

**Brent House, 349-357 High Road, Wembley****in the London Borough of Brent****planning application no. 15/4743****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**

Proposed demolition of existing office building and erection of two buildings of between eight and ten storeys accommodating 248 dwellings (84 x 1-bedroom, 108 x 2-bedroom, 49 x 3-bedroom & 7 x 4-bedroom units) and flexible commercial space at ground floor (for Use Classes A1, A2, A3, A4 and/or B1(a)), new public square, landscaped communal gardens and basement car and cycle parking.

**The applicant**

The applicant is **Henley Homes PLC** and the agent is **PPM Planning Limited**.

**Strategic issues**

The principle of a mixed use development at this town centre site is supported in strategic terms as established at stage 1. The **housing, design, inclusive design, climate change/energy, drainage** and **transport** issues that were raised have been addressed, with suitably worded planning conditions secured.

**The Council's decision**

In this instance Brent Council has resolved to grant permission.

**Recommendation**

That Brent 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 10 November 2016 the Mayor of London received documents from Brent 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 Categories 1A and 1C of the Schedule to the Order 2008: "Development which comprises or includes the provision of more than 150 house, flats or house and flats." And "development which comprises or includes the erection of a building more than 30 metres high and is outside the City of London."

2 On 16 December 2016 the Mayor considered planning report PDU/3559/01, and subsequently advised Brent Council that the application did not comply with the London Plan, for the reasons set out in paragraph 83 of the above-mentioned report; but that the possible remedies also set out in this paragraph of that report 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 10 February 2016 Brent Council decided that it was minded to grant planning permission and on 22 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 Brent Council under Article 6 to refuse the application or issue a direction to Brent 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 6 March 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](http://www.london.gov.uk).

## Update

5 At the consultation stage Brent Council was advised that the scheme was generally acceptable in strategic planning terms but did not fully comply with the London Plan in relation to the following issues:

- **Housing/affordable housing:** The results of the independent assessment of affordable housing provision should be shared with GLA officers demonstrating the maximum reasonable amount of affordable housing is being secured at the site. Consideration should be given to housing mix and number of 1 bed units in the private provision.
- **Design:** The overall approach to the layout, height and massing and the residential quality is supported. However, the minor matters concerning the materials and glazed balconies to avoid privacy issues need some clarification before stage 2.
- **Inclusive access:** Consideration should be given to the number of blue badge parking spaces and lift access from the gardens as detailed within the report to make it policy compliant.
- **Climate change/energy:** The applicant has broadly followed the energy hierarchy. Sufficient information has been provided to understand the proposals as a whole. Further information is required before the final proposals can be understood. The short fall in carbon dioxide reductions, equivalent to 9 tonnes of CO2 per annum, should be met off-site or by payment which is the action proposed by the Council.
- **Sustainable drainage:** The drainage measures proposed for the site require consideration and will need to be secured by the Council by way of condition.
- **Transport:** The proposal is considered to be potentially acceptable from a strategic transport perspective. However to ensure the application complies fully with London Plan transport policies, the various matters raised above should be addressed and the various S106 agreements and/or conditions be secured by the Council.

6 Taking each of the matters in turn, the following is noted:

## **Housing**

### Affordable housing/viability

7 The Council's viability consultant (Capita) has concluded that the applicant's viability assessment (undertaken by JLL) is acceptable, and that the scheme can afford a 30% affordable housing contribution as proposed. An increase in affordable housing would make the scheme unviable and that this represents the maximum reasonable amount.

8 Capita identify an overage agreement in its assessment, which secures the Council benefit of an additional land payment should sales values exceed a certain level, constrains the ability of the proposed scheme to deliver more than 30% affordable housing. The business case and financing of the new Civic Centre was predicated upon a target land receipt from the disposal of Brent House, in excess of the receipt and overage assumed in the FVA. The Council has therefore taken the view that the site disposal overage arrangements could trigger an additional land payment, and in that case, after infrastructure commitments tied to the new Civic Centre are satisfied, such overage should be ring-fenced for the delivery of affordable housing elsewhere in the borough. This is to be secured under the terms of the s106 agreement.

### Housing mix

9 The housing mix proposed was supported by Brent Council housing officers. The proposal provides a mix of private and affordable housing. The proportion of affordable housing (74 of the 248 flats) represents 30%, which is to be delivered with a tenure split of 61% affordable rent and 39% intermediate. This has been justified by the viability assessment and represents the maximum reasonable amount. Despite the family sized units falling marginally below the Council's policy (CP2) target which seeks to secure 25% family sized units in new housing, the scheme will provide 23%. Given the town centre locational constraints, the mix and number of 1 bed units are considered to be acceptable.

## **Design**

10 Following the applicant's response to the stage 1 report, GLA Officers accepted the use of external lifts given the need to provide fully inclusive access across the site's varying level changes. The stepped entrance route to block E via the ground level central amenity space and the animating of this route with regular front door entrances is also welcomed.

11 The clear separation of the existing footpath/access to the neighbouring school is acceptable given the need to contain vehicular access along the site's eastern edge. The intention to respond to the existing use of the footpath through a considered boundary treatment, designed to promote passive surveillance and security is also welcomed.

12 Condition 16 will ensure that the concerns raised by GLA officers concerning the balconies, materials and privacy will be addressed. It is understood that the Council has also referred to design precedents for other sites in Wembley Park and 243 Ealing Road in respect of the balcony treatment which will demonstrate how an appropriate balance can also be achieved at this site. This approach is supported.

## **Inclusive access**

13 Following the stage one report, the applicant attempted to address the disabled parking concerns raised. It sought to make a few revisions including increasing the number of disabled car spaces from 16 to 20 and increasing the width of the adjoining footpath so it can be considerably improved. However following TfL's review of the post stage 1 submission by the applicant, the Access and TfL officers concluded that the originally proposed 16 Part M compliant spaces were supported against the 20 substandard spaces.

14 Contrary to the advice provided, the Council considered the rationale for accepting the higher quantum reasonable.

## **Energy**

15 The applicant has provided the information requested at stage 1 (paragraph 51) specifically:

- The proposed CHP unit for the development is a 70kWe / 109kWth EnerG unit which will be used in combination with a 15,000 litre thermal store.
- The applicant has stated the CHP will operate approximately 6,200 hours per year with servicing to be undertaken at 4-5 month intervals (based upon a service every 3,500 hours of run time). Estimated service costs of £800-1200 have been provided.
- The plant room for the scheme will be approximately 170 sq.m. in size, located within the basement area
- The applicant states that the client will seek to employ an Energy Service Company (ESCO) or Facilities Management Company to manage and maintain the CHP system post construction.
- The applicant has stated management arrangements and operating costs will be explored in detail at the early design stage, and then market tested. This is accepted.

16 Paragraph 55 of the stage 1 report stated the shortfall in CO2 savings and the need for the shortfall in carbon dioxide reductions to be met off-site. This shortfall was also identified by the Council's Sustainability Officer. To meet this shortfall a carbon offset financial contribution is to be secured and is to be used towards off-site improvements. This is captured through the s106 agreement and set out in the 's106 details' section of the Committee report.

## **Sustainable drainage**

17 In order to address the drainage concerns raised in the stage 1 report (paragraph 60), an additional condition has been set out in the Council's supplementary report which would meet the requirements of London Plan policy 5.13 Sustainable Drainage.

## **Transport for London's comments**

18 At consultation stage 1, TfL welcomed that no general parking is to be provided at this highly accessible site and that a car-and-permit free agreement is to be secured. However the proposal for 16 blue badge spaces was below the London Plan minimum, and consequently the applicant increased by a further four spaces. Although TfL advised that increased quantum did not provide as good quality accessible parking as the original design, Brent Council considered the rationale for accepting the higher quantum reasonable.

19 TfL requested further clarification on the vehicular and bicycle access as well as the non-vehicular access to the school site at the rear, and is satisfied this is now acceptably designed. A contribution towards "Legible London" wayfinding was also recommended though not secured.

20 The revised proposals include 412 cycle spaces with showers/lockers and short-stay spaces which are all London-Plan compliant and therefore welcomed.

21 The residential and commercial Framework Travel Plans have both passed TfL's ATTrBUTE test, and will be secured in detail through the s106 agreement, which is supported.

22 TfL agreed that traffic generation would be reduced compared with the former use of the site and therefore did not require any mitigation as such. That said, TfL was very concerned about the impact on the capacity of bus service along the Wembley High Road corridor. The applicant therefore agreed a section 106 contribution of £319,000 which is welcomed.

23 Other matters that will be secured through condition include a construction logistics plan and a delivery and servicing plan, which will include details of a pre-booking system.

## **Response to consultation**

24 Brent Council publicised the application by sending notifications to 283 individual properties. The Council also issued a press notice published on 19 November 2015 and site notices, which were displayed on 16 November 2015.

25 The Council received 3 objections, two of which were from the same address/flat in Elizabeth House. A summary of the nature of the nature of comments received is detailed below:

- Noise impacts on air quality during construction/demolition works, and in view of the proximity to Elizabeth House.
- Projecting balconies posing a risk to passing pedestrians.
- Proposed building too close to Elizabeth House.
- Will result in the loss of view of the High Road from Elizabeth House.
- The development will result in further traffic congestion.
- The development will worsen the existing bus routes which are at capacity.
- The windows should be fitted with blinds for a neat street appearance.

### Statutory consultees

26 The following statutory consultees responded:

- **Thames Water**- raised no objection, however conditions have been recommended relating to the drainage infrastructure.
- **Network Rail**- state that as the proposal is approximately 60 metres from the Network rail boundary and that the usual asset protection comments do not apply. Condition 29 and the informative address the necessary construction/demolition mitigation and consultation statements required to be carried out with the Network Rail Asset Protection team and approved by the Council.

27 Overall, the various objections and issues raised have been suitably addressed in this report, the stage 1 report and the Council's report through the use of planning conditions, informatives and provisions within the draft Heads of Terms of the section 106 agreement- as per the committee report.

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

28 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**

29 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 next four words are optional) 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**

30 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.

31 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.

32 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**

33 The various housing, design, inclusive access, climate change, drainage and transport issues raised at stage 1 have been addressed and the scheme is supported in terms of good strategic planning in London.

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

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