

Marian Court (Phases 3 & 4), Link Street

in the London Borough of Hackney

planning application no. 2017/5024

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 all existing buildings and structures and construction of five buildings ranging in height from 3 to 12 storeys and comprising 160 residential units; 898 sq.m. commercial floorspace; 170 sq.m. for community use; a pedestrian, cycle and service route; disabled parking; energy centre; and, new public spaces and courtyards.

The applicant

The applicant is **London Borough of Hackney**, and the architect is **Adam Khan Architects**.

Key dates

- **Pre-application meeting:** 17 October 2017.
- **Stage 1 report:** 22 May 2018.
- **Committee meeting:** 6 June 2018.

Strategic issues summary

Principle of development: The proposed estate regeneration is supported in line with London Plan Policy 3.14 and Policy H8 of the Mayor's intend to publish London Plan (paragraphs 10-12).

Affordable housing: 91 units, which equates to 56% affordable housing by habitable room and 52% of the net increase in units on the site. Early and late stage reviews have been secured (paragraphs 13-16).

Urban design, Climate change and transport: The issues raised at Stage 1 have been satisfactorily addressed either by way of additional information and/or secured through conditions or legal obligations (paragraphs 17-20).

The Council's decision

In this instance, Hackney Council has resolved to grant permission subject to conditions and a Unilateral Undertaking.

Recommendation

That Hackney 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 January 2018, the Mayor of London received documents from Hackney 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, 1B and 1C of the Schedule to the Order 2008:

- **Category 1A:** Category 1A: *“Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats”.*
- **Category 1B(c):** *“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 outside Central London and with a total floorspace of more than 15,000 square metres”.*
- **Category 1C:** *“Development which comprises or includes the erection of a building of (c) more than 30 metres high and is outside the City of London.”*

2 On 18 April 2018, Hackney Council notified the Mayor of revisions to the application.

3 On 22 May 2018, the Mayor considered planning report GLA/4396/01, and subsequently advised Hackney Council that the application did not fully comply with the London Plan and draft London Plan, for the reasons set out in paragraph 52 of the above-mentioned report, but that possible resolutions to these issues could lead to full compliance with the London Plan.

4 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 6 June 2018, Hackney Council resolved to grant permission subject to conditions and the completion of a Unilateral Undertaking, and on 29 June 2018 it advised the Mayor of this decision. This Stage II referral was validated complete on 29 June 2020. 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 Hackney Council under Article 6 to refuse the application or issue a direction to Hackney Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application. The Mayor has until 12 July 2020 to notify Hackney Council of his decision and to issue any direction.

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

Consultation stage issues summary

6 At the consultation stage, Hackney Council was advised that the application did not fully comply with the London Plan and draft London Plan, for the reasons given below:

- **Principle of development:** Final phases of an estate regeneration scheme, which would result in an overall net increase of 592 sq.m. of social rent floorspace and 93 affordable units/280 habitable rooms across the entire estate regeneration. This equates to 66% of the total number of additional

units provided across the whole regeneration scheme. This is supported; however, any future uplift must be allocated to the provision of more social rented units.

- **Affordable housing:** 56% affordable housing by habitable rooms (66% across the overall masterplan), with a 35%:65% social and intermediate tenure split. GLA officers will robustly interrogate the viability assessment submitted with the application to ensure that the maximum level of affordable housing is provided. Early and late stage review mechanisms must be secured, and the viability assessment must be published.
- **Climate change:** Further revisions and information relating to overheating analysis for extreme weather files, CHP, site-wide network and energy centre drawings and photo voltaic roof layout are required before the proposals can be considered acceptable and the carbon dioxide savings verified. Any remaining regulated CO₂ emissions must be met through a contribution to the borough's offset fund.
- **Transport:** Broadly supported; however, long and short-stay cycle parking should be provided in line with draft London Plan standards; all future occupiers, except Blue Badge holders should be prevented from obtaining parking permits for the surrounding CPZ, and a full construction logistics plan and travel plan must be secured. The servicing strategy must also be amended to address the retention of trees and minimise the loss of footway space, and these works should be delivered by Section 278 agreement with TfL as highway authority and secured in the S106 agreement.

Strategic planning policy and guidance update

7 The following draft policy and guidance are now material considerations:

- the National Planning Policy Framework and National Planning Practice Guidance (2019);
- the London Plan – Intend to publish version (December 2019), which should be considered on the basis explained in the NPPF; and,
- Draft Hackney Local Plan LP33 (2019).

8 On 13 March 2020 the Secretary of State issued a set of Directions under Section 337 of the Greater London Authority Act 1999 (as amended) and, to the extent that they are relevant to this particular application, have been taken into account by the Mayor as a material consideration when considering this report and the officer's recommendation.

Update

9 Since the Stage 1, GLA and TfL officers have engaged in discussion with the applicant and the Council to address the outstanding issues. In addition, various planning conditions and legal obligations are secured as part of Hackney Council's draft decision and draft Unilateral Undertaking. Having regard to this, an assessment against the strategic issues raised at the consultation stage is set out below.

Principle of development – estate regeneration

10 As set out at the initial consultation, this proposal is the final phase of an estate regeneration masterplan encompassing Bridge House and Marian Court. The two estates accounted for 135 units, including 85 social rented units—38 at Bridge House and 47 at Marian Court. The proposed redevelopment of the sites would realise a net loss of five social rented units and six habitable rooms; however, the amount of social rented floorspace would increase by 592 sq.m. because of larger sized units. This information is set out in Table 1 below.

Table 1: loss/gain of affordable housing in overall masterplan (Bridge House and Marian Court)

| tenure | units | habitable rooms | floorspace (sq.m.) |
|---------------------------|--------------|------------------------|---------------------------|
| existing social rented | 85 | 247 | 5,198 sq.m. |
| proposed social rented | 80 | 241 | 5,790 sq.m. |
| net change | -5 | -6 | +592 |
| existing intermediate | 0 | 0 | 0 sq.m. |
| proposed intermediate | 98 | 286 | 5,019 sq.m. |
| net change | +98 | +286 | +5,019 sq.m. |
| overall net change | +93 | +280 | +5,611 sq.m. |

11 The proposed estate regeneration scheme conforms with the good practice criteria set out the Mayor's Good Practice Guide to Estate Regeneration, including extensive consultation and engagement, relocation of tenants, right to return offered, and a fair deal for leaseholders. Although the number of units exceed 150, the application does not benefit from GLA funding and as such a ballot is not required.

12 As indicated at the initial consultation stage, the principle of estate regeneration on site is supported in line with London Plan Policy 3.14, Policy H8 of the Mayor's intend to publish London Plan, the Mayor's Affordable Housing & Viability SPG and the Mayor's Good Practice Guide to Estate Regeneration.

Affordable housing

13 The scheme proposes 160 new residential units (a net gain of 85 units) and would deliver 56% affordable housing by habitable room, with a tenure split of 35% social rent and 65% intermediate as detailed in Table 2 below.

Table 2: Proposed tenure mix at Marian Court

| tenure | 1Bed | 2Bed | 3Bed | 4Bed | total/u | total/hr | hr % |
|------------------|-------------|-------------|-------------|-------------|----------------|-----------------|-------------|
| private | 19 | 34 | 14 | 2 | 69 | 206 | 44% |
| shared ownership | 21 | 28 | 10 | 0 | 59 | 166 | 35% |
| social rented | 3 | 23 | 5 | 1 | 32 | 100 | 21% |
| total | 43 | 85 | 29 | 3 | 160 | 472 | 100% |

14 When the existing 47 social rented units are discounted, the uplift in affordable housing provision would be 44 units, which equates to 52% of the net gain in units on this site. GLA officers have robustly interrogated the viability assessment submitted subsequent to the Stage I and have determined that the proposed level of affordable housing is the maximum the scheme can deliver at this time.

15 To ensure compliance with the relevant London Plan and Mayor's intend to publish London Plan policies and guidance, the proposed social rents (which are lower than LAR levels), the eligibility criteria for the shared ownership units (which meet the Mayor's affordability criteria) and early and late stage review mechanisms have been secured in the draft Unilateral Undertaking. Regarding the publication of the viability information, the applicant has sought an exemption from the LPA, namely the redaction of parts of the report it considers to be sensitive. The LPA has granted the exemption and has published the redacted FVA.

16 GLA officers requested and have received a copy of the redacted version the Local Authority has published and are reviewing it. If GLA officers are not convinced that the requisite tests for an exemption have been met, the GLA will publish a version with less/no redactions to ensure transparency of information in accordance with Policy H5 of the Mayor's intend to publish London Plan and Affordable Housing and Viability SPG.

Urban design

17 An informative prescribing the submission of a fire statement, produced by a third party suitably qualified assessor, was requested at Stage I. In response, the Council has secured the submission of a fire statement prior to commencement of above ground works by condition.

Climate change

18 At Stage I, further information relating to overheating analysis for extreme weather files, CHP, site-wide network and energy centre drawings and photo voltaic roof layout was requested. In relation to overheating, an overheating report has been submitted that confirms those rooms that comply with the requisite criteria and sets out the measures to mitigate overheating. Additional information has been supplied for the CHP and a pre-commencement planning condition secured. Pre-commencement conditions have been secured to maximise PV provision and to determine a revised carbon offset payment figure. Similarly, a pre-commencement and pre-occupation planning conditions have been secured requesting the applicant to demonstrate that PV provision has been maximised. All other outstanding matters relating to energy have been satisfactorily addressed.

Transport

19 At Stage I, the creation of a servicing bay on Homerton High Street, which is part of the Transport for London Road Network, was deemed acceptable in principle, subject to the retention of as many street trees as possible and the minimal loss of footway space. The draft Unilateral Undertaking agreement includes an obligation for the applicant to enter into a Section 278 agreement with TfL, which will secure the funding and delivery of new on-street servicing bay and ensure the final street layout supports Policies D7 and T2 of the Mayor's intend to publish London Plan. This is acceptable.

20 As requested during consultation, all new residents will be prevented from obtaining car parking permits in the surrounding area. This has been secured in the draft Unilateral Undertaking agreement. Various transport-related plans, including travel, construction logistics, and delivery and servicing have been secured by condition. Although the proposed quantum of cycle parking spaces does not meet the Mayor's intend to publish London Plan standards, the development is car free except for 8 disabled car parking spaces and the public realm is of a high standard. As such, the proposed number of cycle parking space is, on balance, acceptable.

Response to consultation

21 The application was advertised by site and press notices, and over 340 letters were sent to adjoining owners/occupiers. Hackney Council has received 21 letters of objection and one response in support. This letter of support lists the following reasons for supporting application: high quality design and landscape; improvement to Homerton High Street; better connections through site; and, provision of workspace.

22 The representations received by Hackney Council with regards to the application have been set out in detail in the Councils' planning committee report and full copies of the individual representations have been made available to the Mayor as part of the statutory referral process. Objections and responses from statutory consultees and amenity groups are summarised below:

Objections

- **Design and heritage:** Height of tower is out of scale with surrounding context; proposed scale would have an overbearing impact on nearby streets; development would restrict views, including St John at Hackney and would be harmful to the setting of the Grade II listed Plough Inn; proposed materiality is unattractive and not reflective of the historical context of the surrounding area; the proposed height is not in line with the borough's tall buildings strategy and would set a precedent for taller buildings in the vicinity of the site
- **Amenity:** Loss of light to nearby residences; overshadowing of external amenity areas; overlooking of residences and external amenity spaces; increased noise and air pollution; and, the development would change the open and spacious character of the surrounding environs.
- **Other:** Loss of trees; residents were not properly consulted during the design phase; and visual representation of the proposal presented in the application documents is misleading.

Responses from statutory and additional consultees

- **Environment Agency:** No comments received.
- **London Fire and Emergency:** No objection; recommends the use of sprinklers within the development.
- **London Overground:** No objection.
- **Network Rail:** No response received.
- **Historic England:** No objection.

- **Historic England (GLAAS):** No objection, subject to a condition requiring a two-stage process of archaeological investigation comprising: first, evaluation to clarify the nature and extent of surviving remains, followed if necessary, by a full investigation.
- **Thames Water:** No objection, subject to informatives relating to piling, waste, impact assessment and drainage strategy.
- **Hackney Society:** Broadly in support of scheme; highlights the importance of public spaces to the success of the scheme and requests that the maintenance of the spaces is secured in a unilateral undertaking.
- **Brooklime Chervil and Marian Court Tenants Residents Association:** Commends the consultation process, including the opportunity to participate in the design process; and supports the proposal, noting that the delivery of sustainable community space and workspace will create opportunities and support the Association's work.
- **Clapton Conservation Area Advisory Committee:** No comments received.

Response to consultation conclusion

23 The issues raised in respect of height have been addressed in the Stage I report and the Committee report. Regarding traffic, the issues raised have been addressed in this report, the Stage I report and the Committee report; and those issues relating to noise and pollution have been addressed in the Committee report. On the matter of impact on heritage assets, the Committee report sets out an extensive analysis of the impact of the proposal on the heritage assets. Additionally, as indicated at Stage 1, GLA officers, having regard to the statutory duties in respect of conservation areas and listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990, and the relevant paragraphs in the NPPF in relation to conservation areas and listed buildings, consider that the development would not cause any harm to the heritage asset. The conditions and informatives requested by statutory consultees have also been secured.

Draft Unilateral Undertaking

24 The draft Unilateral Undertaking includes the following provisions:

- 32 social rented units (3x1; 23x2; 5x3; and, 1x4) and 59 intermediate units (21x1; 28x2; and, 10x3);
- early and late stage reviews;
- car-free agreement;
- financial contribution of £60 per unit towards car club membership;
- section 278 agreement;
- travel plan and travel plan monitoring fee of £2,500;
- financial contribution of £133,156 towards Hackney Works;
- local training and recruitment provisions;
- considerate constructor's scheme;
- a carbon offset payment;
- 10% of B1 floorspace to be provided as affordable workspace and completed prior to the first occupation of residential units;
- affordable workspace to be provided at affordable rent in perpetuity in accordance with affordable workspace statement;

- community centre use to be provided in perpetuity;
- costs associated with the Council's legal and other relevant fees, disbursements and Value Added Tax in respect of the proposed negotiations; and,
- monitoring costs.

Legal considerations

25 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

26 In this instance, the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at consultation stage, therefore there are no sound planning reason for the Mayor to intervene in this case.

Financial considerations

27 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.

28 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.

29 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

30 The strategic issues raised at consultation stage regarding affordable housing, energy and transport have been satisfactorily addressed, and appropriate planning conditions have been secured. As such the application complies with the London Plan and the Mayor's intend to publish London Plan, and there are no sound reasons for the Mayor to intervene in this case.

For further information, contact the GLA Planning Team:

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