

**98 York Road, Battersea****in the London Borough of Wandsworth****planning application no. 2015/5308****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 of existing buildings. Erection of a mixed-use development up to seventeen storeys (three storey podium with fourteen storey, ten storey, six storey and five storey buildings above) to provide car showroom and workshop with ancillary cafe on ground, first and second floors and 173 residential units above with access to landscaped amenity deck. A basement car park would provide residents with 87 vehicle and 184 cycle parking spaces. Within the ground floor would be 29 parking spaces for customers. Public realm improvements to Bridges Court and York Road.

**The applicant**

The applicant is **Linden (York Road) LLP and the Dutton-Forshaw Motor Company**; the architects are **GRID** and the planning agent is **Rapleys LLP**.

**Strategic issues**

The concerns raised at the consultation stage regarding housing, affordable housing, urban design, inclusive design, sustainable development and transport have been satisfactorily addressed through the provision of appropriate planning condition, obligations secured by section 106 agreement, or through the submission of further information and the proposals now generally acceptable in strategic planning policy terms.

**The Council's decision**

In this instance Wandsworth Council has resolved to grant permission.

**Recommendation**

That Wandsworth 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 23 September 2015 the Mayor of London received documents from Wandsworth 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:

*“1A 1. Development which comprises or includes the provision of more than 150 houses, flats or houses and flats;*

*1C 1. Development which comprises or includes the erection of a building of more than 25 metres high and is adjacent the River Thames”.*

2 On 27 October 2015 the Mayor considered planning report D&P/3099b/01, and subsequently advised Wandsworth Council 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 79 of the above-mentioned report; but that the possible remedies set out in that paragraph could address those 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 November 2015 Wandsworth Council decided that it was minded to grant planning permission, for the revised application, and on 23 November 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 Wandsworth Council under Article 6 to refuse the application or issue a direction to Wandsworth 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 December 2015 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 Wandsworth Council was advised 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 79 of the above-mentioned report; but that the possible remedies set out in that paragraph could address those deficiencies:

- **Land use principles:** The overall principle of mixed-use development including housing is supported in strategic planning terms.
- **Affordable housing:** The maximum reasonable amount of affordable housing should be provided on site and the Council’s independent assessment of the applicant’s viability appraisal should be provided to the GLA prior to stage two referral. No information on the proposed tenure has been provided and therefore full justification of the final tenure mix is required prior to the stage two referral; evidencing how it corresponds to local need in consultation with the Council’s Housing department.
- **Housing:** The overall residential quality is high and density is acceptable; the Council should confirm that the proposed housing mix is in line with local needs; details of on-site playspace should be secured by condition; any contributions towards playspace as a result of the development should be secured by section 106 agreement.

- **Urban design:** The height, scale and massing of the proposals raise no strategic issues; materials and detailing should be secured by condition.
- **Inclusive access:** The mix of wheelchair accessible units should be clarified; a car parking management plan should be secured by condition as per the previous scheme and a plan for the podium level amenity space demonstrating the levels should be provided.
- **Climate change mitigation:** In line with the comments set out above the applicant should provide part L compliance data sheets from the sample overheating assessments, confirm whether any of the flats will be provided with comfort cooling, investigate further passive measures to reduce cooling demand for the dealership, provide updated BRUKL sheets, provide information on the size of the energy centre, review the size of the CHP boiler given the reduced number of dwellings and provide further information on the management arrangements for the CHP system. Furthermore, given that the proposed carbon savings fall slightly short of the London Plan policy target, the applicant should liaise with the Council regarding meeting the shortfall off-site.
- **Transport for London:** In line with the above transport comments, the proposed level of car parking should be reduced to reflect the ratio of the previous scheme and further information should be provided to support the level of customer and staff parking. The proposed level of cycling parking should be increased to meet London Plan 2015 standards, and the provision of a CPZ exemption clause, a car parking management plan and the level of electric vehicle charging points should be secured as per the previous application. Contributions towards the provision of a cycle hire station and bus shelter upgrade should be secured as previously agreed, in addition to a delivery and servicing plan, a construction logistics plan and travel plans.

## Affordable housing

6 Further information has been provided to the GLA confirming that the application proposes 25% intermediate housing. The financial viability appraisal states that the proposed scheme with this level of affordable housing would generate a deficit of £2.2 million; however, the applicant has adopted a higher level of risk in order to provide the proposed level of affordable housing and to have regard to planning policy requirements. In accordance with the requirements of London Plan Policy 3.12, the Council has subjected the appraisal to an independent assessment and shared the conclusions with the GLA. The independent assessment concludes that the proposed level of affordable housing is the maximum reasonable amount that can be delivered on site.

7 The Council's affordability criteria will be applied to these units to ensure a genuinely affordable product in line with local demand and this is to be secured by planning obligation in the final section 106 agreement. It is noted that all of the intermediate units will have private amenity space and that an equitable share of the basement parking spaces would also be provided to the affordable housing provider at nil value.

8 Notwithstanding the above, the independent assessment also sets out that thirteen of the 43 intermediate units could be delivered as affordable rent, but due to the building layout this would require both affordable rented and private units to share the same core. However, this is not favourable to Registered Providers due to the associated management and affordability issues reducing the likelihood of them being taken on. Furthermore, this option would require the rest of the intermediate units being sold at a higher income threshold, reducing their affordability. In light of this, the mono tenure is accepted in this instance.

9 In light of the above, it is also acknowledged that thirteen of the intermediate units provided within Block B will share access and circulation with private units, which can also raise similar management and service charge issues with RP's as set out above. The Council has set out that in the event that there is a lack of interest in the uptake of the intermediate units, it will secure an option within the section 106 agreement to negotiate and agree a commuted sum to be paid to the Council in lieu of these units. The applicant has also agreed to a financial review at 'golden brick stage' to assess whether any or all of the seven private units in Block B could be converted to discount market sale units and sold at 80% of open market value. Any surplus forecasted at this stage would be used to convert the units to low cost housing.

10 In light of the outcome of the independent assessment of the applicant's viability appraisal and the options for further review to be secured within the section 106 agreement that will ensure that the scheme makes the maximum reasonable contribution towards delivering affordable housing within the borough, the proposed affordable housing offer is accepted.

## **Housing**

11 The Council has confirmed that the overall housing mix is acceptable within its committee report and supports the overall standard of residential accommodation.

12 Further information has been provided regarding the child yield calculation which estimates that the development would potentially be home to 31 children overtime. This generates an overall play space requirement of 310 sq.m. for children aged between 0-15 years old. As set out at the initial consultation stage, the proposals accommodate a minimum of 388 sq.m. of door stop play space within the podium courtyard, comfortably meeting the onsite recreational requirements of the Mayor's Shaping Neighbourhoods: Play and Informal Recreation SPG. It is also noted that the details of this space are secured by planning condition and is supported in line with the comments made at the consultation stage. In light of the above, the proposals are in general accordance with London Plan Policy 3.6.

## **Design**

13 As previously set out, the height, scale and massing of the proposals did not raise any strategic issues given the changing context of the area. However, the design amendments to address the reasons for refusal of the previous scheme were considered positive improvements to the scheme. GLA officers note that the submission of sample materials for approval by the Council have been secured by planning condition which will help ensure the high quality materials and detail demonstrated in the design and access statement is built through and is supported.

14 With regards to the previous comments regarding the cafe at ground floor, the applicant has confirmed that the unit will have its own entrance which will help animate the public realm. Furthermore, it is understood that the design of the unit would allow future conversion to a standalone retail unit, subject to planning permission for change of use, should this be favourable. However, the applicant has confirmed that the cafe as proposed is ancillary to the VW car dealership and on balance this is accepted.

## **Inclusive design**

15 In response to the Mayor's previous comments, the applicant has provided an updated access statement, setting out that the proposals will deliver seventeen wheelchair adaptable units (10%) that will meet the Wheelchair Housing Design criteria and will include intermediate tenure units. Furthermore, all units will be designed to Lifetime Homes standards and this is supported in accordance with London Plan Policy 7.2. It is understood from discussions with the Council that the provision of these units in accordance with wheelchair housing design guidance best practice and

the requirement of the Council's Housing Occupational Therapist has been secured within the draft section 106 agreement and this is strongly supported.

16 With regards to parking, nine disabled spaces are provided in the basement and are located to as close to the residential cores A,B and C as possible, (there are no wheelchair units within Block D). In addition, a further ten spaces have been identified that can be enlarged to provide further disabled parking in the future, should demand require so. This future capacity would meet the policy requirement for one space per residential unit should this be necessary and is welcomed. It is noted that the provision of a car parking management plan is secured with the draft heads of terms as per the previous scheme and this should include a mechanism to ensure that the supply and demand of the blue badge bays are regularly monitored and provision reviewed, to ensure that provision equates to the demand from disabled residents and visitors and that the bays are effectively enforced.

17 In addition to the above, the access statement confirms that access to the podium is step free and level from each residential block. Overall, in light of the submission of the updated inclusive design information and the above planning obligation to secure the wheelchair accessible units, the proposals are in general accordance with London Plan Policy 7.2.

## **Sustainable development**

18 At the initial consultation stage, it was noted that the on-site carbon dioxide savings would fall slightly short of the targets within London Plan Policy 5.2 of the London Plan (equivalent of 0.8 tonnes of CO<sub>2</sub> per annum) and while it was accepted that there was little further potential for carbon dioxide reductions onsite, the applicant was advised to liaise with the Council to ensure the short fall in carbon dioxide was met off-site. In response, the applicant predicts that this minor shortfall will be met onsite following the detailed design stages. Notwithstanding this, a planning condition has been included that secures an updated energy strategy that demonstrates how the development will deliver a minimum 35% site-wide reduction in CO<sub>2</sub> in accordance with the London Plan target and also requires the development to future proof connection to a district heat network. While this is welcomed, the condition should be amended to include the submission of further details of the proposed CHP system, including running hours and the proportion of heat load to be met by the CHP. Updated wording has been issued to the Council.

19 Should it be demonstrated in the updated strategy that after maximising all onsite opportunities, the target strategic target cannot be met, in accordance with the comments made at the consultation stage; the Council should ensure the shortfall is met offsite.

20 As requested, further information and justification has been provided regarding the overheating analysis undertaken for both the residential and car dealership uses, in addition to information on the size and location of the proposed energy centre. This has addressed those issues raised at the consultation stage and no further information is required regarding these points.

21 In light of the above, subject to the amendment of planning condition seventeen in accordance with the above comments, the proposals are now generally acceptable in London Plan energy policy terms.

## **Transport**

22 In response to transport comments made at the initial consultation stage, the applicant has provided adequate clarification, revisions, or suitable conditions have been identified to address the matters raised. As such, Transport for London (TfL) is now satisfied that the

proposals could be considered to be in general conformity with the transport policies of the London Plan, subject to the following planning obligations being satisfactorily taken forward in the final section 106 agreement.

23 More specifically, mechanisms to secure electric vehicle charging points, controlled parking zone exemptions, Car Club membership, travel plans including a £100 travel initiative for the first occupiers of the new development, a car parking management plan, construction logistics / management plan, and delivery & servicing management have been set out in the section 106 Heads of Terms. In addition a contribution of £100,000, payable to TfL, towards the delivery of two new cycle hire docking stations on land adjacent to the site has been secured; along with a contribution of £12,350 towards bus shelter upgrade works. With regards to the latter TfL would recommend that this is delivered either directly by the developer or by the Council. In addition whilst not referenced in the Council's committee report there would be a need to enter into a section 278 agreement with TfL in order to deliver the proposed public realm works on York Road.

## **Response to consultation**

24 The Council publicised the application by sending 1,035 letters to nearby properties in the vicinity of the site, and issuing site and press notices.

25 In response to the public consultation, the Council received a total of 22 comments including twenty objections, one general comment and one note of support for the proposals. In addition to the above comments received during the statutory consultation period, a further seventeen letters of objection and 25 letters of support were received prior to the Council's planning committee meeting. The representations made with regards to the application have been set out in detail in the Council's planning committee report and addendum report dated 10 November 2015 and full copies of the individual representations have been made available to the Mayor as part the statutory referral process. For the convenience of the Mayor the public representations have been summarised below.

### Objections

- Height, scale and massing: Objections were made to the excessive height, bulk, scale, density and massing which was considered completely out of scale with the area; no aesthetic quality; does not integrate with context; swamps Bridges Court; oversized, unattractive and overbearing; out of scale with York Road; area is already overdeveloped; does not comply with Council's tall buildings property; revised scheme is indistinguishable from previously refused scheme; issue of height has not been addressed; design lacks coherence; is soulless; not in keeping with style or scale of neighbourhood buildings; ex-local authority towers blocks in Battersea should not be repeat; only modern tall buildings in area are on the riverside; seventeen storeys will impact on skyline; loss of views.
- Impact on local residential amenity: scale is overbearing, too dominant and would be oppressive; unneighbourly impact; will significantly over shadow surrounding developments; will deprive neighbouring properties of sunlight and daylight; will close off Orbis Wharf and Altura Tower; will significantly diminish light to Bridges Wharf; will disrupt air flow to Orbis Wharf residents who already suffer from poor ventilation and overheating; impact on the quality of life; massive loss of privacy through overlooking; is totally obtrusive; deprives residents of sense of space, privacy or individuality which are essential for mental health and wellbeing; increased separation distance between buildings is measly and will not address these issues; concern over dust, noise and pollution from demolition and construction.

- Transport: Increase in traffic on already congested roads and reduced air quality; over-development will exacerbate existing peak hour congestion on York Road; development does not consider additional volume of traffic which will be generated; emergency vehicles could be restricted; lack of parking for commercial and residential will mean congestion on Bridges Court will get even worse; prevention of parking on pavements not addressed; Bridges Court is already dangerous for pedestrians; pedestrian and cyclist safety must be considered; public transport already at capacity during peak hours and increasingly at other times; development makes zero contribution to the public realm.
- Other: Inadequate affordable housing offer; housing mix not in line with local need; inadequate wheelchair and disabled access; existing infrastructure cannot support increased population; schools will not be able to cope; no provision of local amenities apart from tokenistic cafe; does not enhance or contribute to the community; York Road is not the right area for a flagship car showroom; loss of property values; proposals have not addressed previous reasons for refusal; does not comply with the London Plan; sets a worrying precedent; podium garden not of benefit to other local residents; will create minimal enjoyment for local people; lack of local amenities; only benefits developers and landowners; loss of mature trees would add to increased pollution and drop in air quality.; permission should not be granted until VW engine crisis is resolved; flats are investment opportunities for overseas; letters of support are from Lookers employees or not from the local area.

#### Support

- Letters of support for the proposals considered that the development would enhance the appeal, desirability and overall improve the look of the surrounding area; additional flats should encourage the regeneration of local shop fronts along York Road as more residents come to the area; the current site is unattractive; welcomed the design and architecture; proposed landscaping and greenery is much needed; new private and affordable housing is welcomed; will create a safer pedestrian environment; creation of jobs supported; will fit in well with existing and proposed schemes in the area; is a sustainable development; this part of Battersea is changing for the better; the servicing and parking arrangements are welcomed; the scheme complements the Winstanley/York Road Estate regeneration proposals.

#### General

- A local employer also made representations stating that it is important that any scheme maintains an element of space suitable for light industrial users, as this is constantly being eroded by residential development driving employers out of the area.

26 The objections raised during the consultation process are addressed in detail within the Council's committee report and do not raise any strategic issues that have not already been considered.

#### Responses from statutory consultees other organisations

27 The following organisations issued responses to the consultations:

- **Historic England**: Set out that the application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

- **Historic England (Archaeology):** There is an on-going archaeological interest with the site that will require mitigation and that in this case the constraints are such that a condition could provide an acceptable safeguard. A condition securing a program of archaeological investigation has been secured.
- **Environment Agency (EA):** The site is within Flood Zone 3 but benefits from the Thames Tidal Defences. The EA was pleased that there is no ground floor sleeping and recommended that finished floor levels are set above 5.2 metres AOD. While not opposing the application the applicant was strongly advised to obtain further detailed flood risk assessment information to ensure the measures in the submitted FRA were still appropriate. It was also recommended that the basement is raised above breach level as a precaution in accordance with the Council's Level 2 SFRA. The EA would also have concerns about rapid inundation at basement level given the proximity to the Thames and safety concerns regarding people moving their cars during a time of flooding. The EA welcomed the inclusion of flood resilient and resistant measures and recommended the consideration of further measures, in addition to evacuation plan for all site users and this could be approved by the Council's Emergency Planning Department. Suitable planning conditions have been secured to address the above concerns.
- **Natural England:** Advised that the proposal was unlikely to affect any statutorily protected sites or landscapes and recommended that standing advice in respect to protected species should be applied. The site is also within an area what Natural England considers could benefit from enhanced green infrastructure and this application may provide opportunities to incorporate features which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird boxes.
- **Thames Water:** Requested pre-commencement conditions securing the approval of a drainage strategy, a piling method statement and impact studies of the development on the existing water supply infrastructure.
- **Tideway (Thames Tideway Tunnel Ltd):** Advised that the development is partly within the safeguarded tunnel alignment of the Falconbrook Connection Tunnel and within the potential zone of influence for tunnel works. Any development will need to demonstrate that adverse impacts are avoided. A condition was requested requiring the submission of detailed design and method statements for all of the ground floor structures, foundations and basements and for any below ground structures to ensure that the development does not prejudice the tunnel works. This has been secured in the draft decision notice.
- **Battersea Society:** Objects strongly to the revised proposals. Agreed that there have been some relatively minor changes but they do not make a dramatic change or do they result in a significant reduction in development visible from the street. The Society would be surprised if neighbours considered that the impact on the neighbours privacy is greatly improved and there has been no rethinking of the scheme which remains of concern in relation to: height and design; contrary to local plan policy; negative impact on the area; failure to provide a link across York Road through York Gardens to Clapham Junction; transport impact; lack of affordable housing. The Society also raised concerns that there is no comment made on any changes to the dealership following VW's company highly publicised problems.

28 The statutory responses and those received from local amenity and interest groups to the Council's consultation do not raise any material planning issues of strategic importance that have not already been considered by the Mayor at the consultation stage and/or in this report or addressed in detail within the Council's planning committee report.



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

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

### **Legal considerations**

30 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**

31 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.

32 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.

33 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**

34 The concerns raised at the consultation stage regarding housing, affordable housing, play space, urban design, inclusive design, sustainable development and transport have been satisfactorily addressed through the provision of appropriate planning condition, obligations secured by section 106 agreement, or through the submission of further information and the proposals now generally acceptable in strategic planning policy terms.

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