

Portal West, 6 Portal Way, North Acton, W3 6RU

**in the London Borough of Ealing (and the Old Oak and Park Royal
Development Corporation)**

planning application no. 16/1144/FUL

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 existing buildings; redevelopment to provide a double storey basement with four buildings of 2, 9, 11, 32 and 42 storeys comprising 578 residential flats and 3,079 sq.m of flexible commercial floorspace (Use Classes A1/A2/A3/A4/B1/D1/D2); landscaped east-west public route between Victoria Road and Portal Way, together with associated amenity and playspace, roof gardens, car and cycle parking, servicing, public realm improvements, landscaping and infrastructure works.

The applicant

The applicant is **City and Docklands Property Group** and the architect is **BUJ**.

Strategic issues

The principle of a high density mixed use development within the Old Oak and Park Royal Opportunity Area is supported. Matters of design, height, housing mix and quality, inclusive access and flooding were acceptable at consultation stage.

The scheme includes 30% affordable housing provide as discounted market rent (DMR) units with discounts between 20-30% of market rent. A review mechanism is also included. This has been verified as the maximum reasonable (paragraphs 7-14).

Contributions have been secured towards improvements to North Acton station and square, Gypsy Corner gyratory, cycle quietway, pedestrian improvements and a CPZ review (paragraphs 18-22).

Further evidence has been provided to verify the carbon savings expected. The strategic issues raised at consultation stage have been addressed, sufficient for the scheme to comply with the policies of the London Plan.

The Council's decision

In this instance Ealing Council has resolved to grant planning permission subject to conditions and a section 106 agreement.

Recommendation

That Ealing Council and the OPDC 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.

Context

1 On 1 April 2016 the previous Mayor of London received documents from Ealing 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:

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

2 On 25 April 2016 the Mayor considered planning report D&P/3729/01, and subsequently advised Ealing Council and the OPDC that whilst the principle of the development and the design were supported, in order to ensure full compliance with the relevant policies of the London Plan, further information was required on a number of matters outlined below. These issues were summarised in paragraph 117 of that report. A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site and its history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report.

3 On 20 July 2016 Ealing Council decided that it was minded to grant planning permission and on 8 November 2016 it notified 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 or direct the Council under Article 6 to refuse the application. The Mayor has until 22 November 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 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 the consultation stage, the proposals were broadly supported, although to ensure full compliance with the relevant policies of the London Plan, further information was required in respect of affordable housing, energy and transport. These outstanding issues are addressed in turn below:

Affordable housing

7 At consultation stage, the applicant’s financial viability appraisal (FVA) submitted with the application stated that whilst it was not viable to provide affordable housing, the applicant was willing to take a view on value growth and long-term investment returns and provide 30% of the habitable rooms (28% of the units) at discounted market rent (DMR). The consultation report noted that such units can fall within the definition of affordable housing under London Plan Policy 3.10 if they are provided to eligible households whose annual income is within the range set out in the policy.

8 The consultation report noted that the applicant’s FVA was being independently assessed by Deloitte, appointed by the Council. The initial view on the development values and build costs appeared robust, save for a few minor differences, although at that stage Deloitte was still to complete its review. GLA officers requested that the two parties continue to negotiate to agree these differences, and for Deloitte to confirm whether the 30% offer was the maximum reasonable amount of affordable housing that the scheme could deliver, as required by London Plan Policies 3.11 and 3.12. In addition, GLA officers also required provisions to be included in the section 106 agreement to ensure that these units are provided to eligible households, and sought further detail on the affordability of the units in relation to average local incomes.

9 There have been lengthy negotiations on this matter, and as a result of these Deloitte has confirmed that the 30% (by habitable room) affordable housing offer is the maximum reasonable amount. The Council’s committee report confirms that this quantum is agreed and included in the section 106 agreement. As noted in paragraph seven above, the units are to be provided at discounted market rent (DMR) discounted below market rent by between 20% and 30% as shown the table below:

	1 bed	2 bed	Three bed	TOTAL
20% discount	31	14	10	55
25% discount	31	15	9	55
30% discount	31	14	9	54
TOTAL	93	43	28	164 (28% by unit)

Table 1: Affordable housing schedule

10 The DMR units are to be provided in perpetuity. The applicant had originally proposed for these units to be provided for 20 years with a reversionary payment to the Council to be made at the end of that period when the units would revert to private sale. Following lengthy discussions over what the reversionary payment should be and the Council’s concern over the uncertainty of how it would potentially re-house up to 164 households at the 20 year period, GLA officers strongly advised the applicant to provide the units in perpetuity. The applicant ultimately agreed to this.

11 The applicant has demonstrated that the DMR units to be provided will be affordable for local people, with reference to average local incomes. The average gross household income in the borough is £49,350 and it was agreed with Ealing Council that rent levels should be no more than 40% of household income (£19,740). The open market rents (OMR) shown in the table below are representative of the average in North Acton. The table demonstrates that the discounted units in the scheme will be affordable as they are no more than 40% of local average incomes.

	OMR	20% discount	25% discount	30% discount
40% of household income - £19,740				
One bed	£15,600	£12,480	£11,700	£10,920
Two bed	£18,600	£14,880	£13,950	£13,020
Three bed	£21,600	£17,280	£16,200	£15,120

Table 2: Affordability levels

12 There are also mechanisms within the section 106 agreement to ensure that only eligible households can occupy the units with reference to household incomes, and includes a rent review every five years to ensure that tenants remain eligible and genuinely in need of a discounted home.

13 The review mechanism requires a review two years after the planning permission is issued (if the development has not commenced) and at 80% practical completion, to determine whether any additional affordable housing above the agreed quantum can be provided. If at review stage the development has become viable, 50% of the surplus shall be payable as a commuted sum in-lieu of affordable housing being delivered on site. This will be capped at £5.6m, which is the equivalent level of 35% affordable housing (i.e.: an additional 5%).

14 The outstanding matters relating to affordable housing and viability raised at consultation stage have been satisfactorily addressed.

Energy

15 At consultation stage, the broad energy strategy was welcomed and the indicative carbon savings of 45% exceeded the London Plan requirement at the time of 35% beyond 2013 Building Regulations. Further information was however requested in order to verify the carbon savings expected, on matters such as thermal mass, CHP plant and district heat connection. The applicant was also strongly encouraged to consider the inclusion of renewable technologies.

16 Further information and evidence was submitted to the GLA seeking to address all of these points. Evidence has been provided on the timescales for delivery of the district heat network. The design of the scheme is future proofed and the applicant has confirmed that the scheme will be connected as soon as it is able to. The applicant has justified why it is not possible in this case to provide any additional renewable technologies such as PV panels, and this is accepted.

17 There are no outstanding matters relating to energy.

Transport

18 At consultation stage, Transport for London (TfL) identified a requirement for a £704,000 contribution towards North Acton station improvements. This was based on the methodology used in the North Acton station pre-feasibility study, and is required to mitigate the impact of additional trips on the operation of North Acton station which is already at capacity during peak hours. TfL acknowledged that Ealing Council was also likely to require contributions towards improvements to the local pedestrian and cycle network and requested that this should include a £50,000 contribution towards the segregated cycleway and footway improvements along the A40 corridor. In addition, potential improvements to the Gypsy Corner gyratory were identified which are being considered as part of the A40 corridor study.

19 A section 106 agreement has been negotiated by Ealing Council officers to address a number of requirements. TfL's priority is to secure adequate mitigation for impacts at North Acton station and an addendum to the planning committee report confirms that the total figure includes a financial contribution (amount to be confirmed subject to the financial viability of the scheme) to be put towards North Acton station improvements. In subsequent correspondence with Ealing Council it has been agreed that the station contribution would be £592,000. This figure has been included in the draft section 106 agreement. It takes account of evidence on development viability and is equivalent to providing mitigation for the impact of residential trips on the station.

20 The section 106 agreement also includes £50,000 towards North Acton station square, £200,000 towards North Acton (Gypsy Corner) gyratory improvements, and smaller contributions towards a proposed cycle quietway, pedestrian improvements and funding of a controlled parking zone (CPZ) review. Due to the low level of car parking, the resulting high proportion of public transport trips and evidence on financial viability, TfL accept that there is no need to secure

improvements towards a segregated cycleway and footway along the A40 corridor as part of the section 106 agreement.

21 Conditions included on the draft decision will require submission of a car and cycle parking management strategy, delivery and servicing plan and construction logistics plan. A travel plan will be secured as part of the section 106 agreement.

22 On the basis of the inclusion of the £592,000 financial contribution towards North Acton station improvements and the other listed transport improvements as part of the finalised section 106 agreement, the development complies with London Plan transport policies. There are no outstanding issues relating to transport.

Response to consultation

23 Ealing Council's committee report confirms that the application was advertised by way of 34 site notices displayed in the local area near the site and a notice in the local press. As a result of statutory consultation, the committee report confirms that 16 representations were received, 11 objections and five in support. In addition, five representations have also been received directly to the Mayor. Matters raised by objectors related to the following:

- Overdevelopment;
- Lack of affordable housing;
- Density too high;
- Too tall;
- Pressure on local social/community infrastructure (schools, healthcare etc);
- Impact on residents amenity – noise, loss of light and privacy;
- Impact on public transport;
- Increased traffic, congestion and pollution;
- Loss of parking/inadequate parking;
- Inadequate open space;
- Insufficient family housing;

24 Matters raised by supports related to the following:

- Improve the area - increased vibrancy and support shops/restaurants;
- Mix of uses will create a destination and place;
- Improved public realm;
- More attractive environment for pedestrians and cyclists;
- Encourage new businesses
- Support for architecture and design.

25 In relation to the objections raised, matters relating to residential amenity, local environmental impacts and local social infrastructure are not in this instance, matters of strategic importance and have been assessed by the Council within its committee report. Matters relating to housing mix, density, height, affordable housing, transport/parking have been dealt with in this and the previous report where they affect strategic policies and the Council's committee report, and the scheme has been found to be acceptable and in accordance with the London Plan.

26 Other statutory consultees responded as follows:

- **Thames Water:** No objections, subject to safeguarding conditions.
- **Hammersmith & Fulham Council:** Object on the grounds of height and impact on the skyline.

- **Historic England (heritage):** No objection.
- **Metropolitan Police:** No objections. A number of recommendations were made on the detailed design.

Legal considerations

27 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. 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.

Financial considerations

28 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government guidance emphasises that parties usually pay their own expenses arising from an appeal.

29 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.

30 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

31 Having regard to the details of the application, the matters set out in the Council's committee report, draft heads of terms for the section 106 legal agreement, and draft decision notice, the scheme is acceptable in strategic planning terms. It will deliver a well-designed high density mixed use development within an opportunity area with a good quantum of affordable homes.

32 Strategic planning matters raised at stage one in relation to affordable housing, energy and transport have been addressed and the scheme is in accordance with the London Plan.

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