New Regent’s College, Nile Street
in the London Borough of Hackney
planning application no. 2016/0300

**Strategic planning application stage II referral**

**The proposal**
Demolition of existing buildings and construction of a co-located development comprising a 250 pupil school, 175 residential dwellings, two flexible commercial units and associated landscaping and public realm works. The proposed buildings range in height from 6 to 29-storeys.

**The applicant**
The applicant is Hackney Council, and the architect is Avanti Architects.

**Key dates**
GLA pre-application meetings: **5 December 2014** and **9 October 2015**
Application validated by Hackney Council: **26 January 2016**
Mayor of London stage 1 representations: **18 March 2016**
Hackney Council planning committee: **29 June 2016**

**Strategic issues summary**

**Education facilities**: The co-located school and housing development is strongly supported. In tandem with a co-location scheme at Tiger Way, a £12 million contribution to education provision in the borough has been secured. (Paragraphs 8 and 9)

**Housing**: In tandem with a co-location scheme at Tiger Way, and accepting a 50/50 surplus split between affordable housing and education provision, a £12 million contribution to affordable housing (equivalent to 17% by unit) has been secured. (Paragraphs 10 to 16)

Other issues with respect to **sustainable development** and **transport** have also been resolved. (paragraphs 17 to 20)

**The Council’s decision**
In this instance Hackney Council has resolved to grant permission subject to planning conditions and conclusion of 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 9 February 2016 the former 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 the following categories 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”; and,
- 1C 1.(c) “Development which comprises or includes the erection of a building… more than 30 metres high and… outside the City of London”.

2 On 18 March 2016 the former Deputy Mayor for Planning considered planning report D&P/3532/01, and subsequently advised Hackney Council that whilst the scheme is generally acceptable in strategic planning terms, the application did not fully comply with the London Plan for the reasons set out in paragraph 60 of the above-mentioned report.

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. On 29 June 2016 Hackney Council decided that it was minded to grant permission for the application subject to planning conditions and conclusion of a unilateral undertaking (a Section 106 agreement is not appropriate in this case because the Council is the applicant). On 5 July 2016 Hackney Council notified the Mayor of its 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 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 and any connected application. The Mayor has until 18 July 2016 to notify the Council of his decision and to issue any direction.

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

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

Update

6 At consultation stage Hackney Council was advised that whilst the scheme is generally acceptable in strategic planning terms, the application did not fully comply with the London Plan for the reasons set out below. The resolution of these issues could nevertheless lead to the application becoming compliant with the London Plan.

- **Education facilities**: The proposed provision of this educational facility is strongly supported in line with London Plan Policy 3.18. The Council is, nevertheless, encouraged to secure a strategy for community use of the school facilities.

- **Housing**: The proposed housing units are strongly supported in line with London Plan Policy 3.3. It is, nevertheless, acknowledged that this is not a conventional residential scheme, and that in this case a private market housing offer (weighted towards one and two-bedroom units) is necessary in order to financially enable the delivery of educational infrastructure. Notwithstanding this, GLA officers seek further discussion on the balance of
any surplus split; and, the nature of the proposed overage/end point review mechanism, in line with London Plan Policy 3.12.

- **Sustainable development**: The proposed energy strategy and climate change adaptation measures are broadly supported in strategic planning terms. Following the conclusion of discussions on the energy strategy, the Council is encouraged to secure associated energy and adaptation details by way of planning condition in accordance with London Plan polices 5.2, 5.10, 5.11, 5.13, 7.19 and 7.21.

- **Transport**: Whilst the proposal is broadly acceptable in strategic transport terms, matters with respect to transport impact; car and cycle parking; walking; and, travel planning should be addressed to ensure accordance with London Plan policies 6.3, 6.9, 6.10, 6.13 and 6.14.

7 Since consultation stage the applicant team has engaged in joint discussions with the local planning authority, GLA and TfL officers with a view to addressing the above matters. Furthermore, the applicant has submitted a number of minor design changes to the scheme, and various planning conditions and obligations are proposed to be imposed as part of Hackney Council’s draft decision. Having regard to this, an assessment against the issues raised at consultation stage is set out under the corresponding sections below.

**Education facilities**

8 As discussed at consultation stage, the proposed co-location of school and housing development helps to financially enable the provision of education facilities, and is strongly supported in strategic planning terms.

9 In response to the former Deputy Mayor’s representations, a school management strategy has been secured by way of planning condition. This strategy will set out how community / recreational use of school facilities (outside of school hours) will be facilitated and managed in line with London Plan Policy 3.18. Moreover, in conjunction with a tandem co-location scheme at Tiger Way (refer to GLA report D&P/3533/02), a £12 million contribution to education provision in the borough will be secured by way of unilateral undertaking.

**Housing**

10 As discussed at consultation stage, this application was submitted in tandem with another school and residential co-location scheme on Tiger Way at Hackney Downs. These schemes are financially linked, and share a viability assessment. In both cases, the role of the residential component of the development is to financially enable delivery of new educational infrastructure. Moreover, both schemes exclude a requirement for developer profit.

11 Since consultation stage the financial viability assessment has been independently assessed on behalf of the local planning authority. This verifies that this scheme (Nile Street) would generate a healthy financial surplus. However, the scheme at Tiger Way is considerably less viable, and registers a significant financial deficit under current market conditions. Accordingly, delivery of the Tiger Way scheme is dependent on cross-subsidy from the Nile Street scheme. Notwithstanding this arrangement, the independent review has verified that there would be £24 million of overall financial surplus (supported by the strong private sales values at Nile Street).

12 In accordance with the requirements of London Plan Policy 3.12, GLA officers have engaged in joint discussions with the applicant and local planning authority with respect to how this surplus will contribute towards the delivery of affordable housing. As part of the context to these discussions it was also acknowledged that Hackney’s school building programme currently faces a significant funding shortfall.
Further to these discussions (and having regard to: the requirements of London Plan policies 3.12 and 8.2; the nature of these school/residential mixed use schemes; and, the potential to jointly support Hackney’s school building programme in accordance with the aims of London Plan Policy 3.18), GLA officers have accepted Hackney Council’s proposal for a 50/50 split of the overall financial surplus between affordable housing and local education provision. Therefore, it is proposed that an over-arching unilateral undertaking is used to secure a contribution of £12 million towards affordable housing and £12 million towards education in the borough. Moreover, the unilateral undertaking will include a review mechanism to capture any net financial uplift if these schemes are not implemented within 24 months.

The Council proposes that the £12 million affordable housing contribution is directed towards the Hackney Housing Supply Programme - where it would support the delivery of additional affordable housing as part of estate regeneration schemes in the borough. Accordingly, this contribution is expected to result in 46 additional off-site affordable housing units (equivalent to a 17% provision by unit across both the Nile Street and Tiger Way schemes combined).

In arriving at the proposal for a payment in lieu of on-site affordable housing, due regard has been had to the requirements of London Plan Policy 3.12 part C. In this respect it was noted that if the £12 million were to be invested on-site, it would deliver approximately 12 affordable housing units across the Nile Street and Tiger Way schemes (equivalent to 5% by unit). Moreover, having regard to the tenure context in both locations (the Nile Street and Tiger Way sites adjoin the Wenlock Barn and Nightingale housing estates respectively), GLA officers are satisfied that an off-site approach to affordable housing would not undermine the objective to support mixed and balanced communities in line with London Plan Policy 3.9.

Having regard to the above, there are exceptional circumstances in this case which justify a payment in lieu, and the application accords with London Plan Policy 3.12.

**Sustainable development**

The proposed climate change mitigation and adaptation measures were broadly supported at consultation stage, and since then the position on district networking potential has been verified. This scheme will be appropriately designed to allow for future district network connection, and both the energy strategy and relevant climate change adaptation measures are to be secured by way of planning condition. The application therefore complies with London Plan polices 5.2, 5.10, 5.11, 5.13, 7.19 and 7.21.

**Transport**

At consultation stage a number of detailed transport issues were raised with respect to: impact on the operation of the local bus network; quality and quantity of cycle parking; car parking provision; and, pedestrian environment. Furthermore, TfL requested that a delivery and servicing plan (DSP), construction logistics plan (CLP) and Travel Plan were secured by way of planning condition.

Relevant details with respect to cycle parking have now been secured via condition, along with a DSP, CLP and travel plan. In addition, a planning obligation has been agreed to ensure that future residents will be prevented from obtaining local controlled parking zone permits. With regard to bus impacts, a contribution of £50,000 (from the first year of occupation of the school) has been agreed to assist with the provision of additional services to alleviate the network. Contributions towards car club memberships for residents and upgrades to pedestrian infrastructure have also been secured.
Having regard to the above, and the advice of TfL, GLA officers are satisfied that the application accords with London Plan policies 6.3, 6.9, 6.10, 6.13 and 6.14.

Response to consultation

Hackney Council publicised the application by sending notifications to 817 addresses within the vicinity of the site, and issuing site and press notices. The relevant statutory bodies were also consulted. Copies of all responses to public consultation, and any other representations made on the case, have been made available to the Mayor.

Responses to neighbourhood consultation

Following the neighbourhood consultation process Hackney Council received a total of 134 responses (129 in objection and 5 in support). One petition of objection was also received, with a total of 529 signatures. In summary, the points of objection raised within the responses relate to: incompatible mix of uses; absence of commercial space; new school is insufficient to address shortfall of school places in the borough; loss of school land; absence of affordable housing; failure to support mixed and balanced communities; scale of development; inappropriate response to the context (including the Underwood Conservation Area); insufficient design/architectural quality; insufficient amenity space; impacts on residential amenity (including loss of light, privacy and outlook); risk of antisocial behaviour; environmental impacts (including removal of trees, wind, overshadowing, noise, dust, disturbance, odour and increased pollution); impact on satellite signals; increased pressure on local infrastructure (including transport infrastructure); insufficient car parking; increased congestion; and, insufficient community engagement/consultation.

In summary, the points of support received in response to the consultation relate to: improved educational provision in response to local need; well-considered school design; improved public realm; and, contribution to affordable housing in the borough.

Letters of support were also received from Councillor Bramble and Councillor Taylor. The cited reasons for support are included within the summary in paragraph 23 above.

The issues raised as part of the neighbourhood consultation process are considered in detail within Hackney Council’s committee report of 29 June 2016 (and the report addendum of the same date).

Responses from statutory bodies and other organisations

Historic England

Historic England raised no objection to the application, but expressed the view that the proposal would cause some harm to the Underwood Conservation Area and undesignated heritage assets within it. Accordingly Historic England recommended that the application be determined in accordance with relevant policy and guidance, giving careful consideration to the public benefits of the scheme.

GLA officers considered the design of the scheme at consultation stage (refer to GLA report D&P/3532/01), and having regard to the townscape, heritage and visual impact assessment (including the cumulative scenarios detailing other large-scale development in the surrounding context), and mindful of the statutory duty under Section 66 of the 1990 Planning (Listed Buildings and Conservation Areas) Act, GLA officers concluded that the proposal would provide an acceptable response in townscape terms and would not cause harm to the character and setting of the designated heritage assets concerned. Moreover, whilst not directly relevant
to the aforementioned assessment, GLA officers are of the view that the proposed educational facility and public realm improvements are considerable public benefits of this scheme.

**Hackney Society**

28 The Hackney Society expressed support for the low rise components of the scheme, but objected to the proposed 29-storey tower (stating that this is too distant from the established cluster of tall buildings at City Road). Concerns were also raised with respect to: the proposed co-location of cohorts at the site; absence of on-site affordable housing; the cross-subsidy arrangement with the proposal at Tiger Way; and, failure to publish the submitted viability report (due to its commercially sensitivity).

**Shoreditch Conservation Area Advisory Committee**

29 The Shoreditch Conservation Area Advisory Committee expressed support for the principle of mixed use development at this site and the proposed delivery of the new educational facility. Whilst acknowledging that the proposal would have only limited impact on the Shoreditch Conservation Area, the Committee sought refinements to the architectural treatment of the tower to improve its response to the setting of local heritage assets.

**Thames Water**

30 Thames Water raised no objection to the application, but sought the inclusion of planning conditions with respect to piling method and drainage strategy, along with a set of standard infortmatives.

**Wenlock Barn Tenant Management Organisation**

31 Wenlock Barn Tenant Management Organisation expressed full support for the proposal, welcoming: new school provision; enhanced public realm; extent of (and response to) public consultation; and, the proposed enhancement of local community space.

**Islington Council**

32 Islington Council did not object to the application, but expressed the view that the proposed tower would be visually obtrusive in views from within the London Borough of Islington. Islington Council also encouraged connection to the Bunhill District Heating Network, and recommended that construction traffic be routed to avoid Central Street and Moreland Street.

**Responses from other organisations (raising no issues)**

33 Environment Agency; Historic England (archaeology department); London Fire and Emergency Planning Authority; and, Natural England raised no objection to the application.

**Response to consultation – conclusion**

34 It is noted that, having considered the above representations and consultation responses, Hackney Council has proposed various planning conditions and infortmatives in response to the issues raised. Having had regard to these, GLA officers are satisfied that the statutory and non-statutory responses to Hackney Council’s consultation process do not raise any material planning issues of strategic importance that have not already been considered at consultation stage, and/or in this report.
Article 7: Direction that the Mayor is to be the local planning authority

35 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 planning obligations, which satisfactorily address the matters raised at consultation stage. Therefore, there is no sound planning reason for the Mayor to take over this application.

Legal considerations

36 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

37 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.

38 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.

39 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

40 The proposed co-located school and housing development is strongly supported in strategic planning terms. Moreover, since consultation state issue raised with respect to education facilities; housing; sustainable development; and, transport have been resolved, and the application complies with the London Plan.
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