

## Marlowe Road Estate

in the London Borough of Waltham Forest

planning application no. 151652/FUL

### 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 the existing Marlowe Road Estate (with the retention of the Northwood Tower residential block) and the phased redevelopment of the site comprising 436 residential units (126 x 1 bed, 136 x 2 bed, 138 x 3 bed and 36 x 4 bed) in blocks ranging from one to seven storeys; Class A1, A2, A3, A4, A5 and D1 commercial space (1,119 sq.m.); car parking; infrastructure network; energy centre; new public plaza; hard and soft landscaping; and associated works.

### The applicant

The applicant is **Countryside Properties UK Ltd**, the architect is **Stitch** and the planning agent is **Montagu Evans**.

### Strategic issues

Issues with respect to affordable housing, urban design, transport and climate change have been satisfactorily addressed since Stage One. The proposed estate renewal scheme is supported in strategic planning terms.

### The Council's decision

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

### Recommendation

That Waltham Forest 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 7 July 2015, the Mayor of London received documents from Waltham Forest 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 and 1B of the Schedule to the 2008 Order:

- 1A “Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.”
- 1B “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 (c) outside Central London and with a total floorspace of more than 15,000 square metres.

2 On 12 August 2015, the Mayor considered planning report D&P/3106a/01, and subsequently advised Waltham Forest Council that while the application was generally acceptable in strategic planning terms, it did not yet comply with the London Plan for the reasons set out in paragraph 67 of the above mentioned 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, further information has been provided in response to the Mayor’s concerns (see below). On 23 November 2015, Waltham Forest Council decided that it was minded to grant permission, subject to conditions and completion of a Section 106 agreement, 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, Waltham Forest Council was advised that while the application was generally acceptable in strategic planning terms, it did not yet comply with the London Plan, for the reasons set out in paragraph 67 of the above-mentioned report, but that the possible remedies set out in that paragraph could address these deficiencies:

- **Affordable housing:** The proposal would provide 34% affordable housing in the form of social rented units. The applicant’s viability assessment will need to be independently reviewed by the Council and the results shared with the GLA prior to the Stage Two referral.
- **Urban design:** The design of the proposal is generally of a good quality, although the applicant should provide further details on the changes to the Plaza and surrounding public realm; respond to concerns about the dominance of car parking along the southern boundary route; and the lack of enclosure and passive surveillance to the southern parking court. Further detail should also be provided on the roof treatment for the anchor food-store.
- **Transport:** A further reduction in car parking would be supported and the applicant should revise the cycle parking access arrangements. In addition, a car parking management plan, delivery and servicing plan and construction logistics plan should all be secured by condition, with the residential travel plan secured by section 106 agreement.

- **Climate change:** The carbon dioxide savings meet the target set within Policy 5.2 of the London Plan; however evidence should be provided to demonstrate that the non-domestic spaces are not at risk of overheating; how the proposed passive design and cooling hierarchy has minimised the demand for cooling; confirm the service strategy assumed in modelling the baseline emissions and provide BRUKL worksheets for the non-domestic units; and clarify the size of the energy centre and thermal store. The flood risk assessment should be amended to consider if the proposed dwellings will be at an acceptable level of flood risk.

6 Since then, the applicant has responded to the matters raised in the Stage One report as set out below.

## **Affordable housing**

7 At Stage One, it was noted that the proposals would provide 34% (150 units) affordable housing in the form of replacement social rented units; however in order to demonstrate that the maximum reasonable amount of affordable housing is being provided, the Council was requested to provide a copy of its independent review of the applicant's viability assessment. This has been provided and confirms that the scheme is marginally in deficit, and the Council's consultant confirms that they are of the opinion that it would deliver the maximum level of affordable housing commensurate with its viability. The draft Section 106 agreement also secures a review of the scheme's viability within 12 months of practical completion of the scheme, with 50% of the surplus, up to a maximum of £4.4M, being payable to the Council. This is welcomed and confirms that the maximum reasonable amount of affordable housing is being provided, as required by London Plan Policy 3.12 'Negotiating Affordable Housing'

## **Urban design**

8 At Stage One, in view of the works done in 2011, the applicant was requested to provide further detail on the changes to be made to the Plaza and surrounding public realm, including the play facilities to be relocated and materials to be removed and/or re-used in the proposed scheme. It is noted that the Plaza and playground refurbishments were designed to be reusable to ensure long-term sustainability of these short term interventions in light of the redevelopment proposals. The applicant has confirmed that some of the existing materials and equipment will be re-used, subject to them being safe and in a suitable condition. Similarly, the play equipment will be partially re-used in a new temporary park to be located to the west of the site, which will provide continuation of a play facility while the new Plaza is constructed, with the remainder of the equipment to be re-used in other play spaces across the Borough, subject to it being in a suitable condition. The draft section 106 agreement also secures a contribution of £45,000 for the temporary park. The equipment servicing the water fountains will be assessed and if suitable, will be integrated into the new water feature proposed at the centre of the Plaza. A proportion of the benches and street furniture are likely to be retained subject to their condition. These arrangements are considered acceptable.

9 At Stage One, some concerns were raised about the levels of passive surveillance to the proposed car parking court to the east of the church, since the Wood Street AAP indicated a building frontage that extended along the full length of its eastern edge. The applicant has provided further information demonstrating that an acceptable level of overlooking will be achieved from surrounding blocks. The parking court is also open and will be well lit at night to ensure pedestrian safety. It is also noted that if the block layouts were delivered as shown in the AAP, there would be significant further reduction to the Northwood tower garden, which is very well used and would be to the detriment of the residents. Levels of passive surveillance are considered acceptable.

10 At Stage One, the applicant was requested to provide further detail on the roof treatment of the anchor food-store building, which will be highly visible from the neighbouring residential blocks. The applicant and the Council have confirmed that green and/or brown roofs will be incorporated, particularly given the extent to which the roof is overlooked, and detailed sustainable drainage design is secured by condition.

11 As requested at Stage One, the applicant has confirmed that all units are designed to achieve a minimum of 2.5 metres clear floor to ceiling height.

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

## **Transport**

13 At Stage One, a reduction in car parking provision was suggested; however the applicant states that this is not possible considering the need to provide parking for both existing residents and a suitable proportion of new residents. This is acceptable as the provision meets London Plan standards. As requested, a car park management plan, electric vehicle charge points and Blue Badge parking have been secured by condition.

14 It was also recommended that access arrangements be revised to meet Mini-Holland standards. It is regrettable that access has not been redesigned to a higher standard; however the Council has advised that the current proposals are suitable, which are therefore accepted.

15 The applicant has also agreed to adopt a construction logistics plan and travel plans for the development which should be secured through the section 106 agreement. A residential and commercial delivery and servicing plan is secured by condition, which is acceptable.

16 The proposals will have no impact on the strategic transport network, and given this the proposed development will be acceptable in transport terms.

## **Climate change**

17 At Stage One, evidence was requested to demonstrate that the non-domestic spaces are not at risk of overheating, in line with Policy 5.9 'Overheating and Cooling'. The applicant states that given the suggested use of the small retail units and their shell and core specification, dynamic thermal modelling would rely on the use of uncertain assumptions that would not necessarily be reflective of the final use of the spaces, and as such would be of limited value. The applicant has also indicated that the expected supermarket uses are included on the GLA's list of uses where opportunities for reducing cooling demands via passive measures are constrained. Given this and the relatively small proportion proposed as commercial space, this is accepted in this instance. The commitment to provide prospective commercial tenants with information on overheating reduction measures that can be taken in the design of the fit-out is welcomed.

18 As requested at Stage One, the applicant has provided details of the service strategy assumed in modelling the baseline emissions and provided BRUKL worksheets for the non-domestic units to support the savings claimed. The applicant has also clarified the size of the energy centre and thermal store and confirmed that the reduction in carbon emissions from the 'Be Green' element of the energy hierarchy, through photovoltaic panels, has been calculated at 73 tonnes per annum.

19 The carbon dioxide savings meet the target set within Policy 5.2 of the London Plan and the energy strategy is acceptable.

20 At Stage One, some concerns were raised about the response of the proposals to the risk from surface water flooding. The applicant states that the existing drainage network is of an inadequate capacity to cater for extreme events and the adoptable sewers will therefore be enhanced to cater for storm loading, in addition to maximising storage capacity through the SuDS proposals. The risks placed on buildings and areas of high risk will be designed to a raised profile, which will ensure that if storm events greater than the 1 in 100 year plus climate change occur, or failures occur within the surrounding network, floodwater will collect in low risk areas, such as the permeable paving car park, and emergency access will be maintained. This is considered acceptable in response to London Plan Policy 5.12 'Flood Risk Management'.

## **Response to consultation**

21 The Environment Agency raised no objection, subject to conditions and informatives.

22 Thames Water raised no objection, subject to conditions and informatives.

23 Waltham Forest Council publicised the application by sending notifications to approximately 700 neighbouring properties, as well as issuing site and press notices. The Council received 64 objections, with grounds including:

### Use

- Loss of existing businesses.
- Size, viability and quality of the new commercial space.
- Lack of community space.

### Design, height & scale

- Impact of building height.
- Overbearing, dominant, overdeveloped form and density.
- Implications of height on the functioning and attractiveness of the new plaza.
- Architectural approach and quality of materials proposed.
- Effect on character of area.

### Housing

- Lack of affordable housing, including no shared ownership.
- Insufficient family housing.

### Amenity

- Loss of light, sunlight and overshadowing of neighbouring residents.
- Impact on Northwood Tower amenity area/gardens.
- Impact on outlook, privacy and overlooking.
- Loss of Dukes Passage footpath.
- Impact of energy centre - potential for noise disturbance, pollution, service deliveries, and stack height.
- Noise and air pollution during construction.

### Open space

- Play space, parks and plaza recently refurbished at considerable cost.
- Concern about location, shape, width, design and functionality of new plaza.
- Materials and landscaping.
- Play space is located in an unsafe location, hidden and enclosed by tall buildings.
- Plaza design and facilities.

- Loss of trees.

#### Traffic, parking and highways

- Increase in traffic movement.
- Congestion.
- Compromised pedestrian and highway safety.
- Lack of parking.

#### Other issues

- Public interest test is not being met as a fair balance has not been struck between the rights of residents and rights of the applicant – well maintained existing affordable housing is being demolished, the housing cost will be high, and tenants, leaseholders and freeholders will be forcibly priced out of the area.
- Impact of proposals on school places, access to health care and doctor's surgeries.
- Insufficient publicity and access to planning application materials.

24 Issues raised by objectors have been considered in this report, the Mayor's Stage One report, and the Council's Committee Report and two Update Reports of 23 November 2015.

### **Draft Section 106 agreement**

25 The following financial contributions are secured in the draft Section 106 agreement:

- Highways contribution of £150,000.
- Employment and training contribution of £55,000.
- Temporary park contribution of £45,000.
- Viability re-assessment contribution of up to £3,000.

26 Affordable housing provisions are also secured as discussed above.

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

27 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**

28 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

29 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.

30 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.

31 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

32 The matters raised at consultation stage, namely those relating to affordable housing; urban design; transport; and climate change have been satisfactorily addressed. The proposed development is supported in strategic planning terms.

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