

# MAYOR OF LONDON

**David Dorward**  
Area Planning Officer (South)  
Development Planning  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

**Our ref:** D&P/3440a/02  
**Your ref:** 16/11027/FULL  
**Date:** 4 September 2017

Dear Mr Dorward,

**Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008**  
**New Scotland Yard, 8-10 Broadway, London SW1H 0BG**  
**Local planning authority reference: 16/11027/FULL**

I refer to your letter of 24 August 2017 informing me that Westminster City Council is minded to grant planning permission for the above application. I refer you also to the notice that was issued on 24 August 2017 under the provisions of article 5(1)(b)(i) of the above Order.

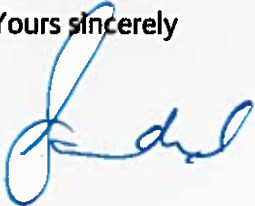
Having now considered a report on this case, reference D&P/3440a/02 (copy enclosed), I consider that the level of affordable housing provision proposed is wholly unacceptable. I therefore direct you to refuse planning permission, under the powers conferred on me by Article 6 of the above Order. My reasons are as follows:

- **Affordable housing provision:** *The proposed affordable housing contribution of 10 intermediate units and £10 million off-site payment in lieu has not been adequately justified. The methodology undertaken by the applicant to assess the viability of the scheme is not in compliance with the Mayor's Affordable Housing and Viability SPG and leads the GLA to conclude that more affordable housing could be supported within the scheme. On the basis of the evidence presented, the applicant has not demonstrated that the scheme will deliver the maximum reasonable amount of affordable housing, and the proposals are therefore contrary to London Plan policy 3.12 and the Mayor's Affordable Housing and Viability SPG.*
- **Viability review mechanism:** *No provision has been made in the draft s.106 agreement for viability review mechanisms. Given the low level of affordable housing proposed and the significant length of the development programme, the use of review mechanisms is essential in order to reassess the viability of the scheme and determine whether additional affordable housing could be supported. The absence of viability review mechanisms does not therefore support the delivery of the maximum reasonable amount of affordable housing on the site,*

*and is contrary to London Plan Policy 3.12 and the Mayor's Affordable Housing and Viability SPG.*

I would be grateful if you would issue the appropriate notices, giving the above reasons for refusal.

Yours sincerely



**Sadiq Khan**  
Mayor of London

cc Tony Devenish London Assembly Constituency Member  
Nicky Gavron, Chair of London Assembly Planning Committee  
National Planning Casework Unit, DCLG  
Lucinda Turner, TfL  
Laura Jenkinson, Gilfinger GVA, 65 Gresham Street, London EC2V 7NQ

4 September 2017

**8-10 Broadway (New Scotland Yard)**

**in the City of Westminster**

**planning application: 16/11027/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**

Section 73 application for a variation of condition 1 of planning permission ref 15/07497/FULL dated 27 April 2016 (GLA ref: D&P/3440/02) to allow for: an increase in the number of residential units; omission of one basement level; reduction in car parking spaces; amendments to the parking, delivery and servicing strategy; reduction in retail area at ground and lower floor; reduction in size of ground floor pavilion building; building height and footprint changes, including both a reduction and increase in heights; and alterations to internal layouts and external elevations.

## **The applicant**

The applicant is **BL Developments Ltd** and the architect is **Squire & Partners**.

## **Key Dates:**

**Stage 1 reported:** 14 March 2017

**Planning Committee:** 16 May 2017

## **Strategic issues summary**

The affordable housing offer is wholly unacceptable and has not been demonstrated to be the maximum reasonable amount, contrary to London Plan policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

## **The Council's decision**

The City of Westminster has resolved to grant planning permission subject to completion of a deed of variation to the legal agreement dated 27 April 2016.

## **Recommendation**

That the City of Westminster is directed to refuse planning permission, for the reasons set out in this report.

## Context

1 On 2 February 2017, 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 under Categories 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 The site is the New Scotland Yard building located in close proximity to St James Park Tube Station and was formerly the headquarters of the Metropolitan Police. The site was vacated by the Metropolitan Police and handed over to the applicant in November 2016.

3 The application is for a variation of condition 1 of the planning permission granted in April 2016 for 268 residential units, commercial uses and associated facilities. The effect of the variation would allow for: an increase in the number of residential units by 27 from 268 to 295 units, principally as a result of subdivision of the existing residential area; a reduction in basement levels from 4 to 3; a reduction in car parking spaces and other minor design changes.

4 On 20 March 2017, the Mayor considered planning report D&P/3440a/01, and subsequently advised the City of Westminster that the application did not comply with the London Plan for the reasons set out in paragraph 26 of that report; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Principle of land use:** The floorspace changes are minor in nature and the proposal is supported.
- **Affordable housing:** Given that the applicant wishes to progress these amendments comprising an increase in residential units and the higher value per sq. ft that can generally be achieved in smaller units, it is to be expected that there would be improvements in the viability of the scheme. This should be reflected in an increase in the affordable housing offer.
- **Urban design:** The design changes are minor in nature and the high design quality has been maintained. The changes in height and massing have no impact on London View Management Framework views and heritage assets over or above the original submitted scheme.

5 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 16 May 2017, the City of Westminster decided that it was minded to grant planning permission, and on 24 August 2017 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 City of Westminster under Article 6 to refuse the application, or issue a direction to the City of Westminster under Article 7 that he is to act as the Local Planning

Authority for the purposes of determining the application. The Mayor has until 6 September 2017 to notify the City of Westminster of his decision and to issue any direction.

6 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).

## **Officer recommendation – reasons for refusal**

7 This report sets out the matters that the Mayor must consider when deciding whether to allow the City of Westminster's draft decision to proceed unchanged; direct the City of Westminster under Article 6 to refuse the application; or, issue a direction to the City of Westminster under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application and any connected application.

8 Further to the consideration within this report, GLA officers have concluded that the issue raised at consultation stage regarding the unacceptable provision of affordable housing is still outstanding, and that the application does not comply with the London Plan. It is therefore recommended that the Mayor refuses the application for the following reason:

**Affordable housing provision:** The proposed affordable housing contribution of 10 intermediate units (3.3% by unit, 2.9% by habitable room) and £10 million off-site payment in lieu has not been adequately justified. The methodology undertaken by the applicant to assess the viability of the scheme is not in compliance with the Mayor's Affordable Housing and Viability SPG and leads the GLA to conclude that more affordable housing could be supported within the scheme. On the basis of the evidence presented, the applicant has not demonstrated that the scheme will deliver the maximum reasonable amount of affordable housing, and the proposals are therefore contrary to London Plan Policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

**Viability review mechanism:** No provision has been made in the draft s.106 agreement for viability review mechanisms. Given the low level of affordable housing proposed and the significant length of the development programme, the use of review mechanisms is essential in order to reassess the viability of the scheme and determine whether additional affordable housing could be supported. The absence of viability review mechanisms does not therefore support the delivery of the maximum reasonable amount of affordable housing on the site, and is contrary to London Plan Policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

9 The provision of affordable housing within this amended scheme is the only outstanding strategic issue with this application. Should a revised application be submitted the applicant should address this issue, as discussed below, as well as the comments set out within the GLA consultation stage planning report (ref: 3440a/01).

## **Outstanding issues**

### **Affordable housing**

#### Background

10 The current application is a s.73 application to vary condition 1 of a planning permission granted in April 2016. At Stage 1, the Mayor expressed the view that the affordable housing offer of 10 units (3% by unit, and 2.9% by habitable room) with a £10 million payment in lieu was unacceptable. The percentage of affordable housing would decrease as a result of the s.73 proposal compared to the original extant consent (which also secured 10 units, equivalent to 4%

by unit plus a £10 million payment in lieu), despite the increase of 27 residential units, reduction in development costs, and the very high value of the proposed scheme. It was noted that the applicant's approach to its financial viability assessment was not consistent with the Mayor's Affordable Housing and Viability SPG.

11 The applicant's viability report has been subject to independent review on behalf of the Council by Gerald Eve LLP. Despite adopting different assumptions to the applicant's FVA in terms of site value, target rate of return, gross development value and construction costs, the Council's consultants concluded that the delivery of affordable housing on site or financial contribution is unviable. The applicant's continued offer of 10 affordable units on site and a £10 million payment towards off-site affordable housing was accepted by the Council to represent the maximum reasonable contribution. The applicant has indicated that the contribution of £10 million is the equivalent of approximately 10 affordable units.

12 GLA officers have carried out their own review of the applicant's viability assessment undertaken by GVA and the Council's consultant's review undertaken by Gerald Eve LLP. In response to the GLA's review of viability, the applicant has submitted additional information in the form of a position note by GVA and a letter from JLL. Subsequently, a further viability note dated 23 August 2017 was submitted in which the applicant confirmed that it is willing to offer one additional 2 bedroom affordable unit, on a "without prejudice" basis, whilst maintaining its previous position on the viability of the scheme. The addition of one affordable housing unit would increase affordable housing delivery to 3.7% by unit. This offer was made on the condition that no viability review mechanism would be required.

13 Despite the additional information provided by the applicant there remain significant concerns with the applicant's approach to the assessment of the viability of the scheme, which does not comply with the Mayor's Affordable Housing and Viability SPG (formally published in August 2017). These include the applicant's approach to land value, sales rates and profit, details of which are considered below.

#### Viability assessment methodology and approach to land value

14 The Mayor's Affordable Housing and Viability SPG states, in relation to s.73 amendments, that for schemes where the original permission did not meet the Mayor's 35% affordable housing threshold viability information will be required where an application is submitted to vary the consent and this would alter the economic circumstances of the scheme (for example resulting in a higher development value or lower development costs). Such schemes will be assessed under the Viability Tested Route to determine whether additional affordable housing can be provided. The SPG also provides clear guidance on the Mayor's approach to assessing the viability of a development.

15 The applicant has assessed the viability of this current s.73 application which was submitted in November 2016 by comparing it with an updated viability assessment of the extant permission (granted in April 2016) to determine whether the same land value and target rate of return can be achieved. The applicant's approach is that as the extant consent has been implemented it forms the basis of comparison with the amended scheme to determine whether it is viable. In taking this approach the applicant's appraisal for the extant scheme indicates that this is viable at the adopted target profit level. However, the applicant's viability assessment which was submitted to inform the original planning consent concluded that the scheme, without the provision of any affordable housing, was not viable, and this assessment formed the basis of justifying the affordable housing offer in that scheme of 4% by unit and a contribution of £10 million when determined in April 2016.

16 The applicant is now relying on its revised appraisal of the extant scheme, undertaken only nine months following grant of the earlier permission, to justify a land value benchmark for the s.73 application; however in doing so it has adopted a range of more favourable assumptions which supports its revised position that the extant scheme is viable. The applicant's updated assessment of the extant scheme now assumes lower build costs, lower finance costs and a lower profit target. In particular, the applicant's own previous valuation of the site at £277 million, which was included as a fixed cost in the original application, has now been rejected in favour of a land residual approach which generates a land value of £159.34 million; a reduction of £117.66 million.

17 The applicant's consultants GVA have sought to argue that the previously adopted site value, which was based on an alternative use valuation of the site and land transactions using a market value approach, could be justified if based on assumed growth in values. However this demonstrates that such an approach is inappropriate as their assessment is otherwise based on current day values and costs.

18 The Council's consultant, in reviewing the applicant's FVA, rejected the applicant's approach for determining a land value benchmark based on the residual value of the extant scheme in favour of a market value approach. The Mayor's SPG identifies a range of issues that may arise with this approach including a lack of adjustment to reflect policy requirements, and to ensure that the approach is consistent with the current day basis of the appraisal. The site value adopted by the Council's assessor of £200 million leads to the conclusion that the extant scheme is unviable. In this case the extant consent cannot be used as a benchmark land value.

19 The Council's consultant has not demonstrated that their approach to site value properly reflects planning requirements for affordable housing or has been adjusted to ensure that this is compatible with the current day basis of the applicant's assessment, as required by the Mayor's SPG. The applicant's approach to site value is inconsistent and leads GLA officers to conclude that more affordable housing could have been achieved within the extant scheme, or otherwise that the extant scheme does not provide a reasonable basis for determining the viability of this s.73 scheme.

#### Development costs

20 The applicant's assessment concludes that a lower financial contribution can be supported by the s.73 scheme compared to the extant scheme. This is despite a significant reduction in build costs arising from the change in size of the basement and an increase in number of residential units.

21 The gross development value is assessed as being £9.15 million lower than the extant scheme, primarily due to a reduction in the value attributed to the commercial element of the scheme. However, the build costs are significantly reduced on the s.73 scheme due to the reduction of the proposed basement with gross development costs calculated to be £19.5 million lower. This significantly outweighs the £9.15 million reduction in value assumed by the applicant, and conflicts with the applicant's position that the viability of the s.73 scheme would generate a lower affordable housing contribution than the extant scheme. This is relevant to the consideration of profit as set out below.

#### Profit

22 The assessments undertaken for the applicant and the Council adopt an Internal Rate of Return (IRR) approach to determining a target profit. The Mayor's Affordable Housing and Viability SPG states that an IRR approach to measuring profit is sensitive to the timings of costs and income, and in such cases these value inputs must be robustly justified.

23 The development programme assumed for the s.73 scheme equates to 8.4 years which is a long programme for a scheme of this size and is inconsistent with the construction plan submitted with the applicant's Environmental Statement. By applying the same assumed sales rate, the applicant's appraisal for the s.73 scheme extends the time taken to achieve the sales income from the residential units over a longer period than the extant scheme. This has a negative impact on the residual IRR which is sensitive to the timing of costs and values.

24 This approach also inflates the financial sum required to achieve the target IRR of 12% resulting in a significantly higher developer's profit. The applicant's assessment indicates that the s.73 scheme generates a profit of £223.2 million at 12% IRR. This compares with a profit of £212 million for the extant scheme which is also based on 12% IRR. As such the s.73 scheme is shown to generate £11.2 million additional profit for the applicant. This is a key assumption underpinning the applicant's contention that the s.73 scheme is not capable of providing an increased level of affordable housing, despite the significant reduction in gross development costs identified above.

25 The higher profit required in the applicant's assessment of the s.73 scheme arises from changes in the development programme and the timing of cost and value inputs. Under the applicant's approach the increase in residential units and extended sales period results in a similar level of income being received, but over a longer timeframe compared with the appraisal for the extant scheme. The applicant has submitted a letter from JLL indicating that applying a sales rate of 3 units per month to the s.73 scheme (the same rate adopted for the extant scheme) seems a reasonable expectation. However, if the increase in the number of residential units does not result in an improvement in cashflow, the reasons for amending the scheme in this way are unclear, and this approach is not considered to be realistic. The applicant's reason for reducing the number of large units in the current proposals was due to "changes in market demand to optimise delivery" (para.5.56 of the Planning Statement). This contrasts with the applicant's case that the same sales rate should apply to the extant and the proposed scheme.

26 The Mayor's SPG states that the Mayor will normally consider profit as a factor of Gross Development Value (GDV) and Gross Development Costs (GDC). Where IRR is relied on, the local planning authority and the Mayor will also consider profit as a factor of GDC and/ or GDV. The applicant's appraisal for the s.73 scheme indicates that the target IRR of 12% is the equivalent of 26.24% on costs and 20.52% on GDV. This is higher than typical rates of profit and indicates that the IRR target and development programme result in an overly generous profit target. Furthermore, the Council's assessor has adopted a target of 12.7% IRR due to the inclusion of an additional developer's contingency in addition to a contingency on construction costs. This amounts to an even higher target profit sum and percentage of profit on costs and value than adopted by the applicant and is not accepted.

27 On the basis of the above, GLA officers conclude that the approach to development programme and target profit is not consistent with the Mayor's SPG. This has the effect of making the target return harder to achieve by increasing this by £11.2 million. This approach directs any surplus profit arising from the reduced development costs to an enhanced developer's profit at a level in excess of accepted rates of return as a factor of GDV/ GDC at the expense of providing affordable housing, and is not justified.

### Review mechanisms

28 The Mayor's Affordable Housing and Viability SPG requires that developments that do not meet 35% affordable housing threshold without public subsidy (the Fast Track Route) are subject to early and late-stage viability review mechanisms to reassess the viability of the scheme. The applicant considers that this would result in a disincentive to proceed with the s.73 scheme, as the extant consent would be more commercially attractive. It is, however, noted that viability review mechanisms ensure that any improvement in viability results in a higher level of



return to the applicant. It is not therefore accepted that the applicant would be disincentivised from implementing the s.73 scheme. Furthermore, the offer of one additional affordable housing unit is not considered sufficient to justify the absence of a viability review mechanism which is necessary to ensure that the maximum reasonable level of affordable housing is provided. As no provision has been made for a viability of the review in the Council's draft heads of terms, this does not support the provision of the maximum reasonable amount of affordable housing and is thus contrary to London Plan policy 3.12 and the guidance within the Mayor's SPG.

### Conclusion

29 This is a site that has recently been transferred from public ownership, and is in one of the highest value areas in the country. The applicant's affordable housing offer of 3-4% must be considered in this context. The viability approach applied by the applicant is not consistent with the guidance within the Mayor's Affordable Housing and Viability SPG and is not accepted. The applicant's conclusions that the s.73 scheme is only able to support a lower level of affordable housing than the extant scheme arises from the methodology that has been applied rather than any inherent constraints, and is not justified based on the viability information provided. The inconsistencies in the applicant's assessment demonstrate not only that more affordable housing could be supported within the current scheme, but also indicate that the original extant proposals could have secured more affordable housing. As such, the application has not demonstrated that the maximum reasonable amount of affordable housing is achieved. Furthermore, it is not proposed to employ a viability review mechanism which would support the delivery of the maximum amount of affordable housing over the period of the development. The proposals are thus contrary to London Plan Policy 3.12 and the Mayor's SPG.

### **Response to consultation**

30 The Council notified local amenity groups, together with 2,158 letters of notification to surrounding residents and businesses and advertised the application by site notice and by a notice in the local press. No responses were received to the public notification. The following responses were received from statutory bodies and local amenity groups:

- **Historic England:** No objection, application should be considered in accordance with national and local policy guidance.
- **Thames Water:** No objection, subject to informatives.
- **Environment Agency:** No objection.
- **Westminster Society:** No objection
- **Thorney Island Society:** Regret permission for the original scheme but welcome the reduction in basement floors and parking spaces, and increase in residential units.

### **Draft Section 106 agreement**

31 The following items are included within the draft deed of variation to the Section 106 agreement:

- Provision of 10 affordable housing units on-site and £10 million payment in lieu for off-site affordable housing in the borough;
- Funding for necessary highways works;
- Provision of Site Environmental Management Plan and monitoring costs;
- Unallocated car parking;
- Walkways agreement;
- Financial contribution of £8,909 towards Legible London signage;
- Lifetime car club membership for residents of the development;

- Employment and training strategy;
- Tree planting;
- Financial contribution of £500,000 towards public realm improvements to Strutton Ground;
- Financial contribution of £405,000 towards carbon off-setting.

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

32 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 GLA officers are recommending that the Mayor directs that the City of Westminster refuse the application.

### **Legal considerations**

33 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. The Mayor may direct refusal if he considers that to grant permission would be (a) contrary to the London Plan or prejudicial to its implementation; or (b) otherwise 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**

34 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.

35 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.

36 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**

37 The only strategic issue with this application was the provision of affordable housing which remains outstanding and in this respect the application fails to comply with the London Plan. In this instance the grant of permission is contrary to the London Plan, as set out in the above report. The Mayor is therefore recommended to direct refusal under Article 6(1)(a) of the Order for the reasons set out below:

- **Affordable housing provision:** The proposed affordable housing contribution of 10 intermediate units and £10 million off-site payment in lieu has not been adequately justified. The methodology undertaken by the applicant to assess the viability of the scheme is not in compliance with the Mayor's Affordable Housing and Viability SPG and leads the GLA to conclude that more affordable housing could be supported within the scheme. On the basis of the evidence presented, the applicant has not demonstrated that the scheme will deliver the maximum reasonable amount of affordable housing, and the proposals are therefore contrary to London Plan policy 3.12 and the Mayor's Affordable Housing and Viability SPG.
- **Viability review mechanism:** No provision has been made in the draft s.106 agreement for viability review mechanisms. Given the low level of affordable housing proposed and the significant length of the development programme, the use of review mechanisms is essential in order to reassess the viability of the scheme and determine whether additional affordable housing could be supported. The absence of viability review mechanisms does not therefore support the delivery of the maximum reasonable amount of affordable housing on the site, and is contrary to London Plan Policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

38 The application is therefore unacceptable having regard to London Plan policy and the Mayor is recommended to direct refusal.

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

**Juliemma McLoughlin, Assistant Director – Planning**

020 7983 4271 email [juliemma.mcloughlin@london.gov.uk](mailto:juliemma.mcloughlin@london.gov.uk)

**Sarah Considine, Senior Manager – Development & Projects**

020 7983 5751 email [sarah.considine@london.gov.uk](mailto:sarah.considine@london.gov.uk)

**Shelley Gould, Strategic Planning Manager – Planning Decisions**

020 7983 4803 email [shelley.gould@london.gov.uk](mailto:shelley.gould@london.gov.uk)

**Katherine Wood, Principal Strategic Planner**

020 7983 5743 email [katherine.wood@london.gov.uk](mailto:katherine.wood@london.gov.uk)

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20 March 2017

## 8-10 Broadway (New Scotland Yard)

in the City of Westminster

planning application no.16/11027/FULL

### Strategic planning application stage 1 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

A section 73 application for a variation of Condition 1 of the planning permission dated 27th April 2016 (D&P/3440/02)), seeking adjustment to floorspace, buildings layouts, minor changes to building heights, elevation treatments and car parking.

### The applicant

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

### Strategic issues summary

**Principal of land use:** The floorspace changes are minor in nature and the proposal is supported (Paragraph 15).

**Housing:** The affordable housing offer of 10 units (3 % by unit/2.7% by habitable room) with £10 million payment in lieu is unacceptable and should be independently reviewed. Options should be explored to increase the affordable offer in line with the increased number of residential units (Paragraphs 16 -22).

**Urban design/heritage:** The design changes are minor in nature and the high design quality has been maintained. The changes in height and massing have no impact on LVMF views and heritage assets over or above the original submitted scheme (Paragraph 23).

### Recommendation

That Westminster Council be advised that while the application is generally acceptable in strategic planning terms the application does not comply with the London Plan, for the reasons set out in paragraph 26 of this report; but the possible remedies set out in that paragraph could address these deficiencies.

## Context

1 On 7 February 2017 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. Under the provisions of The Town & Country Planning (Mayor of London) Order 2008 the Mayor has until 20 March 2017 to provide the Council with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. The Mayor may also provide other comments. This report sets out information for the Mayor's use in deciding what decision to make.

2 The application is referable 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.*

3 Once Westminster Council has resolved to determine the application, it is required to refer it back to the Mayor for his decision as to whether to direct refusal; take it over for his own determination; or allow the Council to determine it itself.

4 The Mayor of London's statement on this case will be made available on the GLA website [www.london.gov.uk](http://www.london.gov.uk).

## Site description

5 The site is a triangular shaped block bounded by Victoria Street, Broadway and Dacre Street, located approximately halfway between Victoria Station and Parliament Square. There is an entrance to the St James's Park LUL station on the opposite corner of Broadway and Dacre Street to the north of the site, and a small park, Christchurch Gardens, located to the west of the site along Victoria Street just past Broadway. To the north and west of the site are listed buildings; to the north above the St James's Park LUL station, the Grade 1 listed 55 Broadway, and to the west, the grade II listed St Ermin's Hotel on Caxton Street near the junction of Broadway. The site is not within a Conservation area, however is bounded to the north and west by the Broadway and Christchurch Gardens Conservation Area.

6 Public transport accessibility (PTAL) at the site is classified as 6b (excellent) on a scale of 1-6b where 1 is deemed poor and 6 is excellent. This reflects the fact that the site is very well served by public transport, with some 10 local bus services running in close proximity to the site, varying in frequency from 18 buses per hour to 8 buses per hour.

7 St. James's Park London underground station is opposite the site, with District and Circle Line services, whilst Westminster station brings District, Circle and Jubilee Line services and is located only 6-7 minutes away. London Victoria offers National Rail services as well as District, Circle and Victoria Line Underground trains and is just a 5-6 minute walk from the site.

## Details of the proposal

8 The s73 application is a variation of Condition 1 of planning permission dated 27th April 2016 (D&P/3440) for 'demolition of existing buildings and erection of mixed use development comprising office (Class B1) and retail (Classes A1 & A3) across two four-storey podiums, each with three residential buildings above (total of x6 residential buildings) ranging from 14 to 20 storeys high, providing residential units (including affordable residential units). Provision of new walkway and landscaping between the podiums and a retail pavilion at ground level. Erection of up to three basement levels comprising residential facilities, cycle storage (commercial and residential), plant and parking spaces.

9 The changes to the consented scheme are as follows:

- An increase in the number of residential units by 10% (from 268 units to 295), principally as a result of further subdivision of the extant approved residential area.
- A reduction in basement levels from 4 to 3, with a corresponding reduction in the number of car parking spaces from 182 to 163 (proposed parking ratio of 0.55), a reduction of retail storage at basement level and minor changes to the parking, delivery and servicing strategy.
- Minor reduction in retail area at ground floor, with a minor overall loss of retail frontage (approximately 3 metres).
- Reduction in size of the pavilion, to provide a larger area of public realm.
- Minor external elevational changes.
- Minor building height and footprint changes, which includes both a reduction and increase in heights (Buildings 1, 3, 5 and 6 reduced in height; and Buildings 2 and 4 increased in height by 225 mm and 275 mm).
- Other minor internal and external changes required for coordination purposes.

## Case history

10 The original application for New Scotland Yard (D&P/3440/02) was determined by the previous Deputy Mayor on 22 March 2016. The decision made was he was content for Westminster Council to determine the application itself, subject to any action taken by the Secretary of State. The scheme was subsequently approved by Westminster Council on 27 April 2016.

## Strategic planning issues and relevant policies and guidance

11 The relevant issues and corresponding policies are as follows:

- Historic Environment *London Plan; World Heritage Sites SPG; Circular 07/09*
- Mix of uses *London Plan, draft CAZ SPG, draft Interim Housing SPG*
- Housing *London Plan; Housing SPG; Housing Strategy; Shaping Neighbourhoods: Play and Informal Recreation SPG; Shaping Neighbourhoods: Character and Context SPG*
- Affordable housing *London Plan; Housing SPG draft Interim Housing SPG; Housing Strategy;*

- Retail/town centre uses *London Plan; Town Centres SPG*
- Density *London Plan; Housing SPG*
- Urban design *London Plan; Shaping Neighbourhoods: Character and Context SPG; Housing SPG; London Housing Design Guide; Shaping Neighbourhoods: Play and Informal Recreation SPG*
- Tall buildings/views *London Plan, London View Management Framework SPG*
- Access *London Plan; Accessible London: achieving an inclusive environment SPG;*
- Sustainable development *London Plan; Sustainable Design and Construction SPG; Mayor's Climate Change Adaptation Strategy; Mayor's Climate Change Mitigation and Energy Strategy; Mayor's Water Strategy*
- Transport *London Plan; the Mayor's Transport Strategy; Land for Industry and Transport SPG*
- Parking *London Plan; the Mayor's Transport Strategy*
- Crossrail *London Plan; Mayoral Community Infrastructure Levy; Crossrail SPG*

12 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area is the 2011 Westminster City Council Core Strategy, saved policies of the 2007 Westminster Unitary Development Plan and the 2016 London Plan (consolidated with alterations since 2011). The following are also relevant material considerations:

- The National Planning Policy Framework and Technical Guide to the National Planning Policy Framework
- Westminster Council Planning Obligations SPG (2008)
- Draft Affordable Housing and Viability SPG (2016)

## Principle of land use

13 The land use principle for the mixed use development of retail, residential and office floorspace has already been accepted (D&P/3440/02). The revised scheme has made the following adjustments to the floorspace which does not change the previous decision:

Table 1; Land use mix change (GIA sq.m.)

| Land use                 | Existing | Consented GIA Sq.m. | Proposed GIA Sq.m. | Change GIA Sq.m. |
|--------------------------|----------|---------------------|--------------------|------------------|
| Office                   | 46,617   | 13,584              | 13,876             | 292              |
| Retail                   | 0        | 3,491               | 2,653              | -838             |
| Residential (private)    | 0        | 44,064              | 44,844             | 780              |
| Residential (affordable) | 0        | 999                 | 999                | 0                |
| Plant                    | 5,114    | 8,794               | 8,650              | -144             |
| Car Park/facilities      | 3,788    | 14,914              | 8,430              | -6,484           |
| <b>Total</b>             | 55,719   | 85,846              | 79,452             | -6,394           |

## Housing

### Housing mix

14 The applicant has reviewed the residential floorplans and this has resulted in an increased in residential unit numbers from 268 to 295, primarily as a result of subdivision of the approved scheme and adjusts the housing mix (see below).

Table 1: housing mix (units)

|       | Approved Scheme |            |       | Proposed s73 scheme |            |       | Difference |            |       |
|-------|-----------------|------------|-------|---------------------|------------|-------|------------|------------|-------|
|       | Market          | Affordable | Total | Market              | Affordable | Total | Market     | Affordable | Total |
| 1 bed | 63              | 6          | 69    | 76                  | 6          | 82    | 13         | 0          | 13    |
| 2 bed | 120             | 4          | 124   | 155                 | 4          | 159   | 35         | 0          | 35    |
| 3 bed | 59              |            | 59    | 42                  |            | 42    | -17        | 0          | -17   |
| 4 bed | 7               |            | 9     | 6                   |            | 6     | -3         | 0          | -3    |
| 5 bed | 7               |            | 7     | 6                   |            | 6     | -1         | 0          | -1    |
| Total | 258             | 10         | 268   | 285                 | 10         | 295   | 27         | 0          | 27    |

Table 2 (habitable rooms)

|       | Approved Scheme |            |       | Proposed s73 scheme |            |       | Difference |            |       |
|-------|-----------------|------------|-------|---------------------|------------|-------|------------|------------|-------|
|       | Market          | Affordable | Total | Market              | Affordable | Total | Market     | Affordable | Total |
| 1 bed | 126             | 12         | 138   | 152                 | 12         | 164   | 26         | 0          | 26    |
| 2 bed | 360             | 12         | 372   | 465                 | 12         | 477   | 105        | 0          | 105   |
| 3 bed | 236             | 0          | 236   | 168                 | 0          | 168   | -68        | 0          | -68   |
| 4 bed | 35              | 0          | 35    | 30                  | 0          | 30    | -5         | 0          | -5    |
| 5 bed | 42              | 0          | 42    | 36                  | 0          | 36    | -6         | 0          | -6    |
| Total | 799             | 24         | 823   | 851                 | 24         | 875   | 52         | 0          | 52    |

### Affordable housing

15 The applicant has submitted an affordable housing financial viability assessment (FVA), Westminster Council in undertaking its review of the FVA which will be scrutinised by the GLA's viability team. GLA officers will work with Westminster Council officers to explore options to increase the affordable offer in context of the amendments to the scheme and the review of the FVA.

16 The appellant's viability assessment concludes that a contribution of £7.182 million is viable although the £10 million contribution previously offered is maintained and that a policy compliant scheme is not viable.

17 The original scheme proposed 4% affordable housing by unit (2.9% by habitable room) comprising intermediate rent and a £10 million offsite contribution. Although unit numbers have increase this percentage has dropped to 3% by units or 2.7% by habitable room. This was supported by a FVA dated 27th November 2015 by GVA. The level of affordable housing proposed on this high value site seems to have arisen at least in part due to the adoption of a 'market value'



approach to land value which may not have properly reflected affordable housing policies. This is contrary to the Mayor's Housing SPG (which was subsequently adopted in March 2016) and Draft Affordable housing SPG.

18 In this variation to the original scheme, the applicant has valued the original consent (with 4% onsite affordable housing) and used this as the land value benchmark. The approach in the original assessment is not consistent with the Mayor's guidance, although this is now an implementable consent from which the applicant would compare alternative forms of development.

19 The FVA measures profit as internal rate of return. In line with Mayor's guidance, a full justification should be provided for the development programme, the timing of cost and value inputs and the target IRR. This and other aspects of the FVA including values, costs and land value should be robustly scrutinised by Westminster Council in line with the approach set out in the Mayor's Housing SPG and draft Affordable Housing and Viability SPG.

20 Given that the applicant wishes to progress these amendments comprising an increase in residential units and the higher value per sq ft that can generally be achieved in smaller units, it is to be expected that there would be improvements in the viability of the scheme. This should be reflected in an increase in the affordable housing offer.

## **Urban design**

21 The changes are an improvement to the original design and the scheme is of an outstanding quality and the design approach contributes to both the permeability of the area and substantially enhances the local streetscape. The changes in height and massing have no impact on LVMF views and heritage assets over or above the original submitted scheme.

## **The Mayor's CIL**

22 The Mayor has introduced a London-wide Community Infrastructure Levy (CIL) to help implement the London Plan, particularly Policies 6.5 and 8.3 towards the funding of Crossrail. The CIL rate for the City of Westminster is £50 per square metre. The required CIL should be confirmed by the applicant and Council once the components of the development or phase have been finalised.

## **Local planning authority's position**

23 No known at time of report preparation.

## **Legal considerations**

24 Under the arrangements set out in Article 4 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor is required to provide the local planning authority with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. Unless notified otherwise by the Mayor, the Council must consult the Mayor again under Article 5 of the Order if it subsequently resolves to make a draft decision on the application, in order that the Mayor may decide whether to allow the draft decision to proceed unchanged, or direct the Council under Article 6 of the Order to refuse the application, or issue a direction under Article 7 of the Order that he is to act as the local planning authority for the purpose of determining the application and any connected application. There is no obligation at this present stage for the Mayor to indicate his intentions regarding a possible direction, and no such decision should be inferred from the Mayor's statement and comments.

## Financial considerations

25 There are no financial considerations at this stage.

## Conclusion

26 London Plan policies on CAZ, offices, mixed use, housing mix, affordable housing, urban design, tall building, LVMF views and heritage are relevant to this application. The application complies with some of these policies but not with others, for the following reasons:

- **Principal of land use:** The floorspace changes are minor in nature and the proposal is supported.
- **Affordable housing:** Given that the applicant wishes to progress these amendments comprising an increase in residential units and the higher value per sq ft that can generally be achieved in smaller units, it is to be expected that there would be improvements in the viability of the scheme. This should be reflected in an increase in the affordable housing offer.
- **Urban design:** The design changes are minor in nature and the high design quality has been maintained. The changes in height and massing have no impact on LVMF views and heritage assets over or above the original submitted scheme.

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

**Colin Wilson, Senior Manager – Development & Projects**

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

**Sarah Considine, Strategic Planning Manager (Development Decisions)**

020 7983 5751 email sarah.considine@london.gov.uk

**Jonathan Aubrey, Case Officer**

020 7983 5823 email jonathan.aubrey@london.gov.uk

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