

**Rainbow Industrial Estate, Station Approach,
Morden**

in the London Borough of Merton

planning application no. PP/03807691& PP/03807802

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

This report deals with two related applications:

Application 1: Upgrade works to site access including road widening and creation of “kiss and ride” facility adjacent to Raynes Park Station, in conjunction with the wider redevelopment of Rainbow Industrial Estate.

Application 2: Demolition of the existing building and redevelopment of the Rainbow Industrial Estate for a mixed use development comprising 229 residential units and 3,449 sq.m employment floorspace (B1) and 261 Sq.m commercial floorspace (A1/A2/A3 and D1).

The applicant

The applicant is **The Workspace Group**, the architect is **Allford Hall Monaghan Morris** and the agent is **Rolfe Judd Planning**.

Strategic issues

Outstanding issues in relation to **housing mix, affordable housing, sustainable energy and transport** have been resolved.

The Council’s decision

In this instance Merton Council has resolved to grant permission.

Recommendation

That Merton 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 31 December 2014 the Mayor of London received documents from Merton 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 Category 1A and 1B 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: development (other than development which only comprises the provision of houses, flats, or buildings: (c) outside central London and with a total floorspace of more than 15,000 sq.m.*

2 The associated application (1) was referable as a connected application.

3 On 4 February 2015 the Mayor considered planning report D&P/3302/01, and subsequently advised Merton Council that whilst generally acceptable in strategic planning terms, the application did not fully comply with the London Plan, with the reasons and remedies set out in paragraph 79 of the report.

4 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 17 September 2015 Merton Council decided that it was minded to grant planning permission and on 11 November 2015 the Mayor was given formal notification 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 Merton Council under Article 6 to refuse the application or issue a direction to Merton 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 24 November 2015 to notify the Council of his decision and to issue any direction.

5 The decision on this case, and the reasons will be made available on the GLA's website www.london.gov.uk.

Update

6 At the consultation stage Merton Council was advised that the application did not comply with the London Plan, for the reasons set out in paragraph 79 of the above-mentioned report; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Principle of development:** The principle of a mixed redevelopment of the Rainbow Industrial Estate site and the upgrade works to site access including road widening and creation of "kiss and ride" facility adjacent to Raynes Park Station is supported by London Plan policy and site specific guidance in the Rainbow Industrial Estate Planning Brief.
- **Housing mix:** The applicant should undertake minor amendments to the overall scheme to reach a minimum 20% three bed family units as required by the Rainbow Industrial Estate Planning Brief.
- **Affordable housing:** The development has been subject to a full viability assessment and this is welcome. Merton Council is required to have this assessment independently reviewed and share the findings with GLA officers before stage 2 submission, this is because the 11%

affordable offer appears very low and requires further justification. The applicant should furthermore confirm whether engagement with RSLs has taken place in regards to the affordable housing offer in the scheme.

- **Employment:** Although the site is identified as a locally significant industrial site (LSIS) it is recognised that the overall site area redevelopment meets the replacement floorspace requirements set by the Rainbow Industrial Estate Planning Brief.
- **Urban design:** The design of the proposed development has been significantly improved through the pre-application process, the initial design has been comprehensively revised and GLA officers comments have been positively responded to in the submitted masterplan.
- **Access:** Since the pre-application stage the applicant has responded in full to issues raised in relation to inclusive design in its Design & Access Statement.
- **Energy:** The carbon dioxide savings fall short of the target within Policy 5.2 of the London Plan. The applicant should fully address the energy comments set out in this report and in particular consider the scope for additional measures aimed at achieving further carbon reductions.
- **Transport:** A further 8 cycle parking spaces are required for the light industrial use, the location of visitor cycle parking should be identified in a plan, whilst shower and locker facilities are required for both commercial aspects of the development; Network Rail & TfL would welcome the opportunity to discuss the proposals in context of Crossrail 2 land safeguard requirements and the development proposals; further swept path analysis for the Kiss and Ride proposals is required before the proposals can be approved; further clarification is required in relation to the Travel Plans; and the applicant should provide a construction logistics plan and delivery service plan that will be secured by condition and TfL requires that a car park management plan be secured through the section 106 agreement.

7 Taking each of the matters in turn, the following is noted:

Housing

Housing mix & quality

8 At stage 1, it was set out that the the proposed housing mix fell short of the minimum development brief requirement and the applicant was required to increase the number of 3 bed family units. The applicant has since amended the housing mix (Table 1) by increasing the number of three bed units to 20%. This is deemed compliant with guidance, given in the site development and in accordance with London Plan policy 3.8.

Table 1: development mix

Size	Original mix		Revised	
	No	%	No	%
1 bed	89	38.9	79	35.3
2 bed	101	44.1	100	44.6
3 bed	39	17.0	36	16.1
Townhouses	0	0	9	4.0
Total	229	100	224	100

Affordable housing

9 At stage 1 it was noted that the 11% affordable offer appeared very low and required further justification. The applicant's affordable housing viability assessment has since been reviewed on behalf of Merton Council and following negotiation the affordable offer has been increased from 11% to 15% affordable housing on-site. Merton Council is additionally proposing that a clawback mechanism will be adopted to capture any financial surplus that could be readily converted into further on-site affordable housing provision and this will be secured by in the s106 agreement, a draft of which has been provided.

10 The affordable housing viability assessment review report has been assessed by GLA officers and the negotiated offer is supported as it is been demonstrated as being the maximum viable. The inclusion of the review mechanism is welcome as this is encouraged London Plan policy 3.12. This aspect of the application is compliant with the London Plan.

Transport

11 TfL highlighted a number of issues at Stage 1 that required addressing , including disabled car parking, cycle parking, Crossrail 2 safeguarding and the kiss and ride facility, along with the need for a travel plan, delivery and servicing plan and construction logistics plan to be secured by condition or through the section 106 agreement.

12 Adequate clarification has since been provided by the applicant about the disabled and visitor car parking provision and locations. Furthermore, the cycle parking provision has been uplifted in-line with the London Plan standards, which TfL now considers to be acceptable.

13 TfL met with the applicant and Network Rail to discuss the proposed Crossrail 2 alignment at Raynes Park and how this may impact on the development. It was agreed that the proposals for Crossrail 2 were unlikely to materially impact on the development proposal. The applicant has provided its proposed layout plans to Network Rail and TfL, in order to inform the ongoing work that will be undertaken to determine the proposed alignment. TfL now considers this acceptable. It should be noted there are longer term opportunities to regenerate the wider area based on the arrival of Crossrail 2 services when committed.

14 Further swept path analysis and clarification concerning the operation of the kiss and ride facility was provided by the applicant. As this will not impact on the operation of the strategic road network, TfL considers these details are best agreed by the local planning authority, and to assist in the process a Delivery and Servicing Plan, Construction Management Plan, Car Park Management Plan and Residential and Workplace Travel Plans have been secured by condition. However, it is noted that if the council is proposing to adopt the site access road, then TfL will be required to implement the traffic signals scheme.

15 Car club membership will be provided for each residential unit for a period of five years, and this has been secured in the section 106 agreement.

16 In summary, the transport issues raised at Stage 1 have been addressed, the application is now considered to be in accordance with the transport policies of the London Plan.

Energy

17 At stage the carbon dioxide savings fell short of the target within Policy 5.2 of the London Plan and the applicant was required to consider the scope for additional measures aimed at achieving further carbon reductions. The applicant has since provided a revised energy strategy that achieves 40% carbon savings target set by London Plan policy 5.2, with the specification of the CHP boiler (Hovel UltraGas 15-2000D Condensing Boiler) being added to condition 30 relating to CHP installation. There are no outstanding issues relating to energy.

Response to consultation

18 Merton Council consulted the occupants of 106 neighbouring properties for application one and 106 for application two as well as statutory and non-statutory organisations. A total of 45 responses were received and these objections in relation to the following issues:

- Loss of employment land.
- Housing mix.
- Affordable housing.
- Crossrail 2 safeguarding.
- Access, parking, traffic and highway safety.
- Height, bulk and massing.
- Impact on neighbour amenity.
- Noise, air quality, flood risk and contamination.
- Impact of community infrastructure – schools, healthcare clinics and rail services.
- Functioning of the kiss and ride.

19 GLA officers also received a representation from Merton Councillor David Dean and a meeting was held at City Hall on 8 October 2015 to discuss issues in relation to the application decision by the borough. GLA officers subsequently held a site visit on 29 October 2015 with representatives of objectors to the application where issues were discussed on –site.

20 Most of the issues raised are queries relating to Merton Council's adopted Rainbow Industrial Estate Planning Brief, which establishes the principle of mixed use development and has been the statutory guide to GLA officers on the principle of the site's redevelopment. A number of the issue are of a local nature (most significantly relating to local transport and roads) and have been addressed in the Council's committee report and addendum.

21 In relation to design related issues GLA officers are supportive of the scheme design as a number of the changes were achieved following advice provide at two pre-application meetings held with the applicant. Both housing mix and affordable housing offer were raised as issues at Stage 1 and have subsequently been resolved as set out in this report. TfL have provide advice on Crossrail 2 safeguarding and that the proposals will not impact on the operation of the strategic road network and with the detailed design in relation to the road access and kiss& ride as being at matter to be agreed by the local planning authority.

22 Representations were also received from the following statutory organisations and bodies:

- **Environmental Agency:** no objections to the proposed development subject to conditions regarding assessment and mitigation of site contamination which are included as conditions and an informative in the committee report.

- **Network Rail:** the applicant should contact asset protection regarding the site and agree to agree to Asset Protection Agreement with Network Rail to enable approved works. This is secured by condition.
- **Natural England:** advice provided on ensuring species protection that is achieved through an informative.
- **London Fire and Emergency Planning Authority (LFEPA):** raised concerns over burning of materials in connection with site clearance.
- **Thames Water:** No comment.
- **Bat Conservation Trust:** assurance required over bat protection and if found on site the planning permission is considered sterile and the developer must apply for a license to undertake any works. This is subject of an informative.

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

23 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 (if applicable) and a planning obligation, which satisfactorily addresses the matters raised at stage 1, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

24 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.

25 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

26 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.

27 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.

28 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

29 Having regard to the details of the application, the matters set out in Merton Council's committee report, its draft decision notice and the draft section 106 agreement, the scheme is acceptable in strategic terms. Further information has been provided and conditions and planning obligations have been secured where appropriate, which address the outstanding issues that were raised at Stage 1. On this basis, there are no sound reasons for the Mayor to intervene in this particular case.

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