

**Dudley House, North Wharf Road, Paddington**

in the City of Westminster

planning application no. 15/11458/COFUL

**Strategic planning application stage II referral**

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

**The proposal**

Demolition of existing buildings at 139 -147 Harrow Road and Dudley House, and redevelopment with buildings ranging in height from 7 to 22 storeys, comprising between 187 and 197 residential units (Class C3); a new secondary school (Class D1); a replacement church (Class D1); a retail unit (flexible Class A1/A2/A3 use); basement car parking; cycle and motorcycle parking; provision of shared amenity space, landscaping; and amended vehicular and pedestrian access.

**The applicant**

The applicant is **Westminster City Council**, the architect is **Child Graddon Lewis**, and the agent is **Wyg**.

**Strategic issues**

Issues with respect to **education, housing, affordable housing, urban design and tall buildings, inclusive design, air quality, transport, and climate change** have been satisfactorily addressed since Stage One. The proposed residential and school development is supported in strategic planning terms.

**The Council's decision**

In this instance, Westminster City Council has resolved to grant permission, subject to conditions and completion of a section 106 agreement.

**Recommendation**

That Westminster Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal or direct that he is to be the local planning authority.

**Context**

1 On 22 January 2016, the Mayor of London received documents from Westminster City Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. This was referred to the Mayor under Categories 1A, 1B(b) and 1C(c) of the Schedule to the Order 2008:

- 1A “Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.”
- 1B(b) “Development (other than development which only comprises the provision of houses, flats, or houses and flats) which comprises or includes the erection of a building or buildings (b) in Central London (other than the City of London) and with a total floorspace of more than 20,000 square metres.”
- 1C(c) “Development which comprises or includes the erection (c) a building of more than 30 metres high and outside the City of London.”

2 On 25 February 2016, the Mayor considered planning report D&P/2835a/01, and subsequently advised Westminster City Council that the application did not yet comply with the London Plan, for the reasons set out in paragraph 87 of that report; but that the possible remedies set out in that paragraph could address these deficiencies.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. Since then, the application has been revised in response to the Mayor’s concerns and further information submitted (see below). On 22 March 2016, Westminster City Council decided that it was minded to grant permission, subject to conditions and completion of a section 106 agreement, for the revised application, and on 24 March 2016 it advised the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008, the Mayor may allow the draft decision to proceed unchanged, direct the Council under Article 6 to refuse the application or issue a direction to the Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application. The Mayor has until 7 April 2016 to notify the Council of his decision and to issue any direction.

4 The decision on this case, and the reasons will be made available on the GLA’s website [www.london.gov.uk](http://www.london.gov.uk).

## Update

5 At the consultation stage, Westminster City Council was advised that the application did not yet comply with the London Plan, for the reasons set out in paragraph 87 of that report; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Education:** The proposal for a new school is supported; however the applicant should clarify the facilities and arrangements for community use.
- **Affordable Housing:** The proposal for 100% affordable housing units in the form of intermediate tenure is supported; however the applicant should provide further explanation in response to Policy 3.11, including details of assumed rents.
- **Housing:** The proposal for all units to be two-beds or fewer may be acceptable; however there are significant concerns about the quality of some of these units, which require further consideration. Given the high density of the proposal, a high quality of residential accommodation would be expected. This is not currently being achieved and requires further work. The provision of children’s play space is acceptable.

- **Urban design and tall buildings:** The design of the residential accommodation requires amendment with the inclusion of an additional core; an increase in the number of dual aspect units; an increase in the quality of the micro units; an improvement in the levels of light reaching living spaces; and confirmation of minimum floor to ceiling heights. Further consideration should also be given to the design of the access and security arrangements to the second school entrance, and the extent of blank frontage along North Wharf Road should be reduced.
- **Inclusive design:** The applicant should reconsider the residential layouts in order to increase the number of wheelchair adaptable units, and respond to Building Regulation Requirements.
- **Air quality:** The applicant should provide an air quality neutral assessment and reconsider the air quality impacts of the development before the application is referred back to the Mayor at Stage Two.
- **Transport:** The applicant should contact TfL to assess impacts on bus services and mitigation measures. Blue Badge parking and electric vehicle charging points should be provided in accordance with London Plan standards. Residents should be exempt from securing parking permits. Space for adaptable cycles and mobility scooters should be provided. Cycle parking should be secured by condition. The coach lay-by and on-street loading bay should be considered by the Council as highway authority. A contribution of £189,000 for a new 27 docking point docking station is requested. Detailed travel plans, car parking management plan, delivery and servicing plan, construction management plan, and school management plan should be secured appropriately.
- **Climate change:** The carbon dioxide savings exceed the target set within Policy 5.2 of the London Plan; however further information should be provided on an interim solution before connection to a district heating network in the Paddington Basin area; and drawings of the heat network and the energy centre should be provided.

6 Since then, the applicant has responded to the matters raised in the Stage One report as set out below. The proposal has also been amended as follows:

- The first to sixth level residential floorplans have been revised to omit the micro-units proposed at Stage One; increase the number of wheelchair adaptable units; increase the width of corridors and add naturally lit and ventilated spaces at the north and south ends; and improve light levels in reconfigured units.
- The lower level elevations have been revised to change the glazing to the sports hall and classrooms, lowering the sills to create full height glazing.

## Education

7 At Stage One, the proposal for a new school on the site, was supported in line with London Plan policies; however the applicant was requested to clarify the facilities and arrangements for community use. The School has accepted the principle of community use and this has been secured by a condition that requires a scheme to include the type of uses and activities; details of a pricing policy; typical number of users; the exact locations within the school where these are to take place; the opening hours for evening and weekend use throughout the whole year and any plans for use outside of school terms; and operational details, management responsibilities and a mechanism for review. This is supported in line with London Plan Policy 3.18 'Education Facilities'.

## Housing and affordable housing

8 As discussed above, the layouts of some floors have been revised, which results in the following changes to the residential breakdown. It is noted that the application allows some flexibility in layouts between 187 and 197 units:

	Stage One Proposed	Now proposed
Micro	10 (5%)	0
Studio	36 (18%)	41 (21%)
One bed	72 (37%)	82 (42%)
Two bed	79 (40%)	74 (38%)
<b>Total</b>	<b>197</b>	<b>197</b>

9 At Stage One, it was noted that all of the units will be intermediate rental tenure, with restricted rents and available to people on the Westminster City Council intermediate housing rental register. The introduction of a significant number of affordable housing units to the area is welcomed and since all of the units are affordable, the proposals meet the requirements of Policy 3.12, securing the maximum amount of affordable housing.

10 London Plan Policy 3.11 'Affordable Housing Targets' requires that 60% of the affordable housing provision should be for social and affordable rent and 40% for intermediate rent or sale. At Stage One, it was recognised that the intermediate units will meet an identified need, and the provision of a school on the site was also recognised; however the applicant was requested to provide further explanation in response to Policy 3.11, including details of assumed rents. Westminster Housing has confirmed that the units will meet an identified need, with approximately 4,400 households registered for intermediate housing, and that as all of the proposed housing will be affordable, 100% intermediate rent tenure is acceptable. The Council will be providing funding from its affordable housing fund. Details of weekly rent levels and income requirements have also been provided, which confirms that units will be genuinely affordable. Although this is a departure from Policy 3.11, it is recognised that the provision of intermediate units responds to a particular need, and taken together with the provision of a new school, this tenure is acceptable in this location. The Unilateral Agreement heads of terms secure the provision of all of the residential accommodation as intermediate affordable housing units, with specified affordability levels.

11 At Stage One, the proposed mix of units sizes was considered acceptable; however, the quality of some of the units raised concerns. As discussed under 'urban design and tall buildings' below, these issues have now been resolved by revising the layouts of the relevant floors, which also results in a revision to the unit breakdown as set out above. The revised breakdown is acceptable, and the removal of the 'micro' units is supported.

## Urban design and tall buildings

12 At Stage One, concerns were raised about the blank frontage on North Wharf Road to the south of the residential entrance, formed by a substation, high level windows above planting to the basement sports hall and classrooms, storage and servicing. In response, the school elevation to North Wharf Road has been amended to lower the cill heights to introduce full height glazing to the school classrooms and the sports hall. As suggested by GLA officers, the architect is also exploring the use of deep windows incorporating shelves for displaying objects, which provide a level of overlooking to the public realm, while maintaining a degree of privacy for the classrooms. This should be explored further during detailed design. The architect has also considered amending the ground floor layout of the school and it is accepted that this is not possible due to the constrained nature of the site. On balance, the amendments to the

ground floor elevation of the school offer an acceptable level of overlooking and activity to the public realm, which should be maintained and where possible strengthened during detailed design.

13 As requested at Stage One, the applicant has confirmed that the second school entrance and cycle store from Dudley Street will be secured with controlled access, in order to avoid the risk of anti-social behaviour and security concerns.

14 At Stage One, it was noted that all of the residential units are accessed through a single entrance foyer from North Wharf Road and a single core. This results in up to fifteen units per core being accessed by long corridors on the first to sixth floors, in excess of the maximum eight units per core as identified in Standard 3.2.1 of the Mayor's Housing SPG, with potential negative impacts on the social dynamics of a building; maintenance and security arrangements; and the privacy, comfort and satisfaction of residents. Concerns were also raised about the quality of the 'micro' units on these floors, which were deep, narrow, with a very limited frontage and lacking daylight, some of which were also north facing, which is contrary to Standard 5.2.1 of the Mayor's Housing SPG. Furthermore, living spaces in some of the other units suffered from low daylight levels, with bedrooms extending beyond the frontage of the living space and blocking light almost completely from kitchen areas.

15 In response, the architect has demonstrated that it is not possible to introduce another access core due to the school uses on the ground floor, which have no opportunities to be relocated; however the layouts on the first to sixth floors have been significantly revised. This allows the removal of all micro units; the introduction of more wheelchair adaptable units; widening of corridors to two metres, with large windows at both ends allowing natural light and ventilation, including a residents lounge at one end on each floor; and unit layouts amended to improve light levels. Floor to ceiling heights will also achieve a minimum of 2.5 metres as requested. Although the number of units per core remains above the Housing SPG standard, this is largely due to the emphasis on units with a low number of bedrooms, which limits the number of residents on any floor and reduces concerns about social dynamic impacts. Taken together with the improvements to the residential quality of the scheme, on balance this is considered acceptable.

16 Concerns were also expressed at Stage One about the quality of the proposed brick slips; however the architect has provided material samples and detailed specifications, which confirms that an acceptable quality will be achieved. Notwithstanding this, the Council also had concerns about the quality of the brick slip system, and have applied a condition to secure a revised form of brick construction to the residential part of the development that avoids the use of brick slips, which is supported.

17 In summary, the design and residential quality of the scheme is now considered acceptable.

## **Inclusive design**

18 At Stage One, concern was raised as only 4 wheelchair adaptable units (2% of units) were proposed, which is less than the 10% London Plan policy requirement (19 units). Following amendment of the layouts of the first to sixth floors, the number of wheelchair adaptable units has been increased to 11 (6%). Whilst this still falls below the London Plan requirement, which is regrettable, together with other improvements to the scheme it is considered that this is sufficient to overcome the initial concern. The Council has applied a condition to ensure the provision of the 11 wheelchair adaptable units.

## **Air quality**

19 London Plan Policy 7.14 'Improving Air Quality' states that development should minimise exposure to poor air quality and make provision to address local problems of air quality, particularly on sites such as this within an Air Quality Management Area and where the development will be occupied by vulnerable users such as children.

20 At Stage One, some concerns were expressed about the calculations contained in the applicant's Air Quality Assessment. An updated Assessment has been submitted, which predicts that the impact on NO<sub>2</sub> concentration will be negligible at all receptors with the exception of two, where moderate adverse impacts are predicted. These receptors are commercial, rather than residential, so the annual mean NO<sub>2</sub> Air Quality Objective does not apply at these locations. It is therefore concluded that overall impacts are negligible, which is accepted.

21 As requested at Stage One, an air quality neutral assessment has also been provided. The shows that the development is air quality neutral for both building emissions and traffic emissions, and the boilers and CHP meet the relevant emission standards.

22 In summary, the proposals now meet the requirements of London Plan Policy 7.14.

## **Transport**

23 At Stage One, a number of transport issues were raised, including excessive car parking, Blue Badge car parking, electric vehicle charging points, and the need to mitigate impacts of the development. Discussions between TfL, the applicant and the Council have subsequently taken place to resolve these issues.

24 A contribution of £189,000 was requested towards a new cycle hire docking station; however given the nature of the development, the full re-provision of affordable housing, and a new school, it is accepted that the applicant is not in a position to contribute this.

25 The applicant proposes 11 Blue Badge spaces, in line with the number of wheelchair adaptable units, which is considered acceptable. A car parking management plan, as well as the number of Blue Badge spaces, should be secured by condition. Conditions have been imposed to secure electric vehicle charging points, which will be provided in accordance with London Plan standards. A school travel plan, residential travel plan, school management plan, servicing management plan and a construction management plan have also been secured via planning condition.

26 In summary, together with the conditions and provisions in the section 106 agreement, the scheme is considered to be compliant with London Plan transport policy.

## **Climate change**

27 At Stage One, it was noted that the demand for cooling will be minimised through solar control glazing, external shading through balconies, and brise soleil. The overheating assessment showed that all bedrooms and the majority of living room areas, as well as the school, are expected to meet the CIBSE criteria; however the applicant was requested to investigate additional passive design measures. In response, the applicant has indicated that all effective passive measures such as lowered glazing G-values, balconies, shading fins, and steps in the building have been included, and that further projections are considered to be overly detrimental to the building's appearance and for daylight penetration. This is accepted in this instance.

28 At Stage One, given that there is a strong potential that a district heating network will be available in the Paddington Basin area at completion of the scheme or shortly afterwards, the applicant was encouraged to prioritise connection, with an interim solution such as gas boilers only. The applicant has subsequently provided further advice demonstrating that there are no firm opportunities for connection in the immediate area, and while investigations will continue, an on-site CHP led system is to be pursued with capacity for a future district energy connection included in the technical design of the system. This has been secured by condition and is acceptable. As requested at Stage One, a drawing showing the route of the heat network and details of the energy centre has been provided.

29 Based on the energy assessment, a reduction of 171 tonnes of CO<sub>2</sub> per year in regulated emissions is expected, compared to a 2013 Building Regulations compliant development, equivalent to an overall saving of 40%. The carbon dioxide savings exceed the target set within Policy 5.2 of the London Plan and all energy issues are now resolved.

30 As requested at Stage One, the applicant has provided further information concerning the impact on a small Critical Flood Location on North Wharf Road. The applicant states that the sustainable drainage proposals will deliver three times the greenfield rate, requiring 160 cubic metres of attenuation, as agreed with Thames Water. Discharge from the site will not exceed this rate up to and including the 1 in 100 year + 30% climate change event, and the discharge rates proposed far exceed a 50% reduction on the current situation. This is acceptable and these measures have been secured by planning condition.

31 At Stage One, it was also suggested that a green roof could be provided in combination with photovoltaic panels at roof level and that planting on terraces could be used to maximise water attenuation. The Council has applied a condition requiring the provision of a green roof at main roof level, and the details of irrigation of the roof terraces are secured by condition as part of the landscaping details, which is welcomed.

32 In summary, the proposals now meet the requirements of London Plan Policy 5.13 'Sustainable Drainage'.

## **Response to consultation**

33 Statutory consultees made no comments on the application.

34 Westminster City Council publicised the applications by sending notifications to 2,717 neighbouring properties, as well as issuing site and press notices. The Council received 16 objections in response, with grounds including:

### Land Use

- Lack of replacement retail space damaging to community spirit.
- Inappropriate location for an 840 pupil school.
- Question need for a church when typically church congregations are falling.

### Design

- Height and design.
- Disproportionate with its surroundings.
- Overdevelopment so that tall buildings form a solid wall in the Paddington Basin area.
- Unnecessary for current scheme to exceed 14 storeys as previously approved.
- Height detracts from the uniformity of the Paddington Basin area.

- Sets a precedent for further taller buildings.
- Design inconsistent with buildings in the area.
- Poor design.
- Building will dominate historic canalside, garden and canal basin landscape.

#### Amenity

- Loss of daylight and sunlight to neighbouring residential properties.
- Facades should be constructed in light colour brick to maximise reflected light.
- Loss of privacy to neighbouring residential properties.
- Noise disturbance from school use.
- Increased noise disturbance to properties to the north from reflected road noise.
- Main tower will block views from neighbouring properties.

#### Highways/parking

- Visitor parking will be reduced for local residents.
- Additional traffic and pollution.
- Junction with Harrow Road is dangerous and congested and will be worsened by school.

#### Other issues

- Narrow streets between buildings create wind tunnels.
- Adverse impact on digital terrestrial television signals and no mitigation proposed.
- Noise and disturbance from construction works.
- Unsuitable site for a school given high pollution levels.

35 Issues raised by objectors have been considered in this report, the Mayor's Stage One report, and the Council's Committee Report of 22 March 2016.

### **Unilateral Agreement heads of terms**

36 The following financial contributions are included in a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990:

- £15,000 per annum during the period of construction towards the Environmental Inspectorate and Environmental Sciences to allow for monitoring during construction.
- £5,000 to provide replacement street trees in the vicinity of the application site.
- Payment of all costs associated with the highway works in North Wharf Road.
- Payment of cost of monitoring the agreement (£500 per head of term).

37 The heads of terms also secure the provision of all of the residential accommodation as intermediate affordable housing units, with specified affordability levels.

### **Article 7: Direction that the Mayor is to be the local planning authority**

38 Under Article 7 of the Order, the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at Stage One, therefore there is no sound planning reason for the Mayor to take over this application.

## Legal considerations

39 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008, the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application. The Mayor may also leave the decision to the local authority. In directing refusal, the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

## Financial considerations

40 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

41 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

42 Should the Mayor take over the application, he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the Council to do so) and determining any approval of details (unless the Council agrees to do so).

## Conclusion

43 The matters raised at consultation stage, namely those relating to education, housing, affordable housing, urban design and tall buildings, inclusive design, air quality, transport, and climate change and have been satisfactorily addressed. The proposed residential and school development is supported in strategic planning terms.

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for further information, contact GLA Planning Unit (Development & Projects Team):

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