

17 December 2018

Acton Gardens (formerly South Acton Estate)

in the London Borough of Ealing

planning application no. 182579OUT

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

Hybrid planning application for the continued regeneration of the South Acton Estate to deliver up to 195,396 sq.m. of residential floorspace (including 203 dwellings in detailed application); up to 2,200 sq.m. of non-residential floorspace, including 1,200 sq.m. of community space and up to 1,000 sq.m. of flexible commercial space; an energy centre of up to 750 sq.m., access, open space and public realm.

The applicant

The applicant is **Acton Gardens LLP** and the architect is **Allies and Morrison**.

Key dates

Pre-application: 6 March 2018

Stage 1 report: 19 November 2018

Council's committee meeting: 12 December 2018

Strategic issues summary

Principle of development: The redevelopment of this estate and intensification of the approved masterplan is strongly supported. Provision for community use, open space and allotment space has been secured.

Estate regeneration and affordable housing: Re-provision of existing affordable housing on a like for like basis has been secured. The applicant's viability assessment has been robustly scrutinised and 49% is the maximum quantum of affordable housing achievable. Late stage review mechanisms have been secured.

Outstanding issues relating to **urban design, inclusive design, climate change** and **transport** have been resolved.

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 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 15 June 2018 the 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 Categories 1A, 1B, 1C and 3A 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:** *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— (c) 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.*
- **Category 3A:** *Development which is likely to result in the loss of more than 200 houses, flats, or houses and flats (irrespective of whether the development would entail the provision of new houses or flats).*

2 On 19 November 2018 the Mayor considered planning report D&P/4542/01, and subsequently advised Ealing Council that the application did not comply with the London Plan, for the reasons set out in paragraph 89 of the above-mentioned report; but that the possible remedies set out in the 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. On 12 December 2018 Ealing Council planning committee resolved to grant planning permission subject to conditions, obligations and informatives and also subject to any referral and/or direction made by the Mayor of London. On 12 December 2018 Ealing Council advised 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, direct the Council under Article 6 to refuse the application or issue a direction to the 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 25 December 2018 to notify Ealing Council of his decision and to issue any direction.

The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been taken into account in the consideration of this case.

4 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

5 At the consultation stage, Ealing Council was advised that the application did not fully comply with the London Plan and draft 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 and draft London Plan.

- **Principle of development:** The redevelopment of this estate and intensification of the approved masterplan to optimise housing delivery is strongly supported. Appropriate controls

should be secured to ensure the re-provision of the services of the day care centre and the provision of public open spaces/allotments.

- **Estate regeneration and affordable housing:** The like for like replacement of social rented habitable rooms across the whole estate is strongly supported. 49% affordable housing (40% London Affordable Rent and 9% Shared Ownership) has been verified as the maximum. A late stage review mechanism to ensure that additional affordable housing can be delivered if the viability of the scheme improves in the later phases is required.
- **Urban design:** The overall design strategy is supported and the plans and design code demonstrate that the development has the potential to achieve a high residential quality, amenity provision and public realm. The scheme would enhance existing heritage assets. Robust conditions are required to secure the design commitments made by the applicant.
- **Climate change:** Further technical information is required on flood risk. The Council should confirm that it is satisfied with the applicant's strategy for the proposed energy centre. Conditions are also required on overheating, air quality and to secure the performance and savings associated with the CHP, the use of renewable energy technologies and carbon setting contributions at every phase of the development.
- **Transport:** DSP, CLP, cycle parking, blue badge parking and electric vehicle charging points provision should be secured by conditions. The applicant should continue to engage with TfL on the bus route design and stopping arrangements of the diverted bus route and the bus service contribution previously secured should be carried forward to the new consent.

Update

6 Since Stage 1, GLA officers have received further information and engaged in discussions with Ealing Council and the applicant with a view of addressing the above matters. Furthermore, as part of Ealing Council's draft decision on the case, various planning conditions and obligations have been proposed to ensure that the development is acceptable in planning terms.

Principle of development

7 At consultation stage the principle of the redevelopment of the estate and intensification of the approved masterplan to optimise housing delivery was strongly supported. Alongside the provision of housing, it was requested that appropriate controls be secured by the Council to ensure the re-provision of existing community use and the provision of open space and allotment space.

Community use

8 The proposal includes the replacement of the Michael Flanders Centre, which is a Council adult day service located as part of the boundary of the site. Parameter Plan 003 secures a total of 1,200 sqm of community floorspace (Use Class D1) to re-provide the adult services within the proposed masterplan. A set of conditions and obligations have been secured to ensure that, subject to a cap on the upper limit of uses secured in Parameter Plan 003, the re-provision of the Centre is delivered in accordance with a strategy to be fully agreed by the Local Planning Authority, including details of the location of the re-provided centre; the timing for re-provision; any proposals to provide temporary services in the event that the Centre ceases to operate prior to it being re-provided; detailed specification of the re-provided Centre. The replacement of the Centre has been appropriately secured by the Council in accordance with London Plan and draft London Plan policies.

9 In response to the stage 1 comments and to address the impact the uplift of residents would have on existing education facilities, a contribution of £500,000 has been secured by the Council in the S106 agreement towards secondary education. This is in addition to the £885,474 already

committed towards both primary and secondary education as part of the S106 agreement for the original outline application.

Open space

10 At consultation stage the provision of better defined and enhanced open spaces was supported and it was requested that the provision of these enhanced green spaces be secured by the Council.

11 Planning conditions to ensure minimum open space provision and to control the layout, landscaping and materiality of these spaces have been secured by the Council. Their phased implementation to align with housing delivery has also been secured in the S106 agreement along with a financial contribution of £90,229 for the future maintenance of the public open space. A condition requiring a management and maintenance strategy will also secure the long-term management of the spaces. The open space provision has been appropriately secured by the Council and complies with London Plan and draft London Plan policies.

Allotments

12 The proposals seek to retain the allotment land broadly in the same area of the site where it is at present. Where this is not feasible, new space would be provided to ensure no reduction in overall provision. The new allotments will be allocated and managed by Ealing Council. Suitable conditions and S106 obligations have been imposed to secure a minimum proposed allotment site area along with an allotment delivery strategy with details of timing for the provisions and a mechanism for agreeing the detailed layout and specification of the reconfigured and enlarged allotments for discussion with members of the community. The final layout and design of the allotments will be secured as part of a future Reserved Matters application with specific conditions for Local Authority approval. Details of allotment management and potential community uses will be set out as part of these submissions. The proposed allotments have been appropriately secured by the Council and their provision is now policy compliant.

Estate regeneration

13 At stage 1 the like for like re-provision of all of the social rented habitable rooms that were on site since 2005 with an uplift of 3 social rented habitable rooms compared to the 2005 position was strongly supported.

14 The draft section 106 legal agreement contains provisions which secure all current existing tenants of South Acton Estate with replacement Affordable Housing and new tenancies provided on the same terms and tenure (Social Rent or equivalent for the residents decanted from the local authority) as their current affordable housing tenancy as required at the consultations stage.

15 The scheme is therefore consistent with the policies of the London Plan and draft London Plan, as well as the Mayor's Good Practice Guide to Estate Regeneration.

Housing

Affordable housing

16 At Stage 1, the hybrid application proposed 49% affordable housing by habitable room overall and included the re-provision of affordable homes, all of which comprised 40% affordable rented and 9% shared ownership accommodation. For the detailed Phase 9.2, a total of 50% affordable housing was proposed. Of this provision, 73% would be affordable rent and 27% would be shared ownership. The affordability levels of both affordable tenures have been secured in the Section 106 agreement, with the rented units provided at Social Rent or London Affordable Rent.

17 The applicant's viability assessment and the Council's independent viability assessment have been thoroughly scrutinised and they show that the scheme is in deficit without grant. With grant the provision is substantially improved but there is no surplus to deliver additional affordable housing.

18 It was agreed at stage 1 that as this application is for a long-term regeneration scheme where the developer is already incentivised to continue, an early implementation review would not be required. With regards to the late stage review, it was proposed at stage 1 that it would be triggered on completion of 75% of the units, which will be at the end of Phase 11.1. This has been confirmed that two review mechanisms have been secured in the S106 agreement. A late review will be triggered prior to first occupation of Phase 11.1 of the development and will commit the developer and the Council to identify any surplus generated by the development to be used towards new affordable housing in the London Borough of Ealing. A final review will be triggered on completion of the construction of the development and will require the Council and the developer to re-calculate the surplus generated by the development that will be used towards new affordable housing in the London Borough of Ealing. The late and final reviews secured in the S106 agreement are acceptable.

19 The Council's independent viability assessment has been published on the Council's website.

20 The proposals are therefore consistent with the objectives of the policies of the London Plan and draft London Plan and the Affordable Housing & Viability SPG.

Children's play space

21 At Stage 1, it was confirmed that the children's play space requirement would be met on site for the outline part of the development and Phase 9.2, and it was requested that the provision be secured by the Council. Further detail on the design of the play space was also requested.

22 A condition has been secured by the Council requiring the submission of details of play on a phase by phase basis for each reserved matter application that are submitted. A £200,000 contribution has also been secured for the future maintenance of the play space by the Council. The play space provision has been appropriately secured and now complies with policy.

Urban design

23 The overall design approach was supported at stage 1. However, given the outline nature of the scheme and length of build out, it was requested that detailed conditions be secured to ensure high-quality finishes and appearance.

24 A set of planning conditions, including condition on materials have been devised to ensure that the build out of any block reflects the rationale of the scheme and the indicative images presented. The Design Guidelines which reiterates the standards set out in the Mayor's SPG with regards to aspect, units per core and floor to ceiling heights will also be reviewed as part of a phase by phase reconciliation mechanism secured by condition by the Council.

25 As requested at stage 1 and in accordance with Policy D11 of the draft London Plan, a condition has been imposed to secure the submission of a fire strategy with each reserved matter application. This strategy will be discussed and agreed with the London Fire Brigade as part of the building regulations process.

26 The applicant has committed to designing 10% of the residential units to Building Regulation M4(3) standards, with the remaining 90% designed to Building Regulation standard M4 (2) in accordance with London Plan Policy 3.8 and Policy D5 of the draft London Plan. As requested at stage 1 a condition has been imposed by the Council to secure the M4(2) and M4 (3) requirement together with a commitment to spread the wheelchair units proportionally across the tenures and storeys.

Climate change

27 All matters raised at consultation stage have been addressed and the requested conditions on overheating, photovoltaic technology (PV), the site-wide energy centre and heat network have been secured. An obligation on energy has also been imposed to secure the connection of Phase 9.2, later phases and identified off-site buildings to the Energy Centre where feasible and viable. A contribution to the Council's carbon offset fund has also been secured within the S106 agreement.

28 The matters raised at consultation stage on flood risk and sustainable drainage and air quality have been addressed and relevant conditions have been secured. A condition has also been secured by the Council to maximise urban greening.

29 The scheme therefore meets the London Plan and draft London Plan policies.

Transport

30 At stage 1, issues were raised regarding car parking design, cycle parking and contributions were requested towards the re-routing of the 440 bus route. Furthermore, a travel plan, delivery and servicing plan and construction logistics plan were requested to be secured by condition.

31 Relevant planning conditions and the S106 agreement have secured the above, which is welcomed. The applicant has also confirmed that the bus re-routing will be developed in full co-ordination with TfL which is acceptable. The development proposals now conform to current and draft London Plan policy and are acceptable in strategic transport terms.

Draft section 106 agreement

32 The following are to be included within the draft Section 106 agreement:

- Provision of dwellings with 6,085 affordable habitable rooms of which 4,641 habitable rooms to be provided as Social Rented or equivalent to include 174 habitable rooms for persons over 55 years of age and 1,444 habitable rooms to be provided as Intermediate Housing; Submission of an Affordable Housing Scheme prior to commencement of each Phase; Late and final review mechanisms;
- Covenant securing Build to Rent apartments in single-ownership for 15 years, plus a clawback arrangement whereby if an apartment is sold out of the Build to Rent sector within 15 years a payment is made to the Council
- Delivery of the Jerome Tower Allotments in accordance with an approved Strategy
- Re-provision of the Michael Flanders Centre in accordance with an approved Strategy
- Connections to Energy Centre
- £68,000 contribution for improvement of sports provision at Acton Park
- £200,000 contribution for future maintenance of play space
- Carbon off-setting contribution
- £5,000 contribution towards sports equipment for the community facilities
- £500,000 contribution towards the provision of secondary school places
- £3,660 contribution for the monitoring and review of the Framework Travel Plan
- £23,615 contribution towards the provision of pedestrian, cyclist and road safety improvements
- £6,886 Post-construction Renewable Energy Monitoring contribution
- £90,229 contribution for future maintenance of public open space
- £150,000 contribution towards the provision of works to provide step free access to South Acton Station
- £102,000 contribution towards improvement of recreation ground
- Tree loss contribution

- £10,750, towards additional tree planting for tree loss on Phase 9.2.

33 The new obligations arising as well as the obligations being amended as a result of the new application will be included in the new Section 106 agreement including the £440,000 contribution for the bus rerouting as mentioned in the Stage I report.

Response to consultation

34 The application has been subject to extensive formal public consultation on both the 'remaining masterplan' and 'Phase 9.2' from June 2018. The Council carried out a further round of consultation for 21 days in October 2018 following receipt of amended and additional information to clarify the application. The Council consulted all the statutory public bodies, stakeholders, local residents and amenity groups and all other interest groups on the application through consultation letters, press notices and 48 site notices.

35 A total of 78 objections were received, including comments provided by Mill Hill Park Residents Association (MHPRA), Ealing Civic Society, South Acton Community Allotments (SACA) and Ealing Allotment Partnership (EAP). While MHRPA partially supported the principles of the proposal in terms of planning, design and open space, Ealing Civic Society, EAP and SACA raised objections to the applications. An online petition signed by 764 people was also received to save the Jerome Allotment. In summary, objections given to the scheme included:

- Impact of development on local services
- Overdevelopment, density and building heights, impact on the conservation areas, overshadowing
- Proposed allotments: size, layout, overshadowing, access to sunlight, wind, impact on biodiversity, wildlife and food growing
- Loss of trees
- Low carparking provision
- Low level of affordable housing

36 Responses from statutory and non-statutory bodies

- **Historic England:** Raised concerns about the impact of the development on the conservation areas and listed buildings and requested amendments, safeguards or further information to justify the proposals.
- **Sport England:** Objected to the scheme and potential sport facility deficiencies in the area. Amendments to the proposal have been made and financial contributions have been secured towards enhancements and improvements of facilities.
- **Thames Water:** No objection, subject to condition on water network.
- **Cadent:** No objection, subject to informative requesting the applicant to contact Cadent with regards to gas pipelines on site.
- **Metropolitan Police (Designing Out Crime):** No objections raised. A Secured by Design condition has been included.
- **Greater London Archaeology (GLAAS):** No objection, subject to investigation condition.
- **Highway England:** No objection, subject to condition requiring a site wide sustainable travel plan.

- **Heathrow Airport:** No objection, subject to height limitation condition.
- **National Air Traffic Services:** No objection, subject to condition to prevent radar reflections.

Conclusion

37 Having considered the responses to public consultation, Ealing Council have proposed various planning obligations and conditions in response to the issues raised in its Committee Report of 12 December 2018. 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/4542/01.

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

38 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 a planning obligation, which satisfactorily addresses the matters raised at Stage 1, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

39 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

40 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.

41 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.

42 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

43 The strategic issues raised at consultation stage regarding the principle of development, affordable housing, urban and inclusive design, climate change, and transport have been satisfactorily addressed, and appropriate planning conditions and obligations have been secured. As such the application complies with the 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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