

Imperial House, The Hyde

in the London Borough of Barnet

planning application no. 15/04442/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

Redevelopment of Imperial House comprising the demolition of existing buildings and erection of buildings ranging from 3 to 16 storeys to provide 81 residential units (Use Class C3) and 815 sq.m. of replacement office accommodation (Use Class B1) along with landscaped courtyard and provision of 87 basement car parking spaces, 5 motorcycle spaces and 166 cycle parking spaces, vehicular access from The Greenway and vehicle out onto Edgware Road with pedestrian access from Edgware Road.

The applicant

The applicant is **Imperial House London Ltd**, the agent is **Dalton Warner Davis** and the architects are **Claridge Architects**.

Strategic issues

Barnet Council has resolved to refuse permission for this application. The Mayor must consider whether the application warrants a direction to take over determination of the application under Article 7 of the Mayor of London Order 2008.

Having regard to the details of the application, the matters set out in the committee report and the Council's draft decision notice there are **no sound planning reasons for the Mayor to intervene** in this particular case and therefore no basis to issue a direction under Article 7 of the Order 2008.

Should the scheme be considered at appeal or a revised application submitted the applicant should have regard to the following matters: the massing of the buildings and minimising overlooking of adjoining properties and provision of good quality amenity and children's playspace; and the applicant should adopt a Construction Logistics Plan, Car Parking Management Plan and Travel Plan, with associated costing for the development which would be secured through a section 106 agreement.

The Council's decision

In this instance Barnet Council has resolved to refuse permission.

Recommendation

That Barnet 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 that he is to be the local planning authority.

Context

1 On 28 August 2015, the Mayor of London received documents from Barnet 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 1C (building height) of the Schedule to the Order 2008:

- ‘1C: 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 8 October 2015, the Mayor considered planning report D&P/3740/01 , and subsequently advised Barnet Council that the application did not comply with the London Plan, for the reasons set out in paragraph 62 of the above-mentioned report; but 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. On 24 February 2016, Barnet Council, resolved to refuse planning permission for the application and on 3 March 2016 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, or issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application. The Mayor has until 16 March 2016 to notify the Council of his decision and to issue any direction.

4 The Council’s draft decision notice includes the following reasons for refusal:

- The proposed development, by virtue of its excessive height, scale and massing would represent a discordant and visually obtrusive form of development that would fail to respect its local context and the pattern of development in its context, to such an extent that it would be detrimental to the character and appearance of the area. The proposal would therefore not constitute a sustainable form of development and would be contrary to policies CS NPPF, CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies (September 2012), policies 3.4, 7.4, 7.6 and 7.7 of the London Plan (July 2011, October 2013 and January 2014). *The borough should note the correct reference should be London Plan (Consolidated with alterations since 2011) March 2015 and Draft Minor Alterations to the London Plan (2015).*
- The proposed development, by virtue of its excessive height and proximity to the residential properties to the north and east would represent an overly dominant form of development that would significantly diminish the outlook of the neighbouring occupiers to the detriment of their living conditions. The application is therefore contrary to CS NPPF and DM01 of the Barnet Local Plan Core Strategy and Development Management Policies (September 2012), policy 3.5 of the London Plan (July 2011, October 2013 and January 2014) and the Barnet Sustainable Design and Construction and Residential Design Guidance Supplementary Planning Documents (April 2013). *The borough should note the correct reference should be London Plan (Consolidated with alterations since 2011) March 2015 and Draft Minor Alterations to the London Plan (2015).*

- The application does not include a formal undertaking to secure a contribution to affordable housing provision to meet the demand for such housing in the area. The application is therefore unacceptable and contrary to policies CS NPPF, CS4, CS15 and DM10 of the Barnet Local Plan Core Strategy and Development Management Policies Document (both adopted September 2012), policies 3.12 and 3.13 of the London Plan (adopted July 2011 and October 2013), the Barnet Planning Obligations (adopted April 2013) and Affordable Housing (adopted February 2007 and August 2010) Supplementary Planning Documents and the Mayoral Housing (adopted November 2012) Supplementary Planning Guidance.
- The application does not include a formal undertaking to secure the planning obligations which are necessary for the development to be found acceptable. The application is contrary to London Plan policies 4.3, 4.12, 6.3, 6.9, 6.10, 8.2, policies DM14, DM17, CS8, CS9 of the Barnet Local Plan Core Strategy and Development Management Policies Document (adopted September 2012), the Barnet Planning Obligations (adopted April 2013) Supplementary Planning Document and the Barnet Supplementary Planning Document on Delivering Skills, Employment and Enterprise Training (SEET) (adopted October 2014).

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

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

6 The initial policy test regarding the Mayor's power to take over and determine applications referred under categories 1 and 2 of the schedule to the Order is a decision about who should have jurisdiction over the application rather than whether planning permission should ultimately be granted or refused.

7 The policy test consists of the following three parts, all of which must be met in order for the Mayor to take over the application:

- a) significant impact on the implementation of the London Plan;
- b) significant effects on more than one borough; and
- c) sound planning reasons for his intervention.

8 Parts (a) and (b) of the test identify the impact an application would have on the Mayor's policies and the geographical extent of the impact, whilst part (c) deals with the reasons for the Mayor's intervention, having regard to the Council's draft decision on the application. These tests are intended to ensure that the Mayor can only intervene in the most important cases.

9 This report considers the extent to which the policy tests under Article 7(1) apply in this case and whether, therefore, the Mayor should direct that he is to be the local planning authority and apply the tests set out under Article 7(3) of the Order 2008. In this instance the second does not apply (see paragraph 7 (4) of the Order).

Policy test 7(1) (a): Significant impact on the implementation of the London Plan

10 There are not significant impacts on the implementation of the London Plan because the proposed scheme would have delivered 81 residential units and 815 sq.m. of replacement office floorspace. In context of the London Plan strategic delivery of residential units for Barnet this is a very small proportion (0.3%) of the annual monitoring target of 2,349 units. The scheme is also not part of a larger development project which could be curtailed by its refusal. The decision

therefore raises no significant concern in relation London Policy 3.3 Increasing Housing Supply and furthermore the refusal does not exclude residential development on the site in the future where the residential numbers could come forward with refinements to existing proposals.

Policy test 7(1) (b): Significant effects on more than one Borough

11 There are not significant effects on more than one borough because although the site falls within the Colindale/ Burnt Oak Opportunity Area which crosses two boroughs and the site is right on the borough boundary on the Edgware Road between Barnet and Brent. The refusal will not give rise to significant effects on the objectives of the OAPF as the scheme is for 81 residential units and in terms of housing numbers potentially delivered is not strategically significant in its own right.

Policy test 7(1)(c): Sound planning reasons for intervening

12 Notwithstanding parts a) and b), part (c) of the policy test is whether the Mayor considers there to be sound planning reasons to intervene. Having regard to the details of the proposal and the Council's draft reasons for refusal, together with the outstanding issues from stage one described in paragraphs 14 to 17 below, there are no sound planning reasons to intervene in this case.

13 The decision of Barnet Council is the refusal of a mixed use residential and office application (D&P/3629a) for 81 residential units with 815 sq.m. of replacement office floorspace. There are four reasons for the refusal and these are the development design relating to excessive height, massing and scale; impact of the development on adjacent properties; the failure to give a formal undertaking to secure a contribution to provide affordable housing to meet local demand; and a failure to include a formal to secure planning obligations.

14 The primary reason for refusal is that the building design in terms of height, scale and massing. This is based on two linked issues, the first is that development does not respect the local context and this is detrimental to the character and appearance of the surrounding area. The second is that the development form has an adverse impact on surrounding properties in the immediate vicinity of the site in terms of privacy and outlook.

15 At stage 1 GLA officers had less concern over the building height, but issues were raised in relation to massing, potential overlooking of adjoining properties and provision of sufficient amenity and functional doorstep playspace. The application proposals were not subject to a GLA pre-application meeting and the first opportunity to comment on the proposals were at Stage 1 submission when the design process had been completed. After discussion with Barnet Council Officers on balance it was accepted that sufficient mitigation had been put in place to limit overlooking and the overbearing impact on adjacent properties and assurance given over shared amenity and children's playspace provision. Barnet Council members' decision indicates that there remains a local issue with the buildings height, scale and massing and on its impact adjacent residential properties. The refusal does not justify intervention on this issue as further refinement of the design would be beneficial to the overall design quality.

16 At stage 1 an initial affordable housing offer was made of 20% affordable units (16 units) and as requested the applicant's viability assessment was independently reviewed on behalf of Barnet Council. This concluded that a high percentage of affordable housing was achievable on site. The applicant subsequently revised its viability assessment and the affordable housing offer was increased to 25% (20 units) with a tenure split 70/30 between social rented and shared ownership and this offer was accepted by Barnet Council officers.

17 In order for the Mayor to issue a direction that he is to be the local planning authority, all relevant policy tests must be met. Given policy test (c) has not been met, there is no basis to issue a direction under Article 7.

Matters the Mayor must take account of

18 The Mayor must take account of the Council's current and past performance against development plan targets for housing and affordable housing.

19 The Barnet Council housing target for additional homes between 2015/16 and 2024/25 in Barnet Council area is 23,489, with an annual monitoring target of 2,349. The London Plan Annual Monitoring Report 11 indicates that Barnet Council delivered (2013/14) 1,023 units or 45% of its annual target, whilst the draft London Plan Annual Monitoring Report 12 states the borough delivered (2014/15) 1,327 units or 52% of its annual target. Although the Borough completions performance falls below a relatively high London Plan target the application refusal and non-delivery of 81 units is a relatively minor compared to other strategically residential developments coming forward in the opportunity area..

20 The affordable housing target for Barnet Council is 366 affordable homes (5,478 by 2025/2026). The London Plan Annual Monitoring Report 12 indicates that for the last three years (full) the Borough has delivered 408 units (2012), 320 units (2013) and 368 units with a total delivery of 1,096 with average of 28% of total net conventional supply. The refused scheme would mean the loss of 25 affordable units which although regrettable is a small proportion (6%) of the annual affordable requirement.

21 The Mayor must also take account of the Council's current and past performance against other relevant development plan targets applicable to this application.

Issues outstanding

22 Notwithstanding the above, should the scheme be considered at appeal or a revised application submitted the applicant should have regard to the following matters considered below.

23 In the event of the application being permitted at appeal, the applicant should agree to adopt a Construction Logistics Plan, Car Parking Management Plan and Travel Plan, with associated costing for the development which would be secured through a section 106 agreement.

Response to consultation

24 Barnet Council had two rounds of consultation and consulted the occupants of 505 neighbouring properties (twice) and the application was publicised by a site notice and press notice. Statutory and non-statutory organisations were also consulted. A total of 20 letters of representations were received objecting to the development proposals.

25 The objections raised were in relation to residential development are as follows:

- Block A is excessively tall and is out of context within its surroundings.
- The proposed road is too narrow and would cause local congestion.
- The development would result in a loss of light in neighbouring properties.
- The development will put additional strain on local services.
- The development would result in a loss of privacy to neighbouring residents.
- The development would create additional noise disruption to local residents and adjacent banqueting business.
- The scheme is not of a high aesthetic quality.

- The development would result in additional local traffic problems.
- The scheme did not respond to issues raised during local consultation.
- The proposals constitute overdevelopment.
- The development does not sufficiently protect the future development of the adjoining site to the north.

Andrew Dismore (London Assembly Member)

- The development proposes an excessive density.
- The development will put additional strain on local services.
- The amenity and playspace space is inadequate.
- Insufficient affordable housing.
- The 16 storey element is too high and overall scheme is overdevelopment.
- The development would result in overlooking of windows and amenity areas of adjacent properties.
- Insufficient car parking which would result in off-site parking stress.
- The development would result in excessive traffic during and after construction.
- The development would result in a loss of light in neighbouring properties and gardens.
- The amenity space would suffer from a lack of natural life.

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

- **Environmental Agency:** No objections to the proposed development subject to conditions relating to flood risk and groundwater that are included in the committee report.
- **Historic England:** Due to location on Watling Street Roman road condition required to investigate site which is included in the committee report.
- **London Fire and Emergency Planning Authority:** Lack of clarity over how fire appliances access would be feasible and recommended condition relating to inclusion of a sprinkler system. These issues are addressed in the committee report.

Legal considerations

27 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor 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. 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

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 the committee report and the Council's draft decision notice there are no sound planning reasons for the Mayor to

intervene in this particular case and therefore no basis to issue a direction under Article 7 of the Order 2008.

30 Should the scheme be considered at appeal or a revised application submitted the applicant and all parties to the appeal should have regard to London Plan policies and the following: the massing of the buildings and minimising overlooking of adjoining properties and provision of good quality amenity and children's playspace. The applicant should also agree to adopt a Construction Logistics Plan, Car Parking Management Plan and Travel Plan, with associated costing for the development which would be secured through a section 106 agreement.

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