

Tolworth Tower, Tolworth Broadway

in the Royal Borough of Kingston Upon Thames

planning application no. 15/16356

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 and refurbishment of the Tolworth Tower complex comprising the part change of use of the existing tower to create 68 serviced apartments, 108 residential uses and 4,920 sq.m. of upgrade office space. Erection of new buildings (5/12/15/19-storeys) to provide 962 sq.m. of upgraded retail floorspace and 200 residential units with associated parking, access, public realm and landscaping.

The applicant

The applicant is **CNM** Estates, and the architect is **CJCT**.

Strategic issues

The provision of 308 **residential** units is strongly supported. Further information regarding **affordable housing, urban design, inclusive design, energy** and **transport** has been submitted to address the strategic issues raised in the Mayor's earlier representation.

The Council's decision

In this instance Kingston Council has resolved to grant permission.

Recommendation

That Kingston 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 26 May 2016 the Mayor of London received documents from Kingston 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:

- "Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats"

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

2 On 3 July 2015 the Mayor considered planning report D&P/3561/01, and subsequently advised Kingston Council that while the application is generally acceptable in strategic planning terms the application does not comply with the London Plan, for the reasons set out in paragraph 69 of the 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, the application has been revised in response to the Mayor’s concerns (see below). On 12 January 2016 Kingston Council decided that it was minded to grant planning, and on 19 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 Kingston Council under Article 6 to refuse the application or issue a direction to Kingston 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 1 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

Housing

5 At the consultation stage the scheme did not provide any affordable housing. The applicant had submitted a financial viability assessment which suggested that the scheme is unviable providing 100% market units. At the time the Council was advised that given the current residential sales values currently being achieved in London even in suburban locations, it is expected that some affordable housing can be provided as part of the scheme.

6 Since then the applicant’s financial appraisal has been independently assessed on behalf of the Council. The independent review concurs that the scheme cannot support any affordable housing however it recommends that due to the size of the scheme and the build time a review mechanism should be introduced in the form of a capped overage to capture any uplift in values. This review mechanism has been agreed by the applicant and will be secured through the S106 agreement. In addition the applicant has taken its own view on the variables in the viability appraisal and concluded it is viable to offer a financial contribution of £3,000,000 towards off-site affordable housing provision and 10 on site discounted market sale units. The provision of which will be secured through the S106 agreement.

7 Whilst the provision of 10 (3%) discounted market sale units and a review mechanism is supported, GLA officers are disappointed that the applicant will not provide the £3,000,000 of affordable housing on-site. Policy 3.12 of the London Plan states that affordable housing should normally be provide on-site and that off-site contributions will only be accepted in exceptional cases where it can be demonstrated robustly that it is not appropriate. However it is also noted that the applicant estimates that the proposed contribution could deliver circa 25 new affordable homes off-site compared to 12 units on-site. As such the proposal provides above the maximum reasonable amount of affordable housing and therefore complies with London Plan policy 3.12.

Urban design

8 At the consultation stage the Council was advised that the provision of 9 units per core exceeds the Mayor's residential design standards. GLA officers suggested adding an additional core to the building to create clusters of units.

9 Since then the applicant has submitted an updated Design and Access statement which explains how the inclusion of an additional core will have a detrimental impact on the ground floor retail space. As such given the overall quality of the units, and the fact that the number of units per core is limited to nine, no further objection is raised.

10 Since the consultation stage the design of the new buildings has been amended. In December 2015 the heights of the 4 new buildings were altered to create a graduated increase in height across the scheme towards Tolworth Tower. This replaced the varied heights originally proposed. The towers remain subservient to the existing Tolworth Tower and the readjustment of heights raises no strategic concern.

Inclusive design

11 At the consultation stage the Council was advised that details of the accessibility provisions for the serviced apartments need to be provided. This information has been provided in the amended design and access statement.

12 Details of where the adaptable residential units are to be located were also requested. The Council was also advised to secure the provision of wheelchair accessible units and Lifetime Homes standards through condition. This information has not been submitted by the applicant and the conditions were omitted from the draft decision notice considered by Kingston Council's planning committee. However the Council has confirmed a condition which secures the submission of a plan detailing the location and provision of the wheelchair accessible units and residential design standards will be added to the final decision notice. As such the proposal complies with London Plan policy 7.2.

Energy

13 At the consultation stage the Council was advised that further work was required to reduce anticipated overheating of units to remove the need for mechanical cooling. Dynamic overheating modelling in line with CIBSE Guidance TM52 and TM49 should be completed. Further investigations of district heating opportunities should be taken, and further details provided in relation to the site heat network and CHP options. Further discussion should be had in relation to how the shortfall of emissions would be met.

14 Since then the applicant has provided an assessment of a sample dwelling γ -value showing that a value of $0.04 \text{ W/m}^2\text{K}$ could be achieved for that particular dwelling with modelled junctions. The applicant has stated that contact has been made with the neighbouring development and that due to the infrastructure a connection has been determined to be unlikely. The applicant has stated that it would be possible to increase the level of insulation but that this would increase the void space and reduce the floor to ceiling height further. The applicant has also explained that the limiting factor for the corridor height is the apartment door height at 2.2 metres and stated that an increase in insulation will impact on the door height. Due to the height restrictions imposed by the existing building structure it is accepted, in this instance, that a CHP distribution may not be appropriate for this particular scheme. No further information is required. As such the proposal complies with the London Plan policies on energy.

Transport for London's comments

15 TfL highlighted a number of transport issues at the consultation stage, including car parking and blue badge provision, trip generation and mode share, cycle parking and pedestrian and cycle improvements. Contributions towards a study of the current operation of the roundabout and buses were also requested, 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.

16 The overall car parking provision proposed will remain unchanged from that originally proposed however the allocation between the different uses on site has been changed. TfL still considers that the residential car parking ratio to be excessive, given the site's proximity to the train station and bus routes, along with the provision of a travel plan, and TfL also had discussions with the Council about adopting a Controlled Parking Zone in the surrounding area; However TfL do not consider that there are sufficient grounds to object on this occasion.

17 Adequate clarification was provided by the applicant concerning the disabled car parking provision. Adequate clarification was provided by the applicant concerning trip generation and mode share and TfL now considers this acceptable. Adequate clarification was provided by the applicant concerning the cycle parking provision, which TfL now considers to be acceptable. Further clarification was provided by the applicant concerning on-site pedestrian and cycle improvements, which TfL now considers to be acceptable.

18 A contribution of £375,000 has been secured to mitigate the impact of the proposed development on the capacity of the bus network, to be secured through the section 106 agreement.

19 A contribution of £50,000, payable to the Council, has been secured towards a study of the current operation of the roundabout, to be secured through the section 106 agreement. TfL is also undertaking a VISSIM model assessment to understand what future improvements might be possible at the junction. It is recommended on this occasion that the borough CIL could be used to pay for future improvements.

20 A Delivery and Servicing Plan, Construction Management Plan and Car Park Management Plan have been secured by condition. Workplace and Residential Travel Plans are to be secured through the section 106 agreement.

21 Car club membership will be provided for each residential unit, and this has been secured in the section 106 agreement.

22 TfL requests further discussions with the Council on the payment triggers and final wording of the s106 agreement.

23 In summary, subject to further discussions on the s106 agreement, the transport issues raised at the consultation stage have been addressed, the application is now considered to be in accordance with the transport policies of the London Plan.

Other representations

24 The Hook Rise Residents Association object to the proposal. It considers the proposal to be overdevelopment of the site which is out of keeping with the suburban shopping centre. Tall buildings are not appropriate in Tolworth as it is not a town centre. The existing tower is not the prevailing character of the area. It will impact on long range views to Tolworth. Loss of 100 car parking spaces will be detrimental on the surrounding area. It exceeds the London Plan density

matrix and has insufficient 3-bedroom units. It will negatively impact air pollution. The cumulative impact of approved and soon to be determined development in the vicinity with this proposal will impact on local service provision.

25 The Kingston Upon Thames Society consider the proposal a good mix of residential accommodation that either meets or exceeds the London Plan space standard. It welcomes the proposals and considers the planned mix of residential, office and retail uses appropriate. Support improvements to the public realm. It trusts that the Council's CIL will be adequate to fund public services. It trusts that the Council will secure the full provision of affordable housing. The cumulative impact of this and the St George's Gate scheme should be considered.

26 Epsom and Ewell Council support the provision of high density development to provide more residential units however it could impact on house building activity elsewhere. Concern is raised over the impact upon the highway network in its area. Concern is also raised on the impact on local schools.

27 Historic England raise no objection.

28 Sport England object as a non-statutory consultee on the lack of sports provision on site and the lack of contributions towards sports provision in accordance with the Sport England Sports Facilities Calculator.

29 Environment Agency raise no objection.

30 Thames Water raise no objection subject to conditions on pilling.

31 Kingston Council received 64 letters of objection. The Mayor has received 37 letters of objection (22 from local residents, 1 from Councillor Richard Hudson and 1 from MP James Berry) Objections relate to:-

- Height of the proposal is out of keeping with Tolworth
- Design and density of the proposal
- Change of use of the existing tower
- Internal layout should meet GLA space standards
- Cumulative impact of the proposal needs to be considered with the Tesco site
- No affordable housing
- No extension to retail provision just replacement
- Lack of amenity space for the residents
- The pocket park does not meet GLA standards
- Insufficient 3 bedroom units
- Local transport calming measures needs to be secured in S106 agreement
- Impact on access in and out of the Sunray Estate

- Lack of parking in the area/insufficient parking in the proposal
- The transport assessment should not rely on Crossrail 2
- Retail parking should be on the ground floor only
- Need for a CPZ in neighbouring streets
- Loading and delivery directly on the Broadway will cause congestion
- Insufficient social infrastructure to cope with additional residents
- Capacity of sewers and surface water systems
- Increase in vehicle emissions
- Wind could cause issues for vulnerable people
- Serviced apartments could be used for prostitution
- Effect of construction on local businesses
- Loss of light and privacy
- Subways should be refurbished as residents will use them to get to the station and CCTV cameras to stop graffiti
- No local residence meeting to discuss the proposal

32 A petition run by the Kingston Liberal Democrat Party with 1,015 signatures has been submitted to the Mayor. The petition asks him to call in and overturn the decision of Kingston Council's planning committee.

33 Kingston Council also received 53 letters of support, these relate to:-

- Design and appearance of the proposal
- Under occupation of the existing tower
- Regeneration will improve the retail offer and create jobs
- Improvements to site accessibility
- Proposal will contribute towards affordable housing

Response to representations

34 Issues relating to the design, uses, density, housing, play space and transport have been addressed in both this and the previous report (D&P/3561/01).

35 In this instance issues relating to wind, pollution, loss of light and privacy are not strategic planning matters and have been addressed by Kingston Council in its committee report.

36 Matters relating to prostitution, public meetings and loss of earnings during construction are not planning matters.

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

37 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 1, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

38 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

39 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.

40 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.

41 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

42 The provision of 308 residential units is strongly supported. Further information regarding affordable housing, urban design, inclusive design, energy and transport has been submitted to address the strategic issues raised at the consultation stage.

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