

Planning report D&P/3618/02

18 February 2016

**423-425, 429-435 [odd] Caledonian Road; 1-11
Balmoral Road; 4-6 Brewery Road & Grove House 1
Market Road, London, N7**

in the London Borough of Islington

planning application no. P2015/3989/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

Redevelopment of the site comprising a series of buildings ranging from 1-11 storeys; providing 252 residential units, flexible employment, retail and community uses, together with associated routes, highways works, landscaping and basement car parking.

The applicant

The applicant is **London Square** and the architect is **PKS**.

Strategic issues

Strategic issues regarding **mixed use development, housing, affordable housing, urban design, inclusive access, sustainability** and **transport** are relevant to this application.

The Council's decision

In this instance Islington Council has resolved to grant permission subject to planning conditions and the completion of a Section 106 legal agreement.

Recommendation

That Islington 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 8 October 2015 the Mayor of London received documents from Islington 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 1C of the Schedule to the Order 2008:

“1A.1. Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats”;

1C (c). the building is more than 30 metres high and is outside the City of London”.

2 On 18 November 2015 the Mayor considered planning report D&P/3618/01, and subsequently advised Islington Council that the application was generally acceptable in strategic planning terms but that it did not fully comply with the London Plan, with the reasons set out in paragraph 57 of the above-mentioned report; but that the possible remedies set out in the same paragraph of that report 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. On 19 January 2016 Islington Council decided that it was minded to grant planning permission subject to the prior completion of a Section 106 legal agreement, and on 29 January 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 Islington Council under Article 6 to refuse the application or issue a direction to Islington Council under Article 7 that he is to act as the local planning authority for the purposes of determining the application and any connected application. The Mayor has until 18 February 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.

Update

5 At consultation stage Islington Council was advised that while the application was generally acceptable in strategic planning terms it did not fully comply with the London Plan, with concerns raised in relation to compatibility of land uses, housing, affordable housing, urban design, inclusive access, sustainability, and transport. Taking each of the outstanding matters in turn, the following is noted:

Principle of development

6 At consultation stage the principle of a residential led, mixed use scheme was supported however, GLA officers suggested the introduction of residential uses onto industrial sites and placement of uses will require careful management in amenity terms and appropriately worded conditions will need to be imposed, and potentially covenants, so as to not fetter the continued operation of important local industrial uses.

7 The applicant has subsequently raised concerns that this would be unreasonable and potentially conflict with Human Rights legislation. The Council consider that the proposed Condition 20 (Sound Insulation) ensures acceptable living conditions for future occupants, who would also be protected from unacceptable noise and disturbance through environmental health legislation. This is accepted.

8 At Stage 1 the GLA also recommended an employment management strategy be secured, setting out unit sizes, how movement between units will be managed for tenants and how servicing/access requirements will be addressed.

9 The Council and applicant have agreed that the employment management strategy to ensure compatibility of the commercial and residential uses on the site can be secured by condition

rather than by legal agreement, which is outlined in the supplementary planning committee report. Delegated authority to the Council officers is requested to finalise the wording of the condition and the Council have confirmed that the final decision notice will include an additional condition requiring the submission and approval of an employment management strategy which sets out unit sizes, how movement between units will be managed for tenants and how servicing/access requirements will be addressed, which is acceptable.

10 Schedule 11 of the draft s106 agreement also outlines specifications for the affordable workplace including design and layout of the space, and energy, drainage, transport, servicing and accessibility requirements, which is welcomed.

Housing

Affordable housing

11 As set out in the Stage 1 report, the scheme is proposing to deliver 82 social rent units and 20 units as intermediate (shared ownership), which equates to 40.5% affordable housing, based on units and 44.6% based on habitable rooms. The scheme is proposing a split of 83:17 (by habitable rooms) between social/affordable rent and shared ownership. At Stage 1, GLA officers considered that the provision of 40.5% affordable housing could be acceptable in principle, subject to the outcome of an independent assessment of the applicant's viability report by the Council's consultant that demonstrates this is maximum reasonable amount of affordable housing that can be delivered. It was requested that the assessment should verify the inputs and costs assumed by the applicant and the scenarios that have been tested in order to arrive at the affordable housing offer.

12 At Stage 1 the GLA also suggested further discussion would be appropriate in order to understand if further affordable housing could be delivered if a London Plan tenure split of 60:40 were proposed, and if affordable rented accommodation were also considered. This was also keeping in mind that the scheme differs from the Council's expectations of 70:30 split between social/affordable rent and intermediate homes. The applicant was asked to provide a commentary on this point in order to establish if further units could be provided, and the Council was requested to provide an assessment of how the proposed mix meets local policy and local need as part of its reporting. It was requested the results of the viability review and draft of the s106 agreement be made available to the GLA at Stage 2.

13 The applicant's viability assessment, Council's independent review of this, details of further written assurances from the applicant and latest draft of the s106 agreement have been provided to the GLA at Stage 2. The Council considers that, given the written assurances and the viability position demonstrated by the applicant along with the anticipated signing of a contract with Family Mosaic, the applicant has done all that could reasonably be expected to demonstrate their intention to deliver the scheme as proposed.

14 The Council furthermore conclude that offer of 40.5% affordable housing by units (44.6% by habitable rooms) delivers a good mix of tenures and as supported by a financial viability assessment including further written assurances from the applicant as detailed above, is considered the maximum reasonable amount of affordable housing and thus is considered to accord with policy.

15 The s106 agreement notes that no less than 44% of all habitable rooms at the development are to be affordable housing units (i.e. social rented and immediate housing). However it has been recommended by the Council that the viability of the scheme will be subject to a review mechanism, which would require the submission of an updated viability appraisal if the development has not been substantially implemented within 12 months of the grant of planning

consent. The GLA are supportive of this review, however recognise that this is a short timeframe for development to be substantially implemented in. An updated assessment will enable the viability of the scheme to be reconsidered in the event that the scheme is delayed to ensure that the proposals are based on an assessment of viability that is accurate at the point of delivery. The review will also help to ensure that the scheme provides the maximum reasonable level of affordable housing in line with Development Plan policy. The applicant has confirmed to the Council in writing that they agree to a review mechanism and this has been secured in the latest draft of the s106 agreement.

16 The Council's planning committee report also notes that Family Mosaic have advised that they have spent a year working with the applicant on the proposal and have advised on the mix and layouts of the affordable units whilst also liaising with the Council's Housing Division in relation to the size and mix of units required, in particular for the social rented units. On the basis that the affordable housing offer has been developed in consultation with the Council and Family Mosaic (Registered Provider), the proposed tenure split is considered to reflect an identified need and is considered appropriate. There are no outstanding issues in relation to affordable housing with the proposal complying with London Plan policy.

Housing Choice

17 At consultation stage GLA officers requested that the Council confirm the proposed mix reflects its own housing requirements and its understanding of local demand.

18 The Council have stated that the proposed unit mix i.e. a significant proportion of social rented three bedroom family sized units and two bedroom private units close to the target requirement, when there is greater demand for smaller social housing units, is not ideal within the context of policy DM 3.1. However, it is considered that, given the requirement to ensure a good standard of layout and accommodation throughout the development, the unit mix is considered acceptable. The Council also considered the affordable housing offer on the site in terms of quantity, quality and mix is considered to make a positive contribution to the housing needs of the borough. As such, the housing mix as proposed is considered to be appropriate.

Children's play space

19 In accordance with the initial comments on the scheme, the Council has secured a condition requiring a minimum of 605 sq.m. of under 5s children's play space contained within the site, and for details of this to be submitted and approved in writing by the Local Planning Authority. This is in accordance with and designed for under 5s in line with the requirements of the Shaping Neighbourhoods: Play and Informal Recreation SPG. GLA officers also noted older children are be accommodated in nearby parks, all less than 800 metres away, and that the Council will need to confirm any contributions that the scheme will need to make towards these spaces, if necessary.

20 The Council has confirmed that should planning permission be granted the applicant will be required to make an Islington Community Infrastructure Levy (CIL) payment upon commencement of development, in accordance with the Charging Schedule (2014). CIL money is allocated to the improvement of parks and play spaces across the borough, including the nearby Caledonian Park. In view of the availability of off-site open space, play areas and sports facilities for children aged 5+ and given the money that will be secured for the improvement of parks and play areas it is considered, overall, the scheme is acceptable in terms of play space.

Density

21 The applicant was asked at Stage 1 to provide a density calculation by habitable rooms in order to usefully compare the density of the scheme with surrounding developments, using a net

residential density (that discounts the commercial uses) as set out in the Draft Interim Housing SPG.

22 The applicant has provided a density calculation by habitable rooms (i.e. 1,097 habitable rooms per hectare). The Council has suggested that while the site's surroundings may be considered to possess some of the characteristics of a central location, they are closer to meeting the definition of an urban location as outlined in the London Plan (notes to Table 3.2). The proposed density would therefore fall within the London Plan density matrix parameters for a central site but would exceed the density range for an urban site. However, the Council notes that the site adjoins an area of open space and that the spatial standards within the rear part of Site 2 are reasonably generous for an urban location. Furthermore, the site has an excellent PTAL rating of 6a and good access to local shops and services whilst the scheme is considered to represent an acceptable quantum of development from a design point of view. Accordingly, GLA officers consider the proposed development is acceptable in density terms, particularly where high quality design has been secured.

Urban design

23 The western edge of the site fronts on to Market Road Gardens. At pre-planning application stage and Stage 1, GLA officers raised concerns that the proposed development would not create an adequate park edge or provide access to residents from the development to the park. It was noted that the development has the potential to significantly improve the use of this edge of the park, and further work on this needed to be done. Whilst it is understood that the current uses along this edge of the park prevent access to the park, it is likely that this will change over time and the development needs to be designed for this potential future scenario. The applicant was asked to provide further details on how the park edge boundary treatment is being addressed in terms of landscaping and building interface at ground level.

24 The Council's planning committee report notes the applicant's response to the GLA comments regarding the boundary interface of the site with Market Road Gardens. They state that the relationship of the development with the gardens changes along the shared boundary and it is not possible to provide an uninterrupted interface due to the need to provide natural daylighting within the ground level employment accommodation. Furthermore, the eastern end of Market Road Gardens is used as a landscaping maintenance area, as well as by the Hayward's Adventure Playground care facility, and requires vehicular access from Market Road through the gardens and, as such, has a reduced amenity value to that of the rest of the park. The proposal has therefore been designed to ensure the boundary between the publicly accessible park and the new development is respected, whilst seeking to maximise the visual connection between the two. As requested at Stage 1 the applicant has also provided a section drawing of the boundary treatment where the site adjoins Market Road Gardens. The above rationale is accepted and there are no outstanding issues in relation to the design and layout of the scheme.

Inclusive access

25 GLA officers stated at consultation stage that Building Regulation requirement M4(3) applies to the units and all units in the scheme are required to meet Building Regulation M4(2). As requested by the GLA this requirement has been secured by condition.

26 At consultation stage GLA officers noted that mechanisms will need to be secured in the parking management plan, to enforce and monitor the supply and future demand of the blue badge bays, to ensure that the development is accessible to those disabled people who rely on a car and that this should be secured by condition.

27 This has been secured with a condition requiring that a car park management plan to implement the monitoring and supply of the 26 on site car parking spaces is to be submitted and approved prior to occupation of the development. The management plan is also to identify how car parking spaces will be offered to the 26 wheelchair accessible/adaptable units in the first instance and any Blue Badge holders thereafter.

28 The draft decision notice also includes a condition that disabled parking spaces shown on drawing no 010-1B hereby approved shall be provided prior to the first occupation of the building and the disabled parking bays shall be appropriately line-marked and thereafter kept available for the parking of vehicles at all times and that the car parking spaces shall only be occupied by vehicles displaying Blue Badges. This is welcomed.

Sustainability

29 At Stage 1 the GLA noted that the applicant had assumed zero heat loss (i.e. party wall) between the dwellings and the corridors due gains from distribution pipes and lighting. This approach was not supported as heat gains should be minimised as far as possible and should not be relied upon to provide sufficient space conditioning, for instance distribution routes should be designed to reduce the potential for heat gain to corridors and apartments i.e. reduced length of pipe and all pipework and ancillaries highly insulated beyond the industry standard. Further still under the latest SAP conventions a party wall can only be assumed if the space includes fixed heaters. It was therefore suggested at Stage 1 that there should be a review of this strategy and update to the SAP models accordingly. The applicant has since provided further information on how excess heat will be removed from the corridor through the ventilation systems.

30 The other London Plan policy issues regarding sustainability have now also been addressed in line with the GLA's Stage 1 recommendations.

Transport

31 At Stage 1, Transport for London (TfL) asked that various London Plan policy issues be addressed. The agreed conditions secure, as requested, a Travel Plan, Construction Logistics Plan, Delivery and Service Plan and Car Park Management Plan. The development is car free and London Plan policy complaint Electric Vehicle Charging Points and Blue Badge spaces are conditioned. Following TfL's Stage 1 response, there is uplift in cycle parking which now complies with London Plan policy standards. The s106 agreement Heads of Terms provides funding of £30,000 to Islington towards bus stop improvement along Caledonian Road and resident exemption from parking permits.

32 TfL is satisfied that the application scheme is considered to be in general accordance with the transport policies of the London Plan.

Public consultation

33 Since being submitted the current application has been subject to extensive public consultation, comprising 1,323 letters sent to occupants of adjoining and nearby properties, a site notice, and press advert displayed on 1 October 2015. A further consultation exercise was carried out on 3 December 2015 publicising the application as a departure from the Development Plan with respect to Policy DM5.3. The public consultation of the application therefore expired on 22 October 2015. However, it is the Council's practice to continue to consider representations made up until the date of a decision.

Responses to neighbourhood consultation

34 As a result of the consultation process 12 objections were received. In summary objectors have raised the following concerns regarding the proposal:

- Excessive height, in the particular highest building on Caledonian Road frontage and the 11 storey building to the rear
- Overdevelopment/excessive density
- Out of character, in particular as the surrounding area predominantly comprises lower height buildings
- Design of buildings is somewhat formulaic
- Buildings fronting Caledonian Road will not be set back as they are presently
- Increased pressure on local infrastructure and services, in particular GP services, buses and Caledonian Road Underground Station
- Loss of light, visual impact and loss of views at No. 453 Caledonian Road (Flats 15 and 17)
- Loss of light, loss of outlook, overbearing visual impact and increased sense of enclosure at Carrick House
- Loss of privacy at Carrick House
- Increased traffic
- Area does not need more retail units – there are retail units in the locality that have been vacant for 7-8 years
- Increased noise as a result of tunnelling effect from buildings on Caledonian Road
- Possible effect on TV/radio signal
- Affordable housing provision may be inadequate/affordable housing may not be affordable to those in need
- Policy framework provides robust protection of the site for redevelopment for B Class use only – Berkmann Wine Cellars has been looking for a site to accommodate a new warehouse – if application is permitted it will undermine the ability of this and neighbouring businesses from growing and remaining in the area
- Residential building on Brewery Road will feature windows to flank walls which will prejudice future development of adjacent industrial estate and compromise employment generation – it should be reduced in height and habitable room windows should be removed on flank elevations
- Conflict with ongoing 24 hour operation of businesses on industrial estate
- Monies should be secured for local area, including Caledonian Park clock tower and railing repair

- Council should secure high quality materials and high standards of sustainability
- Commercial uses should be properly managed to ensure success.

35 A representation was received from the Play Co-ordinator for the Hayward Adventure Playground, used by children and young people with disabilities and special needs, and their issues and recommendations regarding the scheme are summarised as follows:

- Residential block will directly overlook the playground resulting in a loss of privacy for the children and young people within the playground whilst there may be complaints from residents, particularly as some users will behave in a challenging way
- They are keen to work in partnership to look for creative solutions with positive outcomes for all parties – they would require a wall along the eastern side of the playground to provide a visual and physical barrier between the playground and the lower floors of the main residential block and, potentially, adaptation of the area of the playground east of their building to provide extra cover, such as through a sheltered area or canopy.

36 The applicant has held a meeting on-site with the Play Co-ordinator and it has been agreed that off-site mitigation measures to be provided within the playground, including a wall along the eastern side of the playground, would be secured through the s106 agreement. The Play Co-ordinator has indicated verbally that this will address their concerns.

37 In relation to the objections raised, matters relating to impact upon residential amenity are not in this instance strategic planning matters and have been assessed by the Council in the committee report, with appropriately worded conditions and planning obligations secured. In relation to the objections raised in relation to land use principles, design, local infrastructure and transport, these matters have been dealt with in this and the previous report, with the scheme found to be acceptable and in accordance with the London Plan.

38 The representations received included nine representations in support of the scheme which are summarised as follows:

- Scheme will deliver wide range of benefits to the area
- Proposal is well thought out, of high quality design and will undoubtedly improve this section of Caledonian Road
- Positive contribution to Methodist Church
- Scheme proposes space for local art and design and small businesses rather than franchise retail
- Scheme will enhance residential community and support local shops and businesses
- Affordable and start-up commercial units and affordable housing is welcomed
- Higher proportion of shared ownership accommodation should be provided.

Responses from statutory bodies

Metropolitan Police (Crime Prevention)

39 No objections raised.

Thames Water

40 No objection raised and the drainage strategy is agreed. They suggested that the applicant is required to provide a piling method statement to mitigate the impact on underground sewage infrastructure and a condition has been secured.

Environment Agency

41 No objections raised.

London Fire and Emergency Planning Authority

42 Proposal is satisfactory subject to the development meeting the requirements of Approved Document B5 of the Building Regulations.

London underground

43 No objections subject to conditions to safeguard London Underground tunnels and infrastructure, which have been secured.

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

44 In this instance the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at Stage I, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

45 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

46 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.

47 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.

48 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

49 The proposed redevelopment of the site including a mix of commercial and community uses at ground floor and residential uses above is supported in strategic planning terms. Further information has been provided, which together with conditions and section 106 obligations imposed by the Council largely address strategic issues that were raised at Stage 1. On this basis, there are no sound reasons for the Mayor to intervene in this particular case.

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

Stewart Murray, Assistant Director – Planning

020 7983 4271 email stewart.murray@london.gov.uk

Colin Wilson, Senior Manager – Development & Projects

020 7983 4783 email colin.wilson@london.gov.uk

Justin Carr, Strategic Planning Manager (Development Decisions)

020 7983 4895 email justin.carr@london.gov.uk

Ann Maudsley, Senior Strategic Planner, Case Officer

020 7983 5535 email ann.maudsley@london.gov.uk
