

8-10 Broadway (New Scotland Yard)

in the City of Westminster

planning application no. 15/07497/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

The demolition and redevelopment of the site to include residential, office and retail floorspace provision in buildings to a maximum height of 75.45 metres.

The applicant

The applicant is **BL Developments Ltd**, the architect is **Squire & Partners** and the agent is **Bilfinger GVA**.

Strategic issues

Issues in relation to **affordable housing, urban design, children and young person's play, energy** and **transport** have been resolved.

The Council's decision

Westminster Council has resolved to grant permission.

Recommendation

That Westminster 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 27 October 2015 the Mayor of London received documents from Westminster 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 1A, 1B(b) and 1C(c), of the Schedule to the Order 2008:

- 1A . Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.
- 1B(b). Development (other than development which only comprises the provision of houses, flats, or houses and flats) which comprises or includes the erection of a building or buildings in Central London (other than the City of London) and with a total floorspace of more than 20,000 square metres"; and

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

2 On 30 December 2015 the Mayor considered planning report D&P/3440/01, and subsequently advised Westminster Council that the application did not comply with the London Plan, for the reasons set out in paragraph 86 of the above-mentioned 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 24 February 2016 Westminster Council decided that it was minded to grant planning permission, and on 9 March 2015 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 Westminster Council under Article 6 to refuse the application or issue a direction to Westminster 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 March 2016 to notify the Council of his decision and to issue any direction.

4 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 has been taken into account in the consideration of this case.

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

Update

6 At the consultation stage Westminster Council was advised that the application did not comply with the London Plan, for the reasons set out in paragraph 61; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Principal of land use:** The principle of mixed-use development of the New Scotland Yard site is supported by CAZ policy as a reasonable amount of high quality office space is re-provided and this creates a good quality mixed use development with complimentary residential and retail use. Notwithstanding this, GLA officers require a steer from Westminster Council on how this scheme fits with its recent policy Statements (Statements 18 March 2015 and 22 July 2015) preventing loss of office floorspace in the CAZ and whether this scheme will fall under exceptional circumstances indicted in its policy statement letters.
- **Affordable housing:** The applicant has made an initial affordable housing offer of 10 units (4%) consisting of 5 one bed and 5 two bed these are located in the eastern residential block and is supported by a housing viability appraisal. This offer is very low and unacceptable given the likely sales values achieved in this part of inner London and the applicant affordable housing viability assessment should be independently assessed on behalf of Westminster Council, having regard to the fact that the purchase price should reflect the Council's policy requirements, including 30% affordable housing.
- **Children and young person's play:** The applicant has completed an assessment of child yield and will provide podium level doorstep play areas for the under 5 age group and this is welcome. A financial contribution to the provision, or improvement, of off-site play

facilities should be considered as part of s106 contributions negotiated with Westminster Council for older age groups.

- **Urban design:** The design of the scheme is of an outstanding quality and design approach contributes to both the permeability through the removal of the existing New Scotland Yard that due to operational needs lacked strong active street frontages. But further consideration should be given to ground floor layouts to reduce blank areas of street frontage.
- **Tall buildings / LVMF views/ heritage assets:** The applicant has provided sufficient analysis of LVMF views, heritage impacts and on the The Palace of Westminster and St Margaret's Church WHS OUV to enable an assessment of the acceptability of the impact of the proposals. The proposal would not harm historic assets or the OUV of the WHS.
- **Energy:** The on-site carbon dioxide savings fall short of the targets within Policy 5.2 of the London Plan. While it is accepted that there is little further potential for carbon dioxide reductions onsite, in liaison with the borough the developer should ensure the short fall in carbon dioxide reductions, equivalent to 150 tonnes of carbon dioxide per annum, is met off-site. Further verification information is also required before the carbon savings can be verified. The applicant should provide the required information before stage 2 referral.
- **Transport:** The applicant should respond in full to the issues relating to network impact, road network, car parking walking and cycling, and travel planning.

Principle of development (offices)

7 At stage 1 a steer was requested from Westminster Council on how this scheme fits with its recent policy Statements (Statements 18 March 2015 and 22 July 2015) preventing loss of office floorspace in the CAZ and whether this scheme will fall under exceptional circumstances indicted in its policy statement letters. The Council committee report states that as the current application was submitted in August 2015, it is not subject to consideration under the interim measures or emerging policies, but should be considered in the light of adopted development policies which do not protect existing office uses. This aspect of the application is therefore compliant with the London Plan.

Affordable housing

8 At stage 1 the applicant made an initial affordable housing offer of 10 units (4%) consisting of 5 one bed and 5 two bed and these are located in the eastern residential block and this offer was supported by a housing viability appraisal. This offer was viewed as being very low and unacceptable given the likely sales values achieved in this part of inner London. The applicant's affordable housing viability assessment was requested to be independently assessed on behalf of Westminster Council, having regard to the fact that the purchase price should reflect the Council's policy requirements, including 30% affordable housing.

9 The applicant has submitted a viability report that sets out the maximum viable offer the scheme can accommodate in terms. This viability report has been subject to an independent review on behalf of Westminster Council, which has concluded that the affordable offer of 10 on-site affordable units together with a payment in lieu of £10 million towards Westminster Council's affordable housing is the maximum viable contribution.

10 The on-site affordable units would be located at fourth and fifth floor levels in the easternmost building fronting Victoria Street, building 6 all of which are intermediate units which

are mix of one and two bed units (6 x 1 beds and 4 x 2 beds). Westminster Council has indicated that the units are only viable as intermediate rent (sub-market rent) because shared ownership is unlikely to be affordable in this location.

11 The weekly rent levels appropriate for the affordable dwellings is summarised in the table 1. These would be the rent levels charged at initial letting and where subsequent annual rent increases would be limited to CPI+1%.

Table 1: Target affordable levels for Intermediate Housing

Dwelling size	Household income	Equivalent Gross Weekly Rent affordable to this household income	No. intermediate rented homes at these rent levels
1 bed			
Median	£33,560	£180.71	3
Upper quartile	£43,665	£235.12	2
Mid-point income between upper quartile and GLA income threshold	£57,333	£308.71	1
2 Bed			
Median	£38,575	£207.71	2
Upper quartile	£50,000	£269.23	1
Mid-point income between upper quartile and GLA income threshold	£60,500	£325.77	1

*Calculated on the basis that 40% of net income equals housing costs and where net income is 70% of gross income – As per GLA guidance.

12 The provision of on-site affordable units is welcome as this is often not achieved in schemes in such high value developments. The viability assessment has been independently verified as being maximum viable for the site, having regard to the individual site circumstances in developing the on-site provision affordable units and a range options of affordable housing has been explored by the applicant and borough. The affordable offer is therefore compliant with London Plan Policy 3.12 (Negotiating affordable housing on individual private residential and mixed use schemes).

Children and young person's play

13 At stage 1 Westminster Council was requested to consider whether a financial contribution to the provision, or improvement, of off-site play facilities for the 11+ age group could be included within the s106 contributions. The borough has decided this is not required and this aspect of the application is compliant with the London Plan.

Urban design

14 At stage 1 the applicant was to further look at the ground floorplan to minimise areas of blank elevation facing the street. The applicant has since revised these plans by rearranging parts of the ground floor layout and this aspect of the application is therefore compliant with the London Plan.

Sustainable Energy

15 At stage 1 the on-site carbon dioxide savings fell short of the targets within Policy 5.2 of the London Plan. Whilst it was accepted that there is little further potential for carbon dioxide reductions onsite, in liaison with the borough the developer should ensure the shortfall in carbon dioxide reductions, equivalent to 150 tonnes of carbon dioxide per annum, is met off-site. The applicant was also requested to provide further verification information securing aspects of the energy strategy.

16 The Westminster Committee report states that although the energy strategy only secures a 23% saving the shortfall will not be required through payment (mitigated offsite) as the Council has no policy on carbon offsetting. Subsequently the Council and the applicant have agreed an offset contribution of \$405,000 in order to meet the London Plan requirement.

17 A condition has also been agreed requiring details of district heat network future proofing, which is welcomed.

Transport

18 At Stage 1 Transport for London (TfL) asked that various London Plan policy issues be addressed. The agreed conditions secure, as requested, a Travel Plan, Construction Logistics Plan, Delivery and Service Plan, and a Car Park Management Plan. Cycle parking is secured above London Plan standards and policy compliant blue badge parking and electric vehicle charge points have also been secured by condition.

19 As also requested the Section 106 Heads of Terms (S106) provides funding to Westminster for Legible London signage in the order of £8,909. This is welcomed by TfL as a measure to signpost the new north-south route through the site. Lifetime car club membership is also secured for each resident. However TfL's request for £200,000 to deliver a new Cycle Hire new docking station was refused by Westminster despite the site specific mitigation required to meet demand generated by this development in an area where existing docking stations are already under extreme pressure at peak times.

20 Whilst it is disappointing that TfL's Cycle Hire contribution request has been refused, on balance it is not considered that this is sufficient reason alone to recommend to the Mayor that he directs refusal given the other contributions the scheme would make to active transport notably cycle parking significantly above London Plan standards, Legible London signage and the new north-south route through the site.

Letters to the Mayor

Murad Quershi Assembly Member

21 Murad Quershi Assembly Member has raised an objection with Westminster Council's decision to approve the application in relation to the secured affordable housing offer of 10 units on site and a payment in lieu of £10 million. This is because the offer fails to achieve Westminster Council's affordable housing requirement of 30% affordable housing – which as stated in the Committee report would result in the scheme needing to provide 155 affordable housing units or a payment in lieu of £59,165,050.

22 A particular issue was raised whether the applicant's housing viability assessment and Westminster Council's independent review had sufficiently accounted of land value and that the applicant had over paid for land.

23 As requested at stage 1 the applicant's affordable housing viability report has been independently reviewed and this concludes that the offer is the maximum viable. This meets the requirements set out in the stage 1 report.

Response to consultation

24 Westminster Council consulted 2,078 occupants of neighbouring properties as well as statutory and non-statutory organisations. A total of 21 replies were received from the consultation process. Letters of objection raised issues in relation to the following:

- Land use: affordable housing offer is low; loss of offices and large luxury residential units inappropriate
- Design: buildings are too tall, bulky, and the design is out of keeping with the area and adversely affects the setting of adjacent conservation areas, listed buildings, and World Heritage Site.
- Amenity: loss of daylight/sunlight to surrounding buildings; noise from roof top plant; and noise from car park.
- Highways: Increase in traffic movement/ congestion on Dacre Street arising from new vehicle access/ car lift.
- Other: Disruption/ noise/ nuisance /potential damage to adjoining buildings caused by demolition and construction work; Tall buildings will adversely affect the microclimatic and create a wind tunnel along Victoria Street; overdevelopment of site; and inadequate public consultation took place.

Statutory organisations

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

- **English Heritage:** Historic England considers that some harm is likely to be caused to designated heritage assets, and that a reduction in the height and massing, in particular of the southern-most blocks might reduce this harm. Raise concern over the view from County Hall on the south bank.
- **English Heritage (archaeology):** Recommend archaeological condition requiring details of a written scheme of archaeological investigation to be prepared and implemented by a suitably qualified archaeological practice in accordance with Historic England Greater London Archaeology guidelines.
- **Environment Agency:** No objections or conditions to request.
- **Thames Water:** No objection with regard to sewerage infrastructure or water infrastructure capacity.

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

26 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

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 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

28 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.

29 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.

30 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

31 Having regard to the details of the application, the matters set out in Westminster Council's committee report, its draft decision notice and the draft heads of terms with requested additional condition and s106 contribution, the scheme is acceptable in strategic terms. Further information has been provided and conditions and planning obligations have been secured where appropriate, which address the outstanding issues that were raised at Stage 1. On this basis, there are no sound reasons for the Mayor to intervene in this particular case.

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