

20 January 2016

# Nova Place and Nova East, Victoria

in the City of Westminster

planning application no.s 15/08005/FULL &amp; 15/08006/FULL

## 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

**Nova Place (15/08005/FULL):** construction of a part six, part seven and part ten-storey building with new basement fronting Allington Street, Bressenden Place and Victoria Street for use as offices (Class B1), flexible retail (Classes A1-A5), flexible library/retail (Class D1/A1-5), flexible library/office (Class D1/B1), 42 residential units and associated works, including hard landscaping, highway, utilities and ancillary works with servicing from Bressenden Place. Reinstating elements of the retained facade and interiors of (Grade II) Sutton House (previously at 156-158 Victoria Street) on Allington Street.

**Nova East (15/08006/FULL):** construction of new 16-storey office building (Class B1) fronting a realigned Allington Street and Bressenden Place with part flexible retail use (Class B1/A1-A5) at ground and first floor. The proposal includes new basement levels connected to the adjacent Nova masterplan basement with associated highways, utilities and other associated works, including hard landscaping/public realm works.

## The applicant

The applicant is **Victoria Circle Limited Partnership**, and the architect is **Lynch Architects**.

## Strategic issues

These applications would support the provision of an excellent range of **mixed CAZ uses** as part of the wider Nova masterplan, and the scheme is **supported** in strategic planning terms. Furthermore, previously outstanding matters with respect to **housing** and **transport** have now been resolved, and the application complies with the London Plan.

## The Council's decision

In this instance Westminster City Council has resolved to grant permission subject to planning conditions and conclusion of a deed of variation to the original Nova masterplan Section 106 legal agreement dated 9 October 2009.

## Recommendation

That Westminster City 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 3 September 2015 the Mayor of London received documents from Westminster City Council notifying him of two planning applications of potential strategic importance to develop the above sites for the above uses. These were referred to the Mayor under the Schedule to the Order 2008 as follows:

### **Nova Place (15/08005/FULL)**

- 1C 1.(c) *“Development which comprises or includes the erection of a building of... more than 30 metres high and is outside the City of London”*.

### **Nova East (15/08006/FULL)**

- 1B 1.(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 in Central London (other than the City of London) and with a total floorspace of more than 20,000 square metres”*; and,
- 1C 1.(c) *“Development which comprises or includes the erection of a building of... more than 30 metres high and is outside the City of London”*.

2 On 20 October 2015 the Mayor considered planning report D&P/2278a&2278b/01, and subsequently advised Westminster City Council that whilst the scheme is broadly supported in strategic planning terms, the applications did not fully comply with the London Plan for reasons discussed within paragraphs 58 and 59 of the above-mentioned report. The Mayor nevertheless stated that the resolution of these issues could lead to the applications becoming compliant with the London Plan.

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 8 December 2015 Westminster City Council decided that it was minded to grant planning permission subject to planning conditions and conclusion of a deed of variation to the original Nova masterplan Section 106 legal agreement dated 9 October 2009. On 7 January 2016 the Council 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 Westminster City Council under Article 6 to refuse the application or issue a direction to Westminster City 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. Following receipt of a complete referral from Westminster City Council on 8 January 2016, the Mayor has until 21 January 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 consultation stage Westminster City Council was advised that whilst the scheme is broadly supported in strategic planning terms, the applications did not fully comply with the London Plan for the reasons set out below. The Mayor nevertheless stated that the resolution of these issues could lead to the applications becoming compliant with the London Plan.

## **Nova Place (15/08005/FULL)**

- **Housing:** The proposed on-site housing offer is strongly supported in accordance with London Plan policies 2.11, 3.3 and 4.3. Nevertheless, the maximum reasonable amount of affordable housing must be verified in line with London Plan Policy 3.12. Moreover, GLA officers seek further discussion with respect to how any potential financial surplus may be best applied in order to deliver additional affordable housing units.
- **Transport:** Whilst the application is broadly acceptable in strategic transport terms, the applicant should address the matters discussed within the transport section of this report with respect to; realignment of Allington Street; road network; car parking; cycle parking; travel planning; safeguarding transport infrastructure; and, Crossrail to ensure accordance with London Plan policies 6.3, 6.5, 6.7, 6.9 and 6.13.

## **Nova East (15/08006/FULL)**

- **Transport:** Whilst the application is broadly acceptable in strategic transport terms, the applicant should address the matters discussed within the transport section of this report with respect to; realignment of Allington Street; road network; car parking; cycle parking; travel planning; safeguarding transport infrastructure; and, Crossrail to ensure accordance with London Plan policies 6.3, 6.5, 6.7, 6.9 and 6.13.

6 Since consultation stage the applicant team has engaged in joint discussions with Westminster City Council, GLA and TfL officers with a view to addressing the above matters. Moreover, as part of Westminster City Council's draft decision on the case, various planning conditions and obligations are proposed to be applied to ensure that the development is acceptable in planning terms. The response to the various issues raised within the Mayor's representations on these applications are considered under the corresponding sections below.

## **Housing**

7 Since consultation stage the applicant's financial viability report has been independently reviewed, and the proposed 25% provision of affordable housing at Nova Place has been verified as the maximum reasonable amount.

8 Whilst the viability review has demonstrated that the scheme would not generate an additional financial surplus attributable to affordable housing, the development is required to make a financial contribution towards CAZ mixed use development in accordance with London Plan Policy 4.3 and the Westminster City Council Planning Obligations SPG. Nevertheless, the viability review has demonstrated that the policy compliant contribution of £6,121,136 would not be viable in this case. Accordingly, the viable contribution in this regard has been independently verified as £4,795,352, and this will be secured (index linked) as a planning obligation of the scheme. GLA officers note that the variation to the Section 106 agreement will be designed flexibly – so as to respond to potential fluctuation in this contribution under various delivery (and non-delivery) scenarios.

9 In accordance with the Mayor's priorities for planning obligations (London Plan Policy 8.2) the mixed use financial contribution will be attributed to the delivery of affordable housing. GLA officers were satisfied at consultation stage that the optimum balance of on-site uses (including housing and affordable housing) had been struck (refer to GLA report D&P/2278a&2278b/01). Furthermore, following discussions with the applicant and the City Council, it has not currently been possible to identify a suitable beneficiary scheme to catalyse the conversion of this payment into additional affordable housing.

10 Pursuant to the above, and acknowledging the practicalities of delivery in this case, GLA officers are of the view that the exceptions test in part C of Policy 3.12 has been satisfied. Therefore, in accordance with the Memorandum of Understanding between Westminster City Council and the GLA, the contribution will be attributed to Westminster City Council's affordable housing fund, and ring-fenced for the delivery of additional affordable housing units within the City of Westminster.

## **Transport**

11 In response to representations at consultation stage, previously agreed planning conditions and obligations related to London Underground infrastructure protection will be carried over as part of the new draft decision. This is supported. Moreover, it is noted that additional conditions are proposed pertaining to the construction logistics plan, service management plan and Crossrail 2 safeguarding. It is also noted that the realignment works at Allington Street (including bus stand provision) will be incorporated into the existing Section 278 agreement. In addition, it has been confirmed that car parking will be provided at the same level as for the original consented scheme, and cycle parking provision will comply with London Plan (2015) standards, rather than reflecting the lower provision of the 2008 consent.

12 At consultation stage (and in previous prior discussions) Transport for London (TfL) sought the provision of bus driver toilets (accessible 24/7) near to the proposed bus stand on Allington Street. However, despite considerable discussion and investigation of potential options for this, it has not been possible to secure such provision as part of the draft planning decision. Whilst it is acknowledged that existing public toilet facilities are available at Cardinal Place between 08:00 and 17:00 (and it is understood drivers may use facilities at Terminus Place between 07:00 and 22:00), it is disappointing that a workable solution to provide a 24/7 service has not yet been found. Nevertheless, TfL remains committed to securing such facilities in future.

13 Finally, with respect to TfL's suggestion for additional loading bay provision at the northern end of Allington Street, TfL accepts the Council's view that sufficient capacity already exists along Bressenden Place.

14 In summary, having regard to the above, and the advice of TfL, GLA officers are satisfied that the application accords with London Plan policies 6.3, 6.5, 6.7, 6.9 and 6.13.

## **Public consultation**

15 Westminster City Council publicised the application by sending notifications to addresses within the vicinity of the site, and issuing site and press notices. The relevant statutory bodies were also consulted. Copies of all responses to public consultation, and any other representations made on the case, have been made available to the Mayor in their original form.

## **Responses to neighbourhood consultation**

16 Westminster City Council did not receive any responses of objection or support following the neighbourhood consultation process. However, late representations were received from the Victoria Interchange Group. In summary, these raised concerns with respect to: provision of too few on-site affordable housing units; acceptance of an affordable housing commuted sum for phase 1; and, lack of effective consultation on the part of the developer.

17 The strategic issues associated with the affordable housing provision in this case are considered within the housing section of this report, and report D&P/2278a&2278b/01. In addition, it is recognised that there is no statutory requirement for developer-led public consultation.

## **Responses from statutory bodies and other organisations**

### Environment Agency

18 Environment Agency raised no objection to the applications.

### Historic England

19 Historic England raised no objection to the applications, stating that they should be determined in accordance with relevant planning policy and specialist advice.

### Historic England (archaeology)

20 Historic England (archaeology department) raised no objection subject to planning conditions and advice with respect to the preparation and implementation of an archaeological programme of investigation. GLA officers note that Westminster City Council has had regard to these representations, and has proposed planning conditions and informatives as appropriate.

### Twentieth Century Society

21 Twentieth Century Society raised no objection to the applications, stating that the current scheme provides a more favourable response to Sutton House (Grade II) than the extant permission.

### London Underground

22 London Underground raised no objection to the scheme.

### Crossrail

23 Crossrail raised no objection subject to a planning condition to avoid potential conflicts with ancillary Crossrail works. GLA officers note that Westminster City Council has had regard to these representations and has proposed planning conditions as appropriate.

### Network Rail

24 Network Rail raised no objection to the scheme.

### Natural England

25 Natural England raised no objection to the applications, but referred to standing advice on protected species.

## **Responses from neighbouring London Boroughs**

26 Westminster City Council consulted the London Boroughs of Hackney, Hammersmith and Fulham, Wandsworth, Tower Hamlets, Richmond, and the Royal Borough of Kensington and Chelsea - none of which raised any objections to the applications.

## **Response to public consultation – conclusion**

27 The statutory and non-statutory responses to Westminster City Council’s consultation process do not raise any material planning issues of strategic importance that have not already been considered at consultation stage, and/or in this report.

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

28 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 Westminster City Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at consultation stage, therefore, there is no sound planning reason for the Mayor to take over this application.

### **Legal considerations**

29 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 and any connected 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**

30 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.

31 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.

32 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**

33 These applications would support the provision of an excellent range of mixed CAZ uses as part of the wider Nova masterplan, and the scheme is supported in strategic planning terms.

Furthermore, previously outstanding matters with respect to housing and transport have now been resolved, and the application complies with the London Plan.

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