

Macdonald House, 1-3 Grosvenor Square

in the City of Westminster

planning application no. 15/07800/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

Demolition and redevelopment to provide three basement levels, lower ground, ground and first to seventh floor levels to provide 42-46 residential units (Class C3) with associated ancillary leisure facilities, car parking, cycle parking, mechanical plant and associated works within the basement levels. Creation of terraces and balconies at various levels and installation of photovoltaic panels and plant with associated screening at main roof level. Use of part of the lower ground and ground floor levels as a restaurant unit fronting Grosvenor Street (Class A3).

The applicant

The applicant is **Lodha Developers 1GSQ Ltd**, the architect is **Eric Parry Architects**, and the agent is **DP9**.

Strategic issues

Issues with respect to **housing, affordable housing, inclusive design, transport** and **climate change** have been satisfactorily addressed since Stage One. The proposed residential development is supported in strategic planning terms.

The Council's decision

In this instance, Westminster City Council has resolved to grant permission, subject to conditions and completion of a Section 106 agreement.

Recommendation

That Westminster City 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 7 October 2015, the Mayor of London received documents from Westminster City 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 1C(c) of the Schedule to the 2008 Order:

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

2 On 4 November 2015, the Mayor considered planning report D&P/3726/01, and subsequently advised Westminster City Council that while the application is generally acceptable in strategic planning terms, it did not yet comply with the London Plan for the reasons set out in paragraph 65 of that 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, amendments have been made to the scheme and further information has been provided in response to the Mayor’s concerns (see below). On 26 January 2016, Westminster City Council resolved to grant permission, subject to conditions and completion of a Section 106 agreement, and on 9 February 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 the Council under Article 6 to refuse the application or issue a direction to the 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 22 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

5 At the consultation stage, Westminster City Council was advised that while the application was generally acceptable in strategic planning terms, it did not yet comply with the London Plan for the reasons set out in paragraph 65 of that report; but that the possible remedies set out in that paragraph could address these deficiencies. This related to the following matters:

- **Housing:** The provision of 44 residential units is supported in principle. The proposed residential density and size/mix of units are acceptable. The applicant may wish to review the layout of the units that lack daylight.
- **Affordable housing:** The applicant’s viability assessment should be independently verified by the Council, and supplied to the GLA together with a copy of the Council’s independent report. Subject to the outcome of the viability assessment, the Council should confirm that the proposed affordable housing provision is in line with local needs.
- **Inclusive design:** The applicant should provide further information on the accessibility of the proposals.
- **Transport:** A reduction in the level of car parking is encouraged. Electric vehicle charging points; Blue Badge parking; controlled parking zone restrictions; showering/changing and storage facilities for staff; delivery and servicing plan; construction logistics plan; and a detailed travel plan should be appropriately secured by the Council.
- **Climate change:** Further information is required concerning the energy strategy for the site. The carbon dioxide savings fall short of the target within Policy 5.2 of the London Plan and the applicant and the Council should ensure that the shortfall is met off-site.

6 Since then, the applicant has responded to the matters raised in the Stage One report as set out below. The applicant has requested some flexibility with the number of units and the application has therefore been amended to provide up to 48 residential flats, compared to the 44 previously stated. This can be achieved through changes to the internal layout and does not affect the height, bulk or external appearance of the building and will allow the developer some flexibility to respond to market demand.

Housing

7 At Stage One, it was noted that in general the proposed residential units are of a high quality; however concerns were raised about very low levels of light that the lower ground floor studio units would receive, facing north towards a courtyard surrounded by five-six storey buildings. These flats have now been relocated to the Grosvenor Street frontage and whilst they do not achieve full compliance with BRE guidance, they do now face south-east with a more open aspect, and light levels will be improved, which is welcomed.

Affordable housing

8 At Stage One, the application indicated that an affordable housing offer would be provided on a site owned by the applicant at Dorset Close in Marylebone, in conjunction with a payment in-lieu contribution where viability allows. In recognition of the small number of units and the high market values that are likely to be achieved on the site, the Stage One Report recognised that an off-site provision of affordable housing may be acceptable in this case. It is noted that in the previously consented scheme, a Section 106 package was negotiated involving the provision of 10 affordable rent units at Dorset Close, together with an affordable housing payment of £17,295,093.

9 The current proposal again provides market residential units with no on-site affordable housing. The applicant states that the super-prime market is materially weaker than at the time when the previous application was considered, and will incur increased build costs as this scheme involves greater demolition and construction, which impacts viability. Furthermore, in order to make the scheme competitive, a significantly upgraded amenity package has been provided in the form of the leisure accommodation at basement level 3, which has further increased build costs and has impacted on the scheme's viability. The applicant's financial viability assessment concluded that the scheme can only viably support a total affordable housing contribution of the 10 off-site affordable rent units at Dorset Close, together with an affordable housing payment of £9,088,000. The Council's independent assessment concurred with this assessment, on the basis that the £9,088,000 is paid on commencement of works on site. The applicant subsequently revised the offer to include:

- Delivery of 10 affordable rent housing units at 1-5 Dorset Close.
- An affordable housing contribution of £14.5 million, with £6 million to be paid on commencement, and the remaining £8.5 million on first occupation of the residential units.
- A £2.5 million public realm investment to enhance the immediate vicinity of the site, namely Grosvenor Square, Grosvenor Street and Three Kings Yard.

10 The Council's Planning Applications Committee considered that this offer is acceptable and this sum is secured within the draft section 106 agreement. In the context of London Plan Policy 3.12 'Negotiating Affordable Housing' requirement to secure the maximum reasonable amount of affordable housing, in view of the fact that the offer goes beyond that considered viable by the Council's independent advisers, GLA officers consider this contribution to be acceptable and meets the requirements of London Plan policy.

Inclusive design

11 Policy 3.8 'Housing Choice' requires all new housing to be built to 'Lifetime Homes' standards. In order to bring the London Plan into line with new national housing standards, the draft Minor Alterations to the London Plan (MALP) proposes to replace this with *"ninety percent of new housing meets Building Regulation requirement M4(2) 'accessible and adaptable dwellings'"*. Policy 3.8 also requires 10% of units to be wheelchair accessible or easily adaptable, which the draft Minor Alterations to the London Plan proposes to replace this with *"ten per cent of new housing meets Building Regulation requirement M4(3) 'wheelchair user dwellings', i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users"*.

12 The application indicates that the proposals meet Lifetime Homes requirements where feasible, and that 10% will be wheelchair adaptable. At Stage One, the applicant was requested to detail the areas where Lifetime Homes will not be feasible. The applicant states that restrictions imposed by the reconstructed historic street facades, and in particular the requirement to achieve an appropriate window hierarchy, limits the extent of accessible thresholds to some external residential terraces and amenity spaces, and limits opportunities to achieve maximum window heights above floor level. Considering the need to respect the historic environment in this sensitive location, this is considered acceptable in this instance.

Transport

13 At Stage One, a number of issues were raised relating to London Plan transport policies, including a request to reduce parking provision, preferably to car free or car capped.

14 The agreed conditions and draft Section 106 agreement secure a Travel Plan and Construction Logistics Plan as requested. Whilst the level of car parking is unchanged, a Car Park Strategy is secured to appropriately manage what would be an unallocated car park. London Plan policy compliant Electric Vehicle Charging Points and Blue Badge spaces are also conditioned.

15 On this basis, the application scheme is considered to be in general accordance with the transport policies of the London Plan.

Climate change

16 At Stage One, the applicant was requested to provide evidence to demonstrate that the cooling demand has been reduced, in line with the cooling hierarchy of Policy 5.9 'Overheating and Cooling', and that the dwellings are not at risk of overheating. In response, the applicant has demonstrated that the dwellings present a medium to slight risk of overheating under SAP criterion 3 and that the demand for cooling will be reduced through openable windows and the mechanical ventilation system. As detailed design progresses, the applicant should ensure that the controls for the cooling system are designed to avoid operation with windows open, and to prioritise mechanical ventilation before air conditioning. The applicant has also stated that further measures have been considered, including exposed thermal mass, solar shading and solar control glazing; however, no further measures have been adopted in response to historic environment considerations. This is acceptable in this instance, and the applicant has stated that innovative design solutions will be investigated at the detailed design, which is welcomed.

17 As requested at Stage One, DER, TER and BRUKL sheets have been provided supporting the savings claimed.

18 The applicant has also carried out an investigation and has confirmed that there are no existing or planned district heating networks within the vicinity of the proposed development. However, the applicant has committed to ensuring that the development is suitable for connection to district heating in the future, as requested.

19 A site heat network is proposed, and as requested at Stage One, the applicant has confirmed that all building uses will be connected to the site heat network and provided a plan of the plant room.

20 The applicant is proposing to install a 50 kWe gas fired CHP unit as the lead heat source for the site heat network. As requested at Stage One, the applicant has stated that the system will be managed by a management company or an ESCo. It is recommended that the management arrangements are considered at an early stage, as ESCos are not generally interested in systems of this size, and ongoing management costs will impact the long term financial viability of the system.

21 The applicant has investigated the feasibility of a range of renewable energy technologies and is proposing to install 27 sq.m. of photovoltaic (PV) panels on the roof of the development. A roof layout drawing has provided a roof plan confirming that the PV installation has been maximised.

22 The on-site carbon dioxide savings of 29% fall short of the targets within Policy 5.2 of the London Plan. It is accepted that there is little further potential for carbon dioxide reductions onsite; however at Stage One, in liaison with the Council, the applicant was requested to ensure the shortfall in carbon dioxide reductions, equivalent to 16 tonnes of CO2 per annum, is met off-site. The off-site contribution would amount to approximately £35,000. The applicant confirmed that they are willing to make this payment; however they argued that this should be deducted from any payment towards the affordable housing fund. The Council's Planning Committee considered that this was not appropriate considering the policy priority for affordable housing, and consequently agreed that there would be no off-site contribution. The application is therefore contrary to London Plan Policy 5.2, which requires that in such cases a cash-in-lieu contribution should be ring-fenced to secure carbon savings elsewhere. In view of the relatively small sum involved, this does not warrant a direction to refuse; however the Council and the applicant are reminded that the requirement to secure the maximum reasonable amount of affordable housing does not override strategic policy requirements in relation to carbon dioxide reductions.

Response to consultation

23 Historic England made no objection subject to suitable conditions.

24 The Environment Agency made no objection.

25 Westminster City Council publicised the applications by sending notifications to 333 neighbouring properties, as well as issuing site and press notices. The Council received six objections and two responses in support.

26 The grounds for objection included:

- Adverse design impact on Grosvenor Square.
- Significant excavation is likely to cause harm to the adjoining listed building.
- Construction noise, dust, pollution and vibration impact, including on artworks in 4 Grosvenor Square.

- Additional height proposed will be overbearing and increase enclosure.
- Noise and cooking smells from proposed restaurant.
- Impact of sunlight/daylight reduction on 14 Three Kings Yard.
- Parking is at capacity in the vicinity.
- Kings Yard unsuitable for servicing.
- Loss of property values.
- Security impacts on 4 Grosvenor Square.

27 The Residents Society of Mayfair and St. James's objected on grounds of the excessive basement dig and general disruption over a lengthy period.

28 Issues raised by objectors have been considered in this report, the Mayor's Stage One report, and the Council's committee report of 26 January 2016.

Draft Section 106 agreement

29 The following financial contributions are included in the draft Section 106 agreement:

- A financial contribution of £14.5 million towards the Council's affordable housing fund;
- A financial payment to cover the costs of all highway works around the site for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving;
- A financial contribution of £35,000 per annum to monitor compliance with the Construction Environmental Management Plan;
- A financial payment to cover the costs of amending the Traffic Management Order and relocation of the Grosvenor Street residential car parking bays;
- £5,000 for monitoring costs.

30 The draft agreement also secures the delivery of ten affordable rent units at Dorset Close, as discussed above.

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

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

Legal considerations

32 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. 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

33 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.

34 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.

35 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

36 The matters raised at consultation stage, namely those relating to housing, affordable housing, inclusive design, transport and climate change have been satisfactorily addressed. The proposed residential development is supported in strategic planning terms and on this basis there are no sound reasons for the Mayor to intervene.

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

Stewart Murray, Assist 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 & Projects)

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

Martin Jones, Senior Strategic Planner, Case Officer

020 7983 6567 email martin.jones@london.gov.uk
