

Planning application

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

Update

To consider any material changes to policy since the Mayor's resolution to grant planning permission on 29 October 2020.

Recommendation

That the Deputy Mayor, acting under delegated authority:

1. notes and has regard to the associated Hearing Report (including Addendum Report), the recording of the virtual Hearing, the original decision agreed by the Mayor on 29 October and the reasons for that decision; and
2. agrees that the policy and guidance changes since the Representation Hearing do not materially affect the resolution to grant planning permission he made on 29 October 2020.

Context

1 On 29 October 2020 the Mayor resolved to grant conditional planning permission in respect of the City of Westminster planning application 19/03673/FULL, subject to the prior completion of a Section 106 legal agreement.

2 The Mayor also gave delegated authority for the Head of Development Management to negotiate the Section 106 legal agreement and gave delegated authority to refuse permission by 29 January 2021, should the Section 106 agreement not be completed. This was extended on 29 January 2021 to 29 March 2021 by the Deputy Mayor, acting under delegated authority and as the Local Planning Authority.

3 Good progress has been made on Section 106 agreement negotiations since the Representation Hearing and the legal agreement is substantially drafted. All the S106 obligations agreed and set out in the Hearing Report have been secured and all necessary conditions agreed, subject to amendments undertaken under delegated authority after discussions with Westminster City Council. This includes 3,900 sq.m. of

affordable workspace and a £14.3m payment in lieu towards affordable housing, to provide a mixture of low cost rent and intermediate housing elsewhere in the City.

Planning policy and guidance update

4 Owing to the time that has elapsed since the Representation Hearing, there have been a number of changes to policy that must be considered and are discussed further below.

New London Plan

5 At the time of the Representation Hearing, the New London Plan was in Intend to Publish (ItP) form and had been sent to the SoS alongside a schedule of the Panel Inspector's post-EiP recommendations, and the Mayor's response to them. On 13 March 2020, the SoS issued a set of Directions under Section 337 of the Greater London Authority Act 1999 (as amended) in response to the Mayor's ItP London Plan and, to the extent that they were relevant to this particular application, they were taken into account by the Mayor as a material consideration when considering the Hearing Report and the officer's recommendation.

6 On 10 December 2020, the SoS issued the Updated Changes to the London Plan, showing where Mayor's proposed wording is accepted and where instead the wording should be kept in line with the original SoS Directions issued on 13 March 2020.

7 Furthermore, on 10 December 2020, the SoS issued Updated Changes and two further Directions under Section 337 of the Greater London Authority Act 1999 (as amended). The Directions comprised Direction DR4 (specifically regarding updated para 6.4.8, which is not relevant to this particular application) and another regarding Policy D9 (Tall Buildings).

8 On 21 December 2020, the Mayor submitted to the Secretary of State his Publication London Plan with amendments designed to address all directions, which represents the most up to date version of the Mayor's London Plan.

9 On 29 January 2021, the Secretary of State confirmed that he had no further matters to raise and that the Publication London Plan (December 2020) conformed with the previous Directions and could now be published. The Mayor will now move to publish his London Plan on 2 March 2021.

10 In terms of strategic planning guidance, no new documents of any material weight have been published.

11 The Updated Changes issued by the SoS relate to a number of new London Plan policies. Of relevance to this case is DR2 (relating to Policy D3 (Optimising site capacity)) and DR10 (relating to Policy T6.3 (Retail parking)). These are noted and GLA officers consider that they would not materially affect the resolution to grant planning permission made by the Mayor on 29 October 2020.

12 The SoS direction regarding Policy D9 (Tall Buildings) primarily sought to ensure that tall buildings are only brought forward in appropriate and clearly defined areas, as determined by the boroughs. The ItP London Plan Policy D9(B3) already

stated that “Tall buildings should only be developed in locations that are identified in Development Plans”, however, in the SoS’s view the policy should go further and Publication London Plan Policy D9(B3) states that “Tall buildings should only be developed in locations that are identified as suitable in Development Plans”.

13 The Hearing Report explains the particular circumstances of the case. It notes that, while Westminster City Plan Policy S26 states that Westminster is not generally appropriate for tall buildings, its supporting text states that tall buildings are also addressed specifically in relation to Opportunity Areas, including the Paddington Opportunity Area at paragraph 3.14 of the Westminster City Plan and Policy S3.

14 The Hearing Report therefore discusses Policy S3 and paragraph 3.14 and concludes that GLA officers (as well as Council officers) consider the proposals to be for a “medium height building” in the context of the Paddington Opportunity Area and therefore compliant with Westminster City Plan Policy S3.

15 Nevertheless, the Hearing report also acknowledges that a “tall building” is defined in the glossary of the Westminster’s City Plan, as well as in UDP Saved Policy DES 3, as “a building significantly taller than its surroundings” and the proposals could therefore be considered as a tall building when considering the development plan as a whole.

16 Accordingly, the Hearing Report included an assessment of the proposals against the tall building policies London Plan Policy 7.7, Intend to Publish London Plan Policy D9, UDP Saved Policy DES 3 for tall/high buildings and gives full consideration to the visual, functional, environmental and cumulative impacts of the proposals.

17 It concluded that the proposed building would cause less than substantial harm to heritage assets and have a minor adverse impact on local views, due to its height and deliberately ‘eye-catching’ design and, consequently, it would not fully comply with a number of local policies, as well as London Plan Policy 7.7 and Intend to Publish London Plan D9.

18 This policy conflict was therefore addressed in the “Overall planning balance” section of the Hearing Report, where it was noted that a conflict with some development plan policies does not necessarily mean that there is an overall conflict with the development plan as a whole, and GLA officers concluded that, overall, the proposals would accord with the development plan as a whole.

19 It is noted that the application site has not been unequivocally identified in the current Local Plan as a location suitable for tall buildings, in line with Publication London Plan Policy D9(B3) and the proposal would therefore conflict with this locational requirement. Nevertheless, it is considered that the proposals would continue to accord with the development plan as a whole and that the changes made to Policy D9 (which at this time is not part of the development plan) would not materially affect the resolution to grant planning permission made by the Mayor on 29 October 2020.

Westminster City Council

20 Whilst there have been no new relevant local Supplementary Planning Documents or Guidance published since the Representation Hearing, the examination of the Council's emerging plan, the Westminster's City Plan 2019-2040, has advanced since the original resolution to grant planning permission was made by the Mayor.

21 Following the City Plan Examination hearings, which were carried out the weeks beginning 28 September and 12 October 2020, the Council carried out a consultation from 30 November to 18 January 2021 on the main modifications that were recommended by the Inspectors to make the Plan sound before it is adopted.

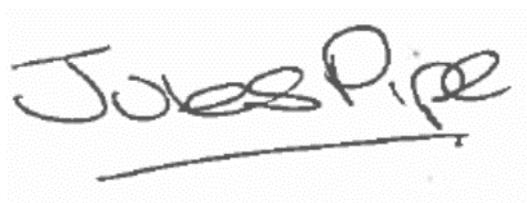
22 These suggested modifications relate to a wide number of policies. Of particular significance to this case are the changes to Policy 10 (*Affordable contributions in the CAZ*, which Inspectors suggested to delete), Policy 15 (*Town centres, high streets and the CAZ*, which was revised to address the changes to the Use Classes Order) and Policy 42 (*Building height*, which was revised to remove the general presumption against tall buildings in Westminster and to remove the requirement for building heights in Paddington to step down from One Merchant Square).

23 Considering that the Inspectors' report has not been published yet, these policies are still considered to carry limited weight and would not materially affect the resolution to grant planning permission made by the Mayor on 29 October 2020.

Legal considerations

24 Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Mayor is acting as the Local Planning Authority for the purposes of determining this planning application.

Decision record – recommendation agreed

A handwritten signature in black ink that reads "Jules Pipe". The signature is written in a cursive style and is underlined with a single horizontal line.

Jules Pipe
Deputy Mayor for Planning Regeneration & Skills

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