

5 March 2024

Further Update Report: GLA/4795/03

Homebase, Manor Road, North Sheen in the London Borough of Richmond upon Thames

planning application no. 19/0510/FUL

This Further Update Report sets out a further update to address matters which have arisen since the Mayor considered the Update Report and the Addendum on 18th December 2023 (GLA/4795/03).

19 December 2023 NPPF

1. On 19 December 2023 an update to the NPPF was published. In addition to the updates to paragraph numbers, the main changes are considered below.
2. The NPPF includes a focus on providing a framework to provide sufficient housing in a sustainable manner (para. 1) and meeting an area's identified housing needs, including an appropriate mix of housing type for the local community (para. 15 and 60). GLA Officers have reviewed these changes and do not consider that they alter the recommendation to the Mayor.
3. The NPPF clarifies that sustainable development includes the provision of homes, commercial development and supporting infrastructure in a sustainable manner (para 7) and identifies that housing need should be accommodated within the relevant city/ urban centre (para 62). GLA officers consider that the proposal accords with these paragraphs in that housing is accommodated in an established urban area.
4. The NPPF identifies the need for the LPA's to monitor their deliverable land supply against their housing requirement and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites (para 75). As highlighted in the previous Mayor's reports this site is identified as an allocated site entitled Site allocation 29.
5. The NPPF identifies the need to achieve beautiful buildings (rather than attractive) as an outcome of 'healthy and safe communities' (para 96). As highlighted in the Mayor's reports to date the design of the proposal is considered to be line with this paragraph and the conclusions within the previous Mayor's reports remain unchanged.
6. The NPPF states that when considering appropriate densities and the need to make efficient use of land, the importance of creating beautiful, in addition to well designed, attractive and healthy places should be taken into account (para 128e). As highlighted above the proposal is of an appropriate density, makes sufficient use of land and underlines the principles of being a beautiful design as it would create

an attractive addition to the townscape.

7. The NPPF still advocates the use of character assessments, design guides and codes to ensure land is used efficiently while also creating beautiful spaces. As highlighted in the previous Mayor's reports, GLA Officers consider that the design is both appropriate and acceptable (paras 129 & 130).
8. The NPPF places greater emphasis on the need for conditions to refer to clear and accurate plans and drawings and use of materials to provide visual clarity and the design of development. The planning permission is drafted to accord with this paragraph.
9. The NPPF sets out that LPA's must now give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings. The proposal accords with the principles of sustainable development outlined in the previous Mayor's reports as well as this Further Update with suitably worded conditions and obligations attached where necessary.

Richmond local plan

10. The 'Publication' Richmond Local Plan along with the evidence and feedback received at public consultation events were submitted to the Planning Inspectorate in January 2024. The next step in the process will be their Examination. This change of status affords the draft Local plan a little more weight. However, it remains at an early stage and so should still be afforded limited weight in the overall planning balance. GLA officers do not consider that it is sufficient to warrant a change to the conclusion reached in respect of the planning application in the previous Mayor's reports.

Section 106 agreement

11. In July 2023, in advance of the re-consultation discussed within the Mayor's Update Report on 18th December 2023, the applicant requested as part of the PPA process to restart the section 106 discussions. There had already been lengthy discussions on the draft section 106 between the applicant, the GLA and the Council following the Mayor's decision at the Representation Hearing on 1 October 2020 and prior to it. However, these discussions had paused when changes to the scheme were proposed.
12. In July and August 2023 GLA Officers invited Richmond Council Officers to re-engage with these section 106 discussions following the submission of the amended application proposals. Following publication of the Update Report and the accompanying draft section 106 agreement and draft decision notice on the 4 December 2023, the GLA officers were informed by Richmond Officers on 18 December 2023 that the Council were fully prepared to work with both the GLA and the applicants on the S106, however, within an agreed timetable to allow the necessary consultees to review the Section 106 agreement. The Council also sent the GLA their review of the draft Section 106 with comments on 12 January 2024.
13. However, following further discussions with the Council they confirmed via email on 8 February 2024 that whilst they were willing to continue to work with the applicant and GLA in respect of the conditions and section 106 agreement they would not be a signatory to the section 106 agreement. As explained below, the Council are not required to be a party to the section 106 agreement and section 2E(5) of the Town and Country Planning Act 1990 provides that it will in any event be enforceable by

the Council, as local planning authority.

14. Whilst many of the obligations within the draft section 106 agreement our now agreed between the parties there remain differences between the Council and GLA/Applicant in relation to financial contributions towards air quality, health and education which are discussed below.

Affordable Housing

15. The GLA's viability team have made further comments relating to elements to do with London Shared Ownership, Council Grant Funded Units, Social rent and review mechanisms. In terms of review mechanisms, this scheme provides 40% and as explained in the Mayor's Hearing Report (notably paragraphs 139 and 145), paras 28-34 of the 2022 Update Report, and paras 33-40 of the 2023 Update Report, for the purposes of London Plan policy the application qualifies for the Fast Track route and therefore there is no London Plan requirement for a mid or late stage review (albeit an early stage review is required and secured in the Section 106 agreement).
16. The Local Plan (Policy LP36) does not require mid/late stage reviews (it provides a policy basis for a review prior to implementation only) however GLA Officers are mindful that this is introduced into the draft Richmond Local Plan (Policy 11) for schemes with less than 50% affordable housing. This draft policy is subject to unresolved objections and has not yet been subject to independent examination and therefore should be given limited weight in decision making as explained above. For these reasons, GLA Officers consider that the 40% affordable housing secured under the Section 106 agreement represents the maximum amount that can be delivered, and it is not necessary to impose obligations to secure mid/late stage reviews for the development to be acceptable (noting that an early stage review obligation is secured).
17. Turning to the Council's request for more units to be converted, after consideration, GLA Officers consider that the number of potential additional homes that the applicant is willing to make available is reasonable, in that it demonstrates a reasonable commitment to seek grant to increase the level of affordable housing taking account of the strategic 50% target and the criteria at H6 for Fast Track.
18. In terms of social rent (SR), the offer consists of LAR units and that there is no requirement for any social rent provision (or re-provision) in this application and on this basis GLA Officers accept the applicant's position on choosing SR/LAR.
19. In terms of London Shared Ownership, the applicant has agreed to the wording suggested by the Council's which is to be reflected in the s106 agreement.
20. In summary, GLA Officers are satisfied that the affordable housing offer is acceptable and will be secured within any Section 106 agreement.

Air Quality

21. The Council has requested contributions towards air quality mitigation totalling £76,400. As highlighted in the Update Report at paragraph 82, GLA Officers do not consider that a financial contribution is necessary to make the development acceptable on the grounds that it is an air quality neutral scheme. In addition, a suitably worded planning condition is recommended as set out on the draft

decision notice and GLA Officers consider that the proposal is compliant with Policy SI 1.

Health

22. The Council's position is that the Council's Planning Obligation SPD, which is a material consideration, sets out that the Health Impact Assessment should assess the health impacts of a development, including using the London Healthy Urban Development Unit (HUDU) guidance and Planning Obligations Model to calculate the capital cost of the additional health facilities required to meet the increased demand which arises from new developments, in line with policies LP 30 and 51 of the adopted and emerging Local Plans respectively. The report states the NHS London Health Urban Development Unit have requested a financial contribution towards health facilities and as a minimum would expect the original figure to be uplifted by the Building Cost Index to current prices then indexed with the S106.

23. However, the paragraph continues to conclude, *"the applicant has undertaken a Health Impact Assessment.....which demonstrates that there is sufficient capacity to absorb the demand of development whilst still falling below the HUDU benchmark. Accordingly, there is no need for a further update to the health contribution"*.

24. The Council's response stated the following:

'The Report wholly fails to take into account the HUDU Model that was updated in July 2022, following the October 2020 Hearing, which now includes build costs which has produced significantly higher figures. The LPA has been copied into an email from Head of the NHS London Healthy Urban Development Unit to the GLA, which set out their position that the original primary care mitigation (£193,500) is not sufficient, given the increased understanding of health needs, and the impact of the Covid-19 pandemic the need for additional health infrastructure across acute, mental health, community and intermediate health has increased with new developments and populations as well as for primary care. The email from NHS HUDU sets out that the mitigation costs for the impact on health infrastructure, using the HUDU Model, would be £1,055,789 using the initial capital figure at 2023 costs and based on a net additional population of 597. The primary care element of the £1,055,789 figure is £395,685. As a minimum they expect the original figure to be uplifted by the Building Cost Index to current prices and then indexed within the S106 agreement. The failure to correctly report the NHS London Health Urban Development Unit comments, necessary financial contribution, misleads the decision maker and also demonstrates the scheme will not be compliant with the Development Plan.'

25. Notwithstanding the above the applicant is willing to agree to the higher £395,685 financial contribution. This accords with the HUDU calculation for the capital costs for primary health care necessary to mitigate the impacts of the development.

26. For these reasons GLA Officers consider that the increased financial contribution is acceptable and would adequately mitigate against the impacts of the development.

Education

27. In terms of recent correspondence on this matter, the Council, in their response to the Mayor's Update Report on 15 December 2024 stated that:

"The report does not address the concerns raised, nor demonstrate how the education needs will be met, as required by policy LP28 and Planning Obligations SPD.

28. The Mayor's Update Report considered on 18th December stated the following:

'School Place Planning, Richmond Council – primary provision is likely to be helped by the proposal due to there being existing capacity. However for secondary provision if the proposed school at Livingstone School is not built and opened then Richmond Council's ability to provide enough state-funded secondary school places for families occupying the proposed Homebase units would be severely compromised - In terms of secondary provision, it is reasonable to consider that families with secondary age children who reside in the proposed development might prefer a child to attend a school close to their home. However, the Council's School Place Planning Strategy (2023) recognizes that the current system for applying for and securing school places means that families with children do not necessarily choose their nearest school, nor secure a first preference choice. For a number of reasons (private education choice, the number of children who moved home but stayed in their existing school, or because they would attend a school outside the borough) means it cannot therefore be assumed that all of the secondary age children who reside in the proposed development may not require places at the three local secondary schools.'

29. In addition to the above, GLA Officers are mindful that Richmond Council stated in their Committee Report the following:

'Education - Achieving for Children advise secondary school capacity in the eastern part of the Borough is dependent on a new school being formed which is expected to be provided as part of the redevelopment of the Stag Brewery site. AfC has confirmed that the new school proposed through that application, if approved, would provide enough additional capacity to meet likely demand from the Homebase site, however, raised concerns as a decision on that application will not be made in advance of this application being determined. This application is subject to a substantial Community Infrastructure levy (CIL) sum towards Borough infrastructure, including educational provision. On this basis, the uncertainty over whether the educational need arising from the development can be met is not considered a sufficient reason to refuse this application.'

30. Furthermore, when consulted the Council responded to the October 2023 revisions stating that contributions towards education would be required '**if deemed necessary**'. (GLA Officer emphasis).

31. The Council's current position on this matter as set out within their email to GLA Officers on the 8 February 2024 is that:

'On the basis of the above, currently there is insufficient secondary school capacity to cater for the development. Planning policy and guidance allows LPAs to seek contributions towards education, and this is reflected in the August 2023 DfE document (Not be reliant on CIL). I have been discussing with AFC the methodology of working out contributions, however, there is a lack of clarity on this. However, if one took a really simplistic view, a demountable at a school

recently cost £836k (all in). It is unclear why the GLA consider the Council should pick up the education costs, and / or divert CIL money for such, when policy is so clear this should be sought through Section 106 contributions.'

32. GLA Officers consider that given that the education situation is largely unchanged from that reported within the Council's Committee Report, the lack of financial contribution toward education is not a sufficient reason for refusal, particularly as there would be a substantial CIL sum applicable to this proposal which has also been indexed since the 2019 Committee Report (* see footnote on CIL at the end of this report). Furthermore, GLA Officers do not consider that the suggested simplified methodology of working out additional financial contributions referred to in the Council's email dated 8 February is appropriate. It is not fairly and reasonably related to the proposed development and is not necessary to make the development acceptable. It is GLA officers view that the contributions towards education would adequately mitigate against the impact of the development.

Accessible Housing

33. Within the Mayor's Hearing Report at para 261 we set out the details of the proposal stating that the application would achieve a high level of accessible and inclusive design and would comply with London Plan Policies 3.8, 6.13, 7.1, 7.2, 7.5 7.6, Intend to Publish London Plan Policies D3, D7, and T6.1, the Accessible London SPG and Richmond Local Plan Policies LP35 and LP30. More recently the Update Report stated at para 117 that the proposal complied with Policy D7. To clarify this, a total of 46 units of the 453 units provided would be accessible which represents 10.1% of the overall number. Further, the provision for 17 London Affordable Rent units out of a total of 84 units represents 20.2% is welcomed albeit that will mean that there would only be 9.8% for the affordable tenure overall, i.e. just below 10%.
34. Given that there would be provision in both the affordable and private tenures GLA Officers still consider that the distribution proposed is acceptable and accords with Policy D7 of the London Plan.

Other Matters

35. Richmond Council also raise concerns in relation to refuse vehicles servicing, carbon offsets, future provision of additional disabled car parking spaces and the TVIA.
36. In terms of refuse vehicles, a revised Waste Management Strategy Addendum has been provided including swept path analysis of a vehicle of equivalent dimensions to the LBRuT Refuse and Recycling SPD, which GLA Officers consider acceptable provision.
37. In relation to carbon offset, it is acknowledged that the non-domestic element does not meet the 15% target for be lean savings. However, the London Plan is clear that this is a target, rather than a requirement and Part C of Policy SI 2 confirms that non-residential development should achieve 15 per cent through energy efficiency measures, rather than setting it out as a minimum threshold. The absolute threshold is set as a site wide reduction of 35% beyond Building Regulations being required for major developments, which the development far exceeds at 62%. GLA Officers therefore considers that the proposal is acceptable in this regard.

38. In terms of future disabled parking provision, given that the Urban Greening Factor and biodiversity net gain are controlled by a condition any additional provision would require further approval as the approved scheme would need to be altered.
39. The application is accompanied by a TVIA addendum (September 2023) and it is acknowledged that not all the views have not been remodeled. However, noting that the extent of changes to the scheme are minimal (as highlighted in the Update Report considered by the Mayor on 18 December), it is not considered that additional AVR testing for the 8 viewpoints would produce significantly different results or impacts than those previously considered acceptable. Given that the 6 tested views focus on the closer proximity views that would see the most significant change relative to all views previously tested, GLA Officers consider the TVIA Addendum (September 2023) is robust and acceptable.

Planning Conditions

40. Richmond Council also made numerous detailed comments in respect of the planning conditions in their response to the Mayor's Update Report received on 15 December 2023 including a request for additional conditions relating to Public Realm, Public Access Strategy, Gated Development and an Energy Strategy.
41. GLA Officers have considered the suggested amendments to conditions and where in agreement these have been incorporated.
42. In relation to the request for additional conditions, GLA Officers have added a further condition in relation the prevention of a gated development however it is worded so that it requires the means of enclosure and a publicly accessible strategy of the development to be submitted to and approved by the LPA. The other additional condition in relation to obscure glazing requested is not considered necessary or reasonable as the window to window overlooking distances are considered acceptable with good levels of privacy as highlighted in the Update Report (para 50 and para 298 – 300 of the Hearing Report).

Legal Implications

43. Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 ("the Act") the Mayor is acting as the Local Planning Authority for the purposes of determining this planning application.
44. Section 2E of the Act states that where the Mayor has given a direction under section 2A in relation to a planning application, the function of agreeing a planning obligation related to the application is a function of the Mayor instead of the local planning authority. Before agreeing any planning obligation, the Mayor is required to consult the local planning authority, who together with the Mayor will be able to enforce any planning obligation whether or not they are a party to the agreement.
45. This Further Update Report sets out the continuous steps taken by GLA Officers to engage, consult and agree with Richmond Council the planning obligations.
46. As the Council have confirmed that they will not be a party to the section 106 agreement because of the outstanding differences as set out within this report, the recommendation to the Mayor is that the draft section 106 proposed (attached

to this report) will be progressed without the Council as a signatory. This is consistent with the powers in section 2E of the Act and does not affect the Council's ability to enforce the agreement which is provided for by this statutory provision. The Mayor's Reports explain how the Council's comments on the draft section 106 agreement have been considered and the basis for the GLA officers' conclusions as to what is necessary, in order to make the development acceptable in planning terms.

Recommendation to the Mayor

47. That the Mayor, acting as Local Planning Authority for the purpose of determining this planning application;
- i. agrees that the policy changes made to the NPPF as set out within this report and the position in respect of emerging policy in Richmond Local Plan does not change the resolution to grant planning permission made on 1 October 2020 and further on 18 December 2023. The proposal remains in overall conformity with the development plan.
 - ii. agrees that conditional planning permission should be granted in respect of the application for the reasons set out in the 'reasons for approval' section of the Mayor's Representation Hearing Report on 1 October 2020 as amended by the Report dated 18 December 2023 and updated by this Report and subject to the prior completion of a section 106 legal agreement;
 - iii. delegates authority to the Head of Development Management to issue the planning permission and attach, add, delete or vary the final detailed wording of the conditions and informatives as required, with any material changes being referred back to the Mayor
 - iv. delegates authority to the Head of Development Management to negotiate, agree the final wording and sign and execute the section 106 legal agreement;
 - v. delegates authority to the Head of Development Management to refuse planning permission, if by 30 March, the section 106 legal agreement has not been completed;
 - vi. notes that approval of details pursuant to conditions imposed on the planning permission will be submitted to and determined by Richmond Council; and
 - vii. notes that Richmond Council will be responsible for the enforcement of the conditions attached to the respective permission.

*** Footnote on CIL**

The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see [section 216\(2\) of the Planning Act 2008](#), and [regulation 59](#), as amended by the [2012](#) and [2013 Regulations](#)). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London).

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