings Cross with a six minute journey time, the location was right for this proposal.
- 6.37 The Chair pointed out that in light of the applicant's comment on programme, a decision should be taken at the meeting because deferring the application would result in the ArcelorMittal Orbit not being completed in time for the Olympic Games, if at all, which was a material planning consideration for Members in accordance with the London Olympic and Paralympic Games Act 2006.
- 6.38 The Head of Development Control stated that PDT recommended the ArcelorMittal Orbit to the Committee as a sculpture and visitor attraction that billions of people will view during Games time. Some people would visit pre Games, some during the Games and others would be encouraged to visit post Games. The scheme had been assessed by PDT against relevant national, regional and local planning policies and was considered to be acceptable subject to the recommended conditions and the Heads of Terms of the Section 106

agreement. In terms of programme, the Head of Development Control reminded members that the application would still need to be referred to the Mayor of London and that the Section 106 agreement would need to be finalised and agreed before any approval could be issued. This added to potential programme issues for the applicant.

6.39 There being no further comment the Chairman moved to a vote and the Planning Committee RESOLVED that:

The Committee:

- i) **APPROVED** the submitted application for the ArcelorMittal Orbit and grant planning permission for the reasons given in the report subject to:
 - a) referring the application to the Mayor of London for a Stage 2 report,
 - b) the conditions and informatives set out in the committee report and the Update Report,
 - c) the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure the head of terms included at Appendix 8.
- ii) **CONFIRMED** that their decision has taken into account the environmental impacts and information into account, as required by Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) and
- iii) **AGREED** that following the issue of the decision a statement be placed on the Statutory Register confirming the main reasons and considerations on which the Committee's decision was based were those set out in the Planning Officer's report to Committee as required by Regulation 21 (1) (c) of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999
- iv) **AGREED** to grant delegated authority to the Head of Development Control to:
 - a) consider any direction and/or other comments from the Mayor of London and, if necessary and arising from any such direction/comments from the Mayor of London, to make consequential or necessary changes to the recommended conditions, informatives and legal agreement as set out in the report and the update report;
 - b) negotiate and complete the legal agreement to secure the heads of terms included in Appendix 8 and any additional heads of terms as the Head of Development Control considers as necessary in the determination of this application,
 - c) finalise the precise wording of the conditions and informatives as set out in the report and update report, and the inclusion of any additional conditions and informatives as the Head of Development Control considers necessary in the determination of this application,

d) Issue the consent

**7. Any Other Business
(AGENDA ITEM 7)**

There being no other business the meeting closed at 20.55.

Signed: L Beldm

Chair

Date: 25/1/2011

