

# Land at Somerleyton Road, Brixton

in the London Borough of Lambeth

planning application no. 15/05282/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 (revised since submission)

Demolition of existing buildings (with the exception of Carlton Mansions which is to be retained and refurbished) and redevelopment to provide a residential-led mixed use development (between two and eleven-storeys) comprising 304 new dwellings (50% affordable) and approximately 8,000 sq.m. of non-residential uses including a theatre (Sui Generis), employment, retail and community uses (Use class B1/D1/A1/A2) with associated parking, landscaping and ancillary works.

## The applicant

The applicant is **Lambeth Council**, and the architect is **Metropolitan Workshop**.

## Strategic issues

The proposed **residential-led mixed use** scheme is **well-designed**; would positively contribute towards **sustainable communities**; and, is **strongly supported** in strategic planning terms.

Furthermore, the issues raised a consultation stage with respect to **housing, sustainable development** and **transport** have been resolved, and the application complies with the London Plan.

## The Council's decision

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

## Recommendation

That Lambeth 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 1 October 2015 the Mayor of London received documents from Lambeth 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 the following categories 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”*; and,
- 1B 1.(c) *“Development... which comprises or includes the erection of a building or buildings - outside Central London and with a total floorspace of more than 15,000 square metres”*.

2 On 18 November 2015 Sir Edward Lister, Deputy Mayor for Planning, acting under delegated authority, considered planning report D&P/3660/01, and subsequently advised Lambeth Council that whilst the scheme is broadly supported in strategic planning terms, the application does not yet fully comply with the London Plan for the reasons set out in paragraph 61 of the above-mentioned report. The Deputy Mayor nevertheless stated that the resolution of those issues could lead to the application 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 15 December 2015 Lambeth Council decided that it was minded to grant permission subject to planning conditions and conclusion of a Section 106 agreement, and on 4 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 Lambeth Council under Article 6 to refuse the application or issue a direction to Lambeth 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 17 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 Lambeth Council was advised that whilst the scheme is broadly supported in strategic planning terms, the application does not yet fully comply with the London Plan for the reasons set out below. The Deputy Mayor nevertheless stated that the resolution of these issues could lead to the application becoming compliant with the London Plan.

- **Housing:** The proposed residential uses (50% affordable) are strongly supported in line with London Plan policies 3.3, 3.4, 3.8 and 3.12. Notwithstanding this, the proposed PRS units should be secured as exclusively for private rent for a minimum period of time. The extra care units should also be appropriately secured as such.
- **Sustainable development:** The proposed energy strategy and climate change adaptation measures are supported in strategic planning terms and should be secured by way of planning condition.
- **Transport:** Whilst the proposal is generally acceptable in strategic transport terms, the applicant should address the matters raised with respect to: car parking; cycle parking; safeguarding transport infrastructure; trip generation; public realm; and, travel planning to ensure accordance with London Plan policies 6.3, 6.9, 6.13 and 6.14.

6 Since consultation stage the applicant team has engaged in joint discussions with Lambeth Council, GLA and TfL officers with a view to addressing the above matters. Moreover, as part of

Lambeth 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 Deputy Mayor's representations on this application are considered under the corresponding sections below.

## **Housing**

7 At consultation stage GLA officers encouraged the Council to fix a minimum term for the private rented sector (PRS) component of the housing mix in accordance with guidance within the Mayor's draft Interim Housing SPG. Having considered these representations, the Council has decided not to impose such a term. The Council's justification for this is based on the fact that there would be no requirement to 'claw back' an affordable housing contribution (i.e. in the event that the PRS is converted to market sale), because the scheme already delivers a policy compliant 50% provision of affordable housing (accepted to be the maximum reasonable amount, as discussed in GLA report D&P/3660/01). Noting the position, GLA officers accept that in this case it is reasonable not to impose a minimum term. Notwithstanding this, it is important to recognise that the draft SPG identifies various other distinct benefits with respect to maintaining the PRS product as such for a reasonable period of time (e.g. potential for longer term tenancies, better management arrangements, more stable communities and certainty for residents). Accordingly, GLA officers welcome the applicant's stated commitment that it intends to maintain the PRS products as such for the long term, and that the Council (as freeholder), seeks to offer a range of rent levels and longer tenancy agreements to support mixed, balanced and sustainable communities.

8 In line with representations at consultation stage, the Section 106 agreement heads of terms specify a restriction on the occupation of extra care units to those that meet the Council's eligibility criteria for extra care provision. This is supported.

## **Sustainable development**

9 In line with representations at consultation stage, the energy strategy and climate change adaptation measures will be appropriately secured by way of planning condition/obligation as appropriate. This is supported.

## **Transport**

10 At consultation stage GLA officers expressed the view that the proposal is acceptable in strategic transport terms - subject to the resolution of a number of detailed issues. The majority of these matters have now been addressed through the inclusion of planning conditions and/or obligations (refer below). However, an issue related to London Underground infrastructure safeguarding requires further discussion to resolve fully. As discussed in paragraphs 23 and 24, London Underground has raised an objection to the application - principally with respect to access to a substation (located on the northern boundary of proposed Block E) and potential constraints to the possibility for expansion of this infrastructure in future.

11 At the time of writing this report related discussions between TfL's Property team and Lambeth Council are ongoing. However, in order to reach a timely determination of this application the Council has agreed to apply planning conditions/obligations to ensure that TfL is consulted on the detail of plans for this part of the site - which shall demonstrate that reasonable access to the substation would be maintained; and, sufficient space for future expansion of the substation would be safeguarded.

12 With respect to the other transport matters raised at consultation stage, the applicant has committed to providing 86 cycle parking spaces for the 42 residential units within Plot F as requested (accordingly the total amount of cycle parking across the site is now 586 spaces). Furthermore a condition has been secured requiring detailed approval of cycle storage arrangements.

13 With respect to car parking, it is understood that spaces will not be allocated to any specific uses, therefore, EVCPs have not been proposed. TfL has accepted this in this case. Whilst the overall level of parking spaces has not been reduced, it is supported that all residents and businesses will be restricted from applying for parking permits within the local controlled parking zone through the Section 106 agreement. With respect to Blue Badge parking, following discussion, the provision remains as six spaces on Somerleyton Road. It is, nevertheless, acknowledged that residents may request that the Council provides additional disabled parking spaces if the need arises.

14 As requested at consultation stage it is noted that the Travel Plan (and offer of three years free car club membership for all households) will be included as an obligation within the Section 106 legal agreement. A delivery and servicing plan and construction logistics plan have also been secured by way of planning condition.

15 Whilst, at consultation stage, TfL raised concerns with respect to potential impacts on the bus network, having reviewed the proposals and current network capacity, TfL is satisfied that a contribution will not be required in this case.

## **Public consultation**

16 Lambeth Council publicised the application by sending notifications to 1,307 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**

17 In response to the neighbourhood consultation process Lambeth Council received three letters of objection and twelve letters of support. In summary, the points of objection relate to: redevelopment (rather than refurbishment); excessive scale of development; poor response to context; poor response to social cohesion; lack of architectural distinction; loss of mature trees; and, construction impacts (including noise and HGV traffic).

18 In summary, the representations of support cited reasons with respect to: proposed arts and cultural provision; refurbishment of Carlton Mansions; proposed affordable homes; proposed workspace; design quality of the theatre building; and, retention of mature trees. Within the representations of support a number of additional comments were made as follows: the scheme should be replicated elsewhere in London; the project will bring benefits to existing local residents; underground car parking should be provided to relieve local parking pressure; further public realm improvements (facilitated via a CPO) should be undertaken along Coldharbour Lane; traffic calming measures should be introduced to Coldharbour Lane and Somerleyton Road; and, a community growing area should be provided.

19 The representations received in response to the neighbourhood consultation process are considered in detail within Lambeth Council's committee report of 15 December 2015.

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

### Environment Agency

20 Environment Agency raised no objection to the application subject to planning conditions and standing advice with respect to contamination, piling, and infiltration of surface water. GLA officers note that Lambeth Council has had regard to these representations, and has proposed planning conditions and informatives as appropriate.

### Historic England

21 Historic England raised no objection to the proposal, stating that it should be determined in accordance with relevant planning policy and specialist advice.

### Historic England (archaeology)

22 Historic England (archaeology department) raised no objection subject to planning conditions and advice with respect to preparation and implementation of archaeological evaluation, mitigation responses, post-investigation assessment and archaeological specification. GLA officers note that Lambeth Council has had regard to these representations, and has proposed planning conditions and informatives as appropriate.

### London Underground

23 London Underground (LU) raised an objection citing concerns with respect to potential impact on infrastructure and underground running tunnels. Other issues referred to by LU relate to loss of light/overshadowing; security; highway safety; parking/loading/turning; noise and disturbance; and, restrictions on LU's own future development opportunities.

24 Since these representations were made the applicant has engaged in further discussions with LU representatives with a view to resolving the outstanding concerns. Whilst GLA officers understand that progress is being made, at the time of writing this report an issue with respect to safeguarding of an LU substation is still outstanding. Consequently LU is not in a position to withdraw its objection. This issue is considered in the transport section above.

### Network Rail

25 Network Rail raised no objection subject to standing advice with respect to: encroachment; future maintenance; drainage; plant and materials; scaffolding; piling; fencing; lighting; noise and vibration; vehicle incursion; and, piling. GLA officers note that Lambeth Council has had regard to these representations, and has proposed informatives as appropriate.

### Metropolitan Police

26 The Metropolitan Police raised no objection to the proposal subject to a number of specific security measures being secured (including: block access control systems; graffiti mitigation measures; secure residential foyers/access to lifts/stairs; CCTV; compliance with minimum standards of Secured by Design (for new homes and commercial space); and, a Crime Prevention Strategy. GLA officers note that Lambeth Council has had regard to these representations, and has proposed planning conditions as appropriate.

### Thames Water

27 Thames Water raised no objection to the application in principle, but highlighted that existing waste water and water supply infrastructure would be unable to accommodate the needs of the scheme. Accordingly, Thames Water sought a water infrastructure impact study and a drainage strategy (including on/off site works required for surface and foul water). A piling method statement was also requested. GLA officers note that Lambeth Council has had regard to these representations, and has proposed planning conditions as appropriate.

### Natural England

28 Natural England stated that it had no comments to make on the application.

### The Theatres Trust

29 The Theatres Trust expressed support for the proposal, and, in particular, the proposed provision of a new theatre in this location. Whilst The Trust queried whether two dedicated dressing rooms would be sufficient, it noted that other spaces within the building could be used flexibly for this purpose.

### The Brixton Society

30 The Brixton Society expressed support for: the cultural uses; retention and refurbishment of Carlton Mansions to provide workspace; and, the other non-residential uses where these would be useful for the neighbourhood. The Society nevertheless raised concerns with respect to daylight and sunlight impact on Southwyck House and dwellings fronting onto Somerleyton Road; and, the planting of trees at the Oval Theatre frontage (on the basis that these would be likely to screen the Locally Listed 'Nuclear Dawn' mural at Carlton Mansions from public view). The Society also sought to emphasise the importance of having strong management and ownership of shared/common areas. GLA officers note that Lambeth Council has had regard to these representations - which are considered in detail within the Council's committee report of 15 December 2015. In particular, it is noted that the Council concludes that the daylight/sunlight impacts of the scheme are acceptable in planning terms. Moreover, the Council considers that the scheme would enhance the setting of Carlton Mansions and the 'Nuclear Dawn' mural, as well as the Brixton Conservation Area. GLA officers share this view, and as discussed in report D&P/3660/01, it is considered that the proposals at the Cold Harbour Lane frontage would respect the setting of proximate heritage assets, and make a positive contribution towards the agglomeration of a vibrant cultural cluster.

### Stockwell Good Neighbours

31 Stockwell Good Neighbours expressed support for the proposal for reasons with respect to: accessibility/inclusive design; good quality community facilities; and, good provision of wheelchair accessible/adaptable housing and extra care units. The group nevertheless raised concern with respect to the level of car parking provision, and sought assurance that appropriate Blue Badge parking and/or drop off/pick up space would be provided. GLA officers note that Lambeth Council has had regard to these representations, concluding that the proposed parking arrangements (which include six Blue Badge spaces on Somerleyton Road) and travel planning measures are acceptable. The strategic issues in this regard are considered and addressed within report D&P/3660/01 and the transport section above.

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

32 The statutory and non-statutory responses to Lambeth 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**

33 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 Lambeth 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**

34 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**

35 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.

36 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.

37 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**

38 The proposed residential-led mixed use scheme is well-designed; would positively contribute towards sustainable communities; and, is strongly supported in strategic planning terms. Furthermore, the issues raised a consultation stage with respect to housing, sustainable

development and transport have been resolved, and the application complies with the London Plan.

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