

St James' Market Phase 2

in Westminster City Council

planning application no. 19/04480/FULL

Strategic planning application stage II referral

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

The proposal

Redevelopment (with partial façade retention) to provide eight storeys plus basement building for 27,000 sq m of retail/office floorspace together with a cinema.

The applicant

The applicant is **St James's Market Development (No. 2) Ltd**, the architect is **Make**.

Key dates

Stage I report: 5 August 2019

Committee meeting: 17 December 2019.

Strategic issues

Principle of development: The scheme would enhance the retail and office floorspace offer and quality of this part of the Central Activities Zone and is therefore supported.

Urban and inclusive design: The approach to design is strongly supported and the form and proportions of new interventions respond successfully to the special heritage value of the wider conservation area. Conditions have been secured in relation to high quality detailing, inclusive accessibility and a fire exit strategy for the retained cinema.

Heritage: The proposed development will result in less than substantial harm on the Grade II listed Carlton Cinema and the conservation areas. The public benefits (including economic, leisure and public realm benefits) arising from the scheme outweigh the less than substantial harm.

Transport: Information has been provided in relation to Healthy Streets/Vision Zero analysis; cycle infrastructure; cycle hire docking station; London Underground infrastructure and TfL bus asset protection. A contribution towards relocating/ expanding existing cycle hire docking station has been secured by secured 106 obligation.

Issues relating to **energy, sustainable drainage** and **water efficiency** are resolved and relevant conditions and Section 106 obligations secured.

The Council's decision

In this instance, Westminster City Council has resolved to grant permission, subject to conditions and a section 106 agreement.

Recommendation

That Westminster City 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 that he is to be the local planning authority.

Context

1 On 27 June 2019, the Mayor of London received documents from Westminster City 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 1B and 1C of the Schedule to the Order 2008:

- Category 1B: “ 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”.
- 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 5 August 2019, the Deputy Mayor for Planning, Regeneration and Skills, acting under delegated authority, considered planning report GLA/2931a/01, and subsequently advised Westminster City Council that the application did not yet comply with the London Plan and the draft London Plan; however, the possible remedies set out in paragraph 57 of the above-mentioned report could address these deficiencies.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. Since then, further information has been provided in response to the Deputy Mayor’s concerns (see below). On 17 December 2019, Westminster Council decided that it was minded to grant permission, subject to conditions and agreement of a section 106 agreement. Under the provisions of Article 5 of the Town and Country Planning (Mayor of London) Order 2008, the Mayor may allow the draft decision to proceed unchanged or 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 has until 24 February 2020.

Consultation stage issues summary

4 At consultation stage, Westminster City Council was advised that the application did not yet comply with the London Plan and the draft London Plan as set out below;

- **Principle of development:** The scheme would enhance the retail and office floorspace offer and quality of this part of the Central Activities Zone and is therefore supported.
- **Design:** The design responds successfully to the surrounding built context in terms of acknowledging the existing built character of heritage assets and in creating new pedestrian routes and spaces across the site. No strategic design concerns are raised.

- **Heritage:** The proposed development will result in less than substantial harm on the Grade II listed Carlton Cinema and the conservation areas. The public benefits, including economic, leisure and public realm benefits, arising from the scheme outweigh the less than substantial harm, and therefore the scheme accords with heritage policies.
- **Energy:** Comprehensive comments have been provided to Westminster Council. In summary, while the proposal is generally supported, further information is required in relation to overheating, district heating, heat pumps and photo voltaic panels.
- **Sustainable drainage:** Additional information is required regarding sustainable drainage including attenuation volume calculations, exceedance assessment information, and a London Proforma should be provided.
- **Water Efficiency and urban greening:** Further consideration should be given to water harvesting and reuse to reduce consumption of water across the development. Urban greening should be embedded as a fundamental element of site and building design. The proposed development's Urban Greening Factor should be calculated, and opportunities to create green links to the local green network should be explored.
- **Transport:** The Applicant is be required to satisfactorily address issues such as Healthy Streets/Vision Zero analysis; cycle infrastructure; cycle hire docking station; London Underground infrastructure and TfL bus asset protection. A contribution towards relocating/ expanding existing cycle hire docking station should also be secured.

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

Update

6 Since consultation stage, GLA officers have engaged in discussions with the applicant, the Council and TfL officers with a view to addressing the above matters. Furthermore, as part of Westminster City Council's draft decision on the case, various planning conditions and obligations have been proposed to address the above concerns and ensure that the development is acceptable in planning terms.

Principle of development

7 As set out at consultation stage, the scheme would provide an enhanced retail and office floorspace offer of this part of the Central Activities Zone (CAZ) and is therefore supported. This part of the West End/CAZ is synonymous with cinema and theatre uses and in accordance with London Plan Policies 2.11(E) and 4.6 and Policies SD4(E) and HC5 of the Mayor's intend to publish London Plan, the existing cinema use on the site is afforded a level of protection. The proposal is re-providing a cinema on the site which is strongly supported.

Urban and inclusive design

8 As stated at consultation stage, the approach to design is strongly supported. The architectural response to the site; including new-build, façade retention and refurbishment indicates a high-quality scheme can be delivered, and the form and

proportions of new interventions respond successfully to the special heritage value of the wider conservation area.

9 The site is within Primrose Hill to Westminster protected view (LVMF 4A.2). As stated at consultation stage, based on the visual assessment provided, GLA Officers are of the view that the applicant has demonstrated that the proposal would not impact upon the protected strategic view of LVMF 4A.2 Primrose Hill to Westminster. As requested at consultation stage, conditions have been recommended securing the exemplary detailing and the use of high-quality materials for the whole development, including the Carlton Theatre façade and mansard roof structures.

10 As requested at Stage 1, the inclusive access commitments set out the application documents have been secured through conditions, including the detailing of level changes within the public realm. A condition has also been recommended detailing that a fire exit strategy for the retained cinema is imposed. This is supported by GLA Officers.

Heritage

11 The Carlton Cinema which comprises part of the application site is Grade II listed, and the site also sits within Haymarket Conservation Area, and extends into the Regent Street Conservation Area. The site is adjacent to the St James's Conservation Area.

12 As set out at Stage 1, the proposals enhance the Grade II listed Carlton Cinemas role as a central focal point of the Haymarket elevation however the oversail of the roof of the listed cinema will result in some harm; however, because of the setback nature of the oversail, and because of other improvements to the façade proposed within the scheme, this harm is considered to be less than substantial harm. It was also considered that the impact on the Haymarket and Regent Street Conservations Areas resulting from the proposals would amount to less than substantial harm.

13 As stated at Stage 1, the proposal will deliver a range of economic, social, leisure, cultural, entertainment and employment public benefits through the revitalisation of Charles II Street buildings, the provision of high-quality office space and ground floor retail uses, as well as public realm improvements. Additionally, the enhancement of the Carlton Cinema façade will contribute to the protection and enhancement of the listed building, and the Haymarket Conservation Area.

14 Accordingly, having regard to the statutory duties in respect of listed buildings and conservation areas in the Planning (Listed Buildings and Conservation Areas) Act 1990, the relevant paragraphs in the NPPF in relation to heritage assets and having given the finding of harm considerable importance and weight, GLA officers are satisfied that, for the reasons set out above, the proposal is, on balance, acceptable. Noting that the enhancement of the Carlton Cinema façade will contribute to the protection and enhancement of the listed building, and the conservation area, and the successful design response of the proposals to the heritage designations of the site, the scheme is also considered to accord with London Plan Policy 7.8. and Policy HC1 of the Mayor's intend to publish London Plan.

Climate change

Energy

15 As set out at Stage 1, the Energy Hierarchy has been followed and the proposed energy strategy is generally supported. An on-site reduction of 108 tonnes of CO₂ per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the non-domestic buildings, equivalent to an overall saving of 40%. The carbon dioxide savings exceed the target set within Policy 5.2 of the London Plan.

16 The applicant is proposing to install a site-wide heat network which all non-domestic uses will be connected to for heating and cooling. It has been demonstrated that the design allows for future connection to a district heating network. The applicant has also demonstrated that use of photovoltaic panels within the scheme has been maximised. In accordance with London Plan Policy 5.9 and Policy SI2 of the Mayor's intend to publish London Plan, additional information in respect of the energy strategy has been provided to the satisfaction of GLA Officers.

17 Conditions have been secured on the draft decision notice relating to the provision, maintenance and retention of the photovoltaic panels within the scheme, as well as compliance with requirements in relation to achievement of BREEAM New Offices Excellent rating and BREEAM New Construction Very Good rating.

Sustainable Drainage

18 As requested at Stage 1, additional information has been provided to the showing that exceedance flow paths through the site are available in the case of attenuation system blockage or an extreme rainfall event. The scheme proposes an attenuation tank as a Sustainable urban Drainage Systems (SUDS) measures and are requested by GLA Officers at Stage 1, the inclusion of tree pits have been proposed as an additional SUDS measure; this is welcome. A proforma has also been provided. The scheme is considered to satisfy the requirements of London Plan Policy 5.13 and Policy SI.13 of the Mayor's intend to publish London Plan.

Water Efficiency and Urban Greening

19 At Stage 1 the applicant was asked to give further consideration to water harvesting and reuse to reduce consumption of water across the development.

20 Conditions has been imposed relating to the provision, maintenance and retention of the of rainwatering harvesting features and an attenuation tank; these are supported by GLA Officers.

21 As Stage 1 the applicant was also asked to calculate the proposed development's Urban Greening Factor and explore opportunities to create green links to the local green network and to provide details of existing trees. The urban greening factor for the scheme has been calculated at 0.053. While this is below the target of 0.3 for predominately commercial development, the proposal does present an increase from the existing urban greening factor of the site..

22 While it is noted that the proposed scheme falls short of the urban greening factor targets set out in Policy G5 of the Mayor's intend to publish London Plan, there are a number of biodiversity features included within the proposals. Visual green links have been proposed through the proposal of three large specimen trees which are positioned with the scheme to signal a central space and are visible from Haymarket, Regents Street Saint James and from Royal Opera Arcade, and four street trees are also proposed along Carlton Street to lead visitors into the central space from Regent Street St James's. Conditions have been imposed relating to the provision of bird and bat boxes, the provision and management of a living / brown roof, the provision of hard and soft landscaping including tree and plants (and the replacement of any dying, damaged or diseased trees for ten years). On the basis of the greening measures proposed and the secured conditions, and giving consideration of the unique, historic nature of this West-End location and associated high foot-fall of this area, in this instance, the low urban green factor rating associated with this is scheme is, on balance, considered acceptable.

Transport

23 At stage 1, the applicant was asked to satisfactorily address issues such as Healthy Streets/Vision Zero analysis; cycle infrastructure; cycle hire docking station; London Underground infrastructure and TfL bus asset protection. Following further information and consultation, the proposals now meet requirements. Highway improvements to the public realm benefitting pedestrians and cyclists have been secured by Westminster City Council and mitigation measures has been secured through s106 legal agreement including a £60,000 (index linked) contribution payable on commencement of development to enable the relocation of the existing cycle hire docking station on Charles II Street and provision of ten additional docking points and a £25,000 contribution towards updating Legible London signage payable on commencement.

24 Conditions for a Delivery and Servicing Management Plan, Construction Logistics Plan and infrastructure protection for London Underground have been secured.

Response to consultation

25 In addition to inviting comments from statutory consultees and publishing all the relevant documents on the Council's planning register, Westminster City Council carried out a public consultation with local residents and businesses. The Council publicised the application by notifying neighbouring properties, placing site a notice / publishing a notice in the local press. A total of 2 representations were received from adjoining owner/occupiers. One of these representations submitted no objection subject to the inclusion of a pre-commencement condition mitigating noise, dust, air quality and access impacts to ensure the Her Majesty's Theatre is protected during construction and thereafter. The second representation was withdrawn.

26 The following organisations responded to consultation as summarised as follows:

- **Historic England (Greater London Archaeological Advisory Service - GLAAS):** No objection, subject to conditions and informative.

- **Historic England:** No comment.
- **Metropolitan Police (Designing out crime Officer):** No in principle objection, subject to conditions and informative.
- **Thames Water Utilities Limited:** Agree to the proposed surface water proposal as it is being attenuated 4.4l/s for all storm events. Agree to proposed foul water strategy to use gravity connection and split the flows to the sewer to the east and west. Provide detailed waste and water comments, and recommended informatives.
- **Cinema Theatre Association:** The general concept for the St James Market block is acceptable however the development is too high and overbearing, and the imposition of three tall storeys above the cinema will be detrimental to its appearance. Detailed comments were provided regarding the dismantling, recording and re-erection of the parapet, the operation of the cinema, means of escape, inclusive access, the proposed roof plant, the lay-light in the auditorium's ceiling, the building's façade, and the Haymarket door openings.
- **SAVE Britain's Heritage:** Welcomes the protection of this historic cinema. Recommend proposal is adapted to give the cinema more space to ensure successful operation. Provided comments on exist routes, inclusive accessibility and development of a canopy design that reflects use of cinema. Also provided comments on the total loss of other existing buildings on site; encouraging reuse, adaption and remodelling of buildings where possible for conservation and environmental reasons.
- **Theatres Trust:** Support the principle of the project however object to height of new build elements. Support public realm improvements. Provide comments on rooftop plant, construction logistics, escape corridors, acoustic criteria, ground floor façade and canopy.
- **St James's Conservation Trust:** Support on basis of proposals are appropriate including new architecture, restored, repaired and adapted buildings of interest and historic character and the generally high quality of the mix of uses and public realm improvements.
- **LW Theatres:** No objection subject to the inclusion of a pre-commencement condition mitigating noise, dust, air quality and access impacts to ensure the Her Majesty's Theatre is protected during construction and thereafter.
- **The Resident's Society of Mayfair and St James's:** Support on the basis that proposal is a positive step in rejuvenating this forgotten quarter of the West End.
- **The Crown Estate (applicant):** Summary of project's aims, design development and response to housing policy requirements.

27 Issues raised within representations have been considered in this report, the Mayor's Stage 1 report, and the Council's committee report of 17 December 2019. The Council has proposed various planning obligations and conditions in response. Having had regard to these, GLA officers are satisfied that the statutory and non-statutory responses to the public consultation process do not raise any material planning issues of strategic importance that have not already been considered in this report, or consultation stage report GLA/2931a/01.

Draft Section 106 agreement

28 The draft section 106 agreement includes the following provisions:

- **Public realm works**
 - Submission of detailed public realm works ((through finishes to street and pavement surfaces, landscaping, street lighting and/or street furniture), methodology of works and programme of works to the Council, and thereafter delivery, and detailed City Council requirements associated with review, delivery, compliance, monitoring and enforcement.
- **Affordable Housing**
 - Commencement will not be undertaken until a material operation has been carried out to the 33 Vauxhall Bridge Road planning permission (LPA ref: 19/04881/FULL), which includes the provision of subsidised low-cost housing at 33 Vauxhall Bridge Road (to address Westminster City Council Policy S1 (Mixed Use in the Central Activities Zone).
- **Cinema Operator Interest**
- **Employment and Skills**
 - Payment of financial contribution of £224,860.58 towards local employment training opportunities and skills development and supporting the Westminster Employment Service for the benefit of Local Residents
- **Legible London**
 - Financial contribution of £25,000 towards the pedestrian wayfinding system;
- **TfL cycle hire docking station**
 - Financial contribution of £60,000 towards the relocation and enlargement of the existing TfL cycle hire docking station on Charles II Street and to enable the provision of 10 additional docking points.
- **Highway Works**
 - Submission of detailed highways works, methodology of works and programme of works to the Council, and thereafter delivery, and detailed City Council requirements.

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

29 Under Article 7 of the Order, the Mayor could take over this application provided the tests set out in that Article are met. In this instance, the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at consultation stage, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

30 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008, the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application. The Mayor may also leave the decision to the local authority. In deciding whether to direct 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. In deciding whether to direct that the Mayor is to be the local planning authority, the Mayor must have regard to the matters set out in Article 7(3). If the Mayor issues a direction, he must set out his reasons in the direction.

Financial considerations

31 Should the Mayor direct refusal, he would be a principal party at any subsequent appeal hearing or public inquiry. National Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

32 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

33 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation.

Conclusion

34 The strategic issues raised at consultation stage regarding energy, sustainable drainage, water efficiency and urban greening and transport have been appropriately addressed, and conditions and section 106 obligations secured, and as such, the application complies with the London Plan and the Mayor's intend to publish London Plan. There are no sound reasons for the Mayor to intervene in this case.

for further information, contact the GLA Planning Team:

Debbie Jackson, Director, Built Environment

020 7983 5800 email: Debbie.jackson@london.gov.uk

John Finlayson, Head of Development Management

020 7084 2632 John.Finlayson@london.gov.uk

Allison Flight, Deputy Head of Development Management

020 7084 2820 email Alison.Flight@london.gov.uk

Kate Randell, Team Leader

020 7983 4783 Kate.Randell@london.gov.uk
Emily Leslie, Senior Strategic Planner (Case Officer)
020 7983 5736 Emily.Leslie@london.gov.uk
