

18 February 2016

Nightingale House, 65 Curzon Street
Mayfair, W1J 8PE
in the City of Westminster
planning application no. 15/07627/FULL

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

Application for full planning permission and conservation area consent for demolition of existing office (Class B1) building (4,810sq.m. GIA) and redevelopment, including excavation, to create up to three basement storeys, ground and eight storeys comprising: a ground floor arcade between Stratton and Curzon Street, up to 797sq.m. GIA retail floorspace (Classes A1 and A3), up to 32 residential flats (6,654sq.m. GIA), up to 21 car parking spaces, basement and rooftop plant areas.

The applicant

The applicant is **LGPS Nominee (Canterbury) Limited** and the agent is **JLL**. The architect is **Pilbrow & Partners**.

Strategic issues

The residential-led mixed-use redevelopment of the site within the **Central Activities Zone** is in accordance with strategic policy objectives. Outstanding strategic planning issues relating to **housing, inclusive design** and **climate change** have been satisfactorily addressed. The **transport** issues have generally been satisfied, subject to the relocation of the taxi bays.

The Council's decision

In this instance the City of Westminster has resolved to grant permission.

Recommendation

That the City of Westminster 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.

Context

1 On 9 September 2015, the Mayor of London received documents from the City of Westminster 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 of the Schedule to the Order 2008:

Category 1C

1. Development which comprises or includes the erection of a building (c) that is more than 30 metres high and is outside the City of London.

2 On 20 October 2015, the Mayor considered planning report D&P/3653/01, and subsequently advised the City of Westminster that while the application was generally acceptable in strategic planning terms, the application did not comply with the London Plan, for the reasons set out in paragraph 68 of that report but that the possible remedies set out in the same 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 26 January 2016, the City of Westminster followed the Council officers' recommendations to approve the scheme and resolved to grant planning permission for the application. On 4 February 2016, the Council 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, and any connected application. The Mayor has until 18 February 2016 to notify the Council of his decision and to issue any direction.

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

Update

5 At consultation stage the City of Westminster was advised that the principle of the residential-led mixed-use redevelopment of the site was in general accordance with strategic planning policy and was supported. However, the proposal raised a number of strategic planning issues that needed to be solved to comply with the London Plan. These issues are detailed below:

Housing and affordable housing

6 At consultation stage, it was accepted that no affordable housing would be delivered on-site or off-site given the small amount of housing that would be delivered on-site, the site's high value location, and that a cash in lieu contribution may be acceptable. The planning committee report sets out that a policy compliant scheme would require a contribution of £11,888,000.

7 The applicant's viability report has been subject to an independent assessment on behalf of the Council. The Council's independent assessment accepts the applicant's position that the proposed development would not be able to support a payment towards affordable housing, and concludes that the scheme would not be viable as the residual land value (projected value) is lower than the benchmark land value (existing value). Whilst the high sales values in this location are noted, the office rental rates are also high and the applicant has the benefit of converting and refurbishing the building as a fall-back position. This is accepted and whilst it would normally be expected that some form of affordable housing contribution would be expected on high value schemes such as this, the Council's consultant has verified the conclusions in accordance with London Plan Policy 3.12.

8 In terms of the other issues raised at stage 1, the planning committee report confirms that the Council is satisfied with the proposed mix of units. With regard to play space, given the low child yield and proximity to Green Park and Berkeley Square, it is the view of the Council that it is not considered necessary to provide any playspace on site.

Urban design

9 As requested at consultation stage, key details of windows and facing materials have been secured by the Council through condition.

Inclusive access

10 The applicant has provided a series of plans as requested at consultation stage to show the accessibility compliance credentials of the proposal and has identified the location of the wheelchair units. A condition has also been secured by the Council to secure the requirements of M4 (2) and M4 (3) of the Building Regulations.

11 In response to the comments raised in the stage 1 report with regard to the suitability of the pedestrian access from the nearest public transport nodes (including Green Park station) to the site in terms of safety and quality, Council officers have advised that numerous crossing points in the area will allow users, including disabled people to access the site. Officers have also advised that the footway widths, while not ideal in some locations, reflect in part the historical nature of the Westminster highway network and numerous competing demands on highway space.

Climate change

12 At the consultation stage, it was noted that the scheme met the London Plan targets in relation to energy, however further information was required to support the savings claimed and to verify compliance with London Plan Policy 5.2.

13 The applicant has submitted an amended strategy including further information on overheating and cooling. The applicant has stated that the solar gain checks are not met for the retail units as they have been assumed to be display windows and that it will review the glazing at detailed design. The applicant should commit to ensuring that the glazing specification will meet the solar gain checks. The applicant has also provided sample modelling outputs supporting the efficiency savings claimed; further details on the heating solution for each building use and has confirmed that the communal heat network will provide heat to all units. A layout drawing of the energy centre and details of the intended maintenance of the CHP have also been provided.

14 Following various exchanges of information, the outstanding energy issues have been resolved. A condition has been imposed by the Council to secure the installation of a CHP unit, the proposed photovoltaic panels at roof level and the other climate change measures included in the energy statement.

Transport

15 With regard to the transport matters raised by TfL at Stage 1, a construction management plan, servicing management plan, electric vehicle charging points (EVCP) and Blue Badge parking spaces have been secured by condition which is welcomed.

16 At Stage 1 TfL objected to the loss of the taxi bay located on Stratton Street and taxi bays on Curzon Street, unless a suitable replacement was to be provided within the vicinity. Discussions between the applicant, TfL and the Council as to a suitable alternative location are ongoing and the Section 106 agreement will need to reflect what is agreed. The City Council has recommended that 'highways alterations required for the development to occur' are secured in the Section 106 agreement. These highways alterations will need to include a relocation of the taxi bays and not simply the removal of the taxi bays which will not be acceptable to TfL.

17 On the basis of the above with the outstanding issue of the taxi bays, TfL is satisfied that the application scheme could be considered to be in general accordance with the transport policies of the London Plan.

Response to consultation

18 Westminster City Council consulted 529 nearby owners and occupiers of the application and received a total of 4 representations, of which two letters of objection and two letters of support. The two letters of objection raised concerns on the impact of the demolition and build of the new building on the businesses in the area and residents in terms of vibration, dust, noise and increased traffic. A letter from the Heart of London Business Alliance welcomed the creation of a new direct route north from Green Park station, the provision of new homes that will support the area's retail, the commitment of the property owner to work with the Alliance to reduce the impact of deliveries and improve the handling of waste and recycling.

19 In relation to the objections and points raised, these have been addressed in the Council report and strategic matters about transport have been addressed in this report and the initial stage 1 consultation.

20 The statutory consultee, Historic England, did not wish to comment on the application.

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

21 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 Westminster Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at stage one, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

22 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

23 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government guidance emphasises that parties usually pay their own expenses arising from an appeal.

24 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.

25 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

26 Whilst no affordable housing is provided, on balance, the principle of the residential-led mixed use redevelopment of the site is in accordance with strategic policy. The issues raised at consultation stage regarding housing, urban design and inclusive access, and climate change have all been addressed. The general transport issues have also generally been satisfied. However, this is subject to securing the relocation of the taxi bays currently on site.

27 The application is now acceptable in strategic planning terms and there are no sound reasons for the Mayor to intervene in this particular case.

for further information, contact GLA Planning Unit (Development & Projects team):

Stewart Murray, Assistant Director – Planning

020 7983 4271 email stewart.murray@london.gov.uk

Colin Wilson, Senior Manager – Development & Projects

020 7983 4783 email colin.wilson@london.gov.uk

Justin Carr, Strategic Planning Manager (Development Decisions)

020 7983 4895 email justin.carr@london.gov.uk

Hermine Sanson, Senior Strategic Planner, case officer

020 7983 4290 email Hermine.sanson@london.gov.uk
