

07 December 2009

Julian Carter  
GVA Grimley  
10 Stratton Street  
LONDON  
W1J 8JR

Our Ref: APP/A5270/V/09/2097739  
Your Ref: P/2007/4246

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY GLENKERRIN (UK) LTD  
AT ARCADIA CENTRE (ALL), 9-29 (CONSECUTIVE) & 36 – 42 (CONSECUTIVE)  
THE BROADWAY, 1-10 (CONSECUTIVE) CENTRAL CHAMBERS, 1-4  
(CONSECUTIVE) HAVEN PLACE, FLOWER HAVEN SPRINGBRIDGE ROAD,  
LAND OVER RAILWAY BETWEEN CENTRAL CHAMBERS AND CAR PARK  
ADJACENT TO HAVEN GREEN, EALING W5 2ND  
APPLICATION: REF P/2007/4246**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Richards, BSocSci DipTP MRTPI, who held a public local inquiry between 23 June and 9 July 2009 into your client's application for demolition of existing buildings and erection of 7 buildings: Block A North – 2/6/7 storeys, A South – 1/2/4/6/8 storey with basement, B 2/5/7/8 storey, C – 3/5/11 storey, D – 2/3/9/10/11/12 storey, E – 2/3/9/10/11/12 storey and F 19/25/26 storeys containing approximately 17,279 square metres of retail shops (Use Class A1), 1,363 square metres of cafes/restaurants (A3), 490 square metres of offices (B1(a)), 1,861 square metres of leisure facilities (D2) and 567 residential units, provision of two basement floors containing 352 car parking spaces (of which 230 are for the residential element including 16 spaces for the car club and 60 disabled spaces, and 122 are for the retail and commercial uses including 7 disabled spaces), parking for 631 cycles (567 for residential use and 64 for the retail and commercial uses) servicing area and plant and equipment with vehicular access off Springbridge Road, pedestrian accesses off Springbridge Road, Haven Green and The Broadway, landscaping, formation of areas of public realm, amenity space for the residential uses and ancillary works at Arcadia Centre (All), 9-29 (Consecutive) & 36 – 42 (Consecutive) The Broadway, 1-10 (Consecutive) Central Chambers, 1 - 4 (Consecutive) Haven Place, Flower Haven Springbridge Road, Land Over Railway Between Central Chambers and car park adjacent to Haven Green, Ealing W5 2ND, in accordance with application ref P/2007/4246, dated 7 September 2007.

Jean Nowak  
Decision Officer  
Planning Central Casework Division,  
Department for Communities and Local Government

1/J1, Eland House  
Bressenden Place  
London, SW1E 5DU  
Tel: 0303 444 1626  
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2. On 30 January 2009, it was directed that the application be referred to the Secretary of State instead of being dealt with by the relevant planning authority, the London Borough of Ealing Council ('the Council'), in pursuance of section 77 of the Town and Country Planning Act 1990. The reason given for making the direction was that the Secretary of State considers that the proposals may conflict with national policies on important matters.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with his conclusions and agrees with his recommendation. For the main parties, a copy of the full 165-page Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report. For all other parties, a copy of the Inspector's conclusions only is attached. A copy of the full report can be obtained from the address at the foot of the first page of this letter.

### **Procedural Matters**

4. The Secretary of State has had regard to the discrepancy in relation to the parking figures set out in the description of development, as set out on page 4 of the SOCG (IR5). Like the Inspector, he considers this to be a minor change which does not prejudice the interests of any party and he has determined this application on the basis of the amended description of development as set out by the Inspector at IR5. He has also considered the application on the basis of the drawings referred to by the Inspector at IR6 and, like him, he is satisfied that there have been no further material changes to the scheme since it was considered by the Council on 17 December 2008. In making his assessment of the scheme as a whole, the Secretary of State has noted the comments referred to by the Inspector at IR8 relating to the variation in description used by different parties at the Inquiry. He has also taken account of the revised Energy Strategy, summarised at IR9, and agrees with the Inspector (IR10) that no interests have been prejudiced by considering the application in this basis.
5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Having considered the Inspector's assessment of its adequacy (IR790 – 792), the Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application.
6. The Secretary of State has also noted that the Council granted Conservation Area Consent on 18 December 2008 for the demolition of the existing buildings at 1 – 23 (consecutive) Arcadia Centre, 9 – 29 (consecutive) and 36 – 42 (consecutive) The Broadway, 1 – 10 (consecutive) Central Chambers and 1 – 4 (consecutive) Haven Place.

### **Matters arising after the close of the inquiry**

7. Following the close of the Inquiry, the written representations and emails listed at Annex A, which were not seen by the Inspector, were forwarded to the Secretary of State. He has taken account of these representations in his determination of

this application but, as they did not raise any new matters not considered at the Inquiry, he has not considered it necessary to circulate them to all parties. Copies of this correspondence can be made available upon written request to the address at the foot of the first page of this letter.

### **Policy considerations**

8. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case, the development plan comprises the London Plan (consolidated with alterations since 2004), published in February 2008, and saved policies of the Ealing Council Unitary Development Plan (UDP): *Plan for the Environment*, adopted in 2004. The Secretary of State agrees with the Inspector that the development plan policies most relevant to this application are those set out at IR23-42.
10. The Secretary of State has taken account of emerging documents prepared in connection with the Local Development Framework but, as these are at an early stage, he has afforded them little weight (IR46).
11. Other material considerations which the Secretary of State has taken into account include Planning Policy Statement (PPS)1: *Delivering Sustainable Development*; PPS: *Planning and Climate Change* (supplement to PPS1); PPS3: *Housing*; PPS6: *Planning for Town Centres*; Planning Policy Guidance (PPG) note 13: *Transport*; PPG15: *Planning and the Historic Environment*; PPS23: *Planning & Pollution Control*; Circular 11/95: *The Use of Conditions in Planning Permission*; Circular 05/05: *Planning Obligations*; the Mayor's Supplementary Planning Guidance (SPG): *Housing*; Ealing SPG: *Ealing Town Centre- Town Centre Strategy 2002 – 2012*; Ealing SPG: *Development Sites – Site 63*; and Ealing SPG: *Development Sites – The Ealing Area*.
12. The Secretary of State has also taken into account draft PPS4: *Planning for Prosperous Economies*, published for consultation on 5 May 2009, and draft PPS15: *Planning for the Historic Environment*, published for consultation on 24 July 2009. However, as both documents are still in draft form and may be subject to change, he has afforded them little weight.
13. In determining the application, the Secretary of State has had regard to the impact of the proposed development on the settings of the following nearby statutory listed buildings: No 36 Haven Green, the Natwest Bank in the Mall, the Parish Church of Christ the Saviour and Ealing Town Hall. In accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, he has paid special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest which they may possess. As part of the application site is situated within the Ealing Town Centre Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as required by section 72(1) of the same Act. He has also taken account of the potential impact of the proposed scheme on the

adjacent Haven Green Conservation Area as well as its visibility from other nearby Conservation Areas.

### **Main issues**

14. The Secretary of State considers that the main issues in this case are:

- The policy context for the proposal, with particular reference to the development plan;
- Design Principles and PPS1;
- Conservation Areas, Listed Buildings and PPG15;
- Housing and PPS3;
- Planning Conditions; and
- Planning Obligation

### **The policy context for the proposal**

15. The Secretary of State agrees with the Inspector's reasoning and conclusions as set out at IR576–644 that, although it would not meet all of the aspirations of the UDP and associated SPGs, the principle of a mixed use development which intensifies the use of the site would be in line with relevant policies including London Plan Policies 2A.1, 2A.2, 2A.8, 3A.2, 3A.3 and 3C.1. He therefore attaches significant weight to the regeneration benefits of the scheme.

16. In particular, while acknowledging that the details of the scheme differ significantly from what was envisaged in the UDP and associated guidance (IR640), and agreeing with the Inspector that the scheme represents a much greater intensity of use than envisaged in those documents (IR641), the Secretary of State also agrees with the Inspector that the proportion of the development devoted to retail and new public realm in the form of internal circulation space is broadly in accordance with policy and to be welcomed (IR641). He also agrees with the Inspector that, although there would be very little office space, this should not be regarded as a failing of the proposal (IR641). Furthermore, the Secretary of State agrees with the Inspector (IR642) that, although the residential element assumes a much greater significance than was envisaged in the UDP, the provision of high density housing is consistent in principle with the London Plan even though the density proposed would significantly exceed the upper range given in Table 3A.2 of that Plan.

17. However, as considered in more detail in paragraphs 19 – 21 below, the Secretary of State also agrees with the Inspector (IR711) that the development would conflict with saved policy 4.8 of the UDP in respect of its effect on the conservation areas and the requirements of London Plan Policies 4B.1, 4B.9 and 4B.10 with regard to respect for local context and acceptability in terms of design and impact of tall buildings on their surroundings. The Secretary of State therefore concludes that the proposal fails to accord with the development plan in important respects, and so has gone on to consider whether there are material considerations which should outweigh this.

## Design Principles and PPS1

18. The Secretary of State agrees with the Inspector's reasoning and conclusions, as set out at IR645–684, with regard to the application of the design principles set out in PPS1 to the site and its wider context, including the layout, height and massing, scale, open space, visual appearance and landscaping, as well as the extent to which the scheme proposals are appropriate in their context and take the opportunities available for improving the character and quality of the area and the way it functions. The Secretary of State notes the support afforded to the scheme by the GLA and CABE, as well as the Council itself (IR647), and he agrees with the Inspector that there are many positive aspects to the scheme including the fact that the new spaces, walkways and passages would in themselves be a valuable addition to the public realm of the Town Centre, adding new shopping space, cafes and restaurants (IR681). He also shares the Inspector's view that bridging over the railway and providing links between Haven Green and The Broadway would be an undeniable benefit of the scheme (IR682).
19. However, the Secretary of State also agrees with the Inspector that, while the scheme would create an attractive and vibrant public realm within the development, it would be far less successful in the way in which the outward facing parts of the development would relate to the character of its surroundings (IR684). In this respect, he agrees that there are significant design shortcomings which result in conflict with the saved design and conservation policies of the UDP, in particular Policies 4.1 and 4.8 (IR684). He therefore agrees with the Inspector that, although the London Plan policies provide strong in principle support for maximising the intensity of use of the site and support for landmark buildings in Metropolitan Centres, this scheme fails to meet the equally important requirement that this should be consistent with local context, and he gives significant weight to that factor.

## Conservation Areas, Listed Buildings and PPG15

20. The Secretary of State agrees with the Inspector's reasoning and conclusions, as set out at IR685–712, with respect to the effect of the proposal on the character and appearance of the Ealing Town Centre and Haven Green Conservation Areas, the setting of nearby listed buildings, and other nearby conservation areas. In particular, he agrees that, for the reasons given by the Inspector at IR669 and IR672, a particularly harmful consequence of the proposal would be the harm to the setting of the Grade-II\* listed Church of Christ the Saviour. Furthermore, the Secretary of State agrees with the Inspector (IR708) that, while Conservation Area status does not imply that there should be no changes or additions to built form, it is important that new development in and adjacent to Conservation Areas should respect the character of its surroundings. He therefore agrees with the Inspector's conclusion at IR710 that the quality of the architecture in this scheme would not, in itself, overcome the problems which arise from the scale, massing and visual effect of the proposed built form in relation to its surroundings and, in coming to this conclusion, he has had regard to the concerns expressed by English Heritage (IR530-541).
21. The Secretary of State also agrees with the Inspector's conclusion at IR711 that the development would conflict with saved Policy 4.8 of the UDP in respect of its effect on the conservation areas, and would not meet the requirements of London

Plan Policies 4B.1, 4B.9, 4B.10 with regard to respect for local context and acceptability in terms of design and the impact of tall buildings on their surroundings. He agrees that the proposal would fail to preserve or enhance the character or appearance of the Town Centre Conservation Area and the setting of the Haven Green Conservation Area, and that the proposal would not therefore be consistent with national policy in PPG15. He also agrees with the Inspector (IR704) that the development would be in conflict with the advice in the English Heritage/CABE Guidance on Tall Buildings and, as explained in paragraph 24 below, he considers that the overshadowing effect of the proposed scheme would be a significant contributory factor to the harm to the Haven Green Conservation Area. The Secretary of State gives significant weight to these factors.

### Housing and PPS3

22. For the reasons given at IR713–736, the Secretary of State agrees with the Inspector’s conclusions at IR737 that the proposed development would accord with national policy in PPS3 and would make a valuable contribution to Ealing’s housing requirement, in accordance with UDP housing policies and London Plan policies which aim to ensure that housing targets are met and where possible exceeded. However, he further agrees that, while the development would generally provide a high standard of accommodation, with a range of size and tenure, the density would be well above the range set out in the London Plan. He has also noted that the level of affordable housing provided would be below London Plan and Ealing targets. However, like the Inspector (IR737), the Secretary of State accepts that an independent assessment has verified that this is the maximum the proposed scheme could support if it is not to be rendered unviable.

### Other matters

23. For the reasons given at IR738–746, the Secretary of State agrees with the Inspector’s conclusion at IR747 that the proposals deal satisfactorily with the difficult access issues which arise from the development of a key Town Centre site and strike a reasonable balance in making efficient use of space, consistent with safety and reasonable convenience. Further, for the reasons given at IR748–753, the Secretary of State agrees with the Inspector’s conclusion at IR754 that the design of the development has addressed the requirements of London Plan Policies 4B.1 and 4B.5 and saved UDP Policy 9.5 to achieve a development which would be accessible, and which could be used safely and with dignity. He also agrees with the Inspector’s reasoning and conclusions in respect of the acceptability of the proposal’s impact on atmospheric pollution (IR755–766); social infrastructure and community facilities (IR767–775); biodiversity and trees (IR776–781); Energy Strategy (IR785); emergency access (IR786); and other local effects (IR787-788).

24. Against these factors counting in favour of the scheme, however, the Secretary of State also agrees with the Inspector’s adverse assessment of the impact of the development on loss of light and overshadowing, as set out at IR782–784, and he agrees that the proposal would therefore conflict with saved UDP policy 4.1 (IR783). The Secretary of State also agrees with the Inspector that these limited adverse effects would not be so great as to justify refusing permission in themselves, but that the overshadowing effect of the proposed scheme on the

character and amenity of Haven Green would be harmful and would be a significant contributory factor to the harm to that Conservation Area (IR784) as discussed in paragraph 21 above.

### Conditions

25. The Secretary of State has considered the proposed conditions and the Inspector's comments on these at IR552–565 and IR793 as well as national policy as set out in Circular 11/95. However, he does not consider that the proposed conditions would overcome the reasons for dismissing the application.

### Obligation

26. The Secretary of State has also taken account of the provisions of the executed Section 106 Agreement completed in respect of the application, but he does not consider that it would overcome his reasons for refusing planning permission for the scheme.

### Overall Conclusions

27. The Secretary of State considers that, although the application proposal is broadly in compliance with the development plan in many respects, there are significant areas of conflict, most particularly in relation to design principles and conservation. He also considers that the proposal does not fully accord with national policy in PPS1 and PPG15 in these respects. He has therefore gone on to consider whether there are material considerations of sufficient weight to overcome these.

28. He acknowledges that the proposed scheme would deliver a number of substantial benefits and fulfil some important objectives of development plan policy by contributing strongly to the Council's regeneration objectives including reinforcing the status of Ealing as a Metropolitan Centre. The scheme would include, amongst other benefits, a landmark tower of high quality design and attractive pedestrian streets and spaces which would improve the permeability of the site. It would also deliver a significant volume of housing. Against these benefits, however, the Secretary of State considers that the bulk, massing and certain aspects of the design of the scheme would be inappropriate in its surroundings. It would fail to preserve or enhance the character and appearance of the Town Centre conservation area and the setting of the Haven Green conservation area, as well as harming the setting of the Grade II\* listed Church of Christ the Saviour.

29. In coming to his decision, the Secretary of State has taken full account of the views of CABI in their support for the quality of the proposed buildings and streetscape improvements that the proposed scheme would deliver. However, he notes that CABI's views did not include consideration of the way in which the scheme would relate to its wider surroundings, and he regards that as a key design objective of PPS1. He sees it as essential for the design qualities of the proposal to be considered in context, and he considers that its dominant and overbearing impact would seriously detract from the distinctiveness and identity of Ealing Town Centre and the Haven Green area.

30. Overall, therefore, the Secretary of State concludes that, although the scheme would comply with some specific development plan policies relating to the regeneration of Ealing Town Centre and would bring many benefits to the area, these are of insufficient weight to determine the application other than in accordance with those national and development plan policies relating to conservation and design in order to ensure that the distinctive existing character of the area is maintained.

### **Formal Decision**

31. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's application for planning permission for the demolition of existing buildings on the site (except for numbers 30 - 34 and 35 The Broadway), and the construction of 6 buildings for mixed use purposes: Building A (2 – 8 storeys); Building B (3 – 8 storeys); Building C (3 – 11) storeys; Building D (2 - 11 storeys); Building E – (2 – 11) storeys; and Building F (19 - 25 storeys), containing approximately 17,279 square metres of retail shops (Use Class A1), 1,363 square metres of cafes/restaurants (A3), 490 square metres of offices (B1(a)), 1,861 square metres of leisure facilities (D2) and 567 residential units, provision of two basement floors containing 223 residential parking spaces (total) including 58 spaces for the disabled, 16 car club parking spaces (total) including 1 space for the disabled, 114 commercial spaces (total) including 7 spaces allocated for the disabled, parking for 782 cycles (678 for residents, 64 spaces (32 stands) public spaces at street level and 40 spaces for commercial use in the upper basement), servicing bays – 17 total, and plant and equipment with vehicular access off Springbridge Road, pedestrian accesses off Springbridge Road, Haven Green and The Broadway, landscaping, formation of areas of public realm, amenity space for the residential uses and ancillary works at Arcadia Centre (All), 9-29 (Consecutive) & 36 – 42 (Consecutive) The Broadway, 1-10 (Consecutive) Central Chambers, 1-4 (Consecutive) Haven Place, Flower Haven Springbridge Road, Land Over Railway Between Central Chambers and car park adjacent to Haven Green, Ealing W5 2ND, in accordance with application ref P/2007/4246, dated 7 September 2007 as amended.

### **Right to challenge the decision**

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

33. A copy of this letter has been sent to the Council and all parties who requested a copy.

Yours faithfully

**Jean Nowak**

Authorised by Secretary of State to sign in that behalf



## ANNEX A

### SCHEDULE OF POST- INQUIRY CORRESPONDENCE

Correspondent    Date of letter/email  
(2009)

B Stevenson	19 July	R Matthews	14 June
A Bennett	10 July	G Sanderson	01 June
S Warhurst	22 July	C Bubb	08 June
K Chacksfield	17 June	P Quenby	10 June
J Macharia	15 June	N Pride	18 June
K FitzHerbert	17 June	C Nicol	18 June
K Young	11 June	A Young	18 June
J James	18 June	C Williams	18 June
J Lude	16 June	M Sheard	17 June
J Newson	21 June	S Spencer	10 June
J Bradbury	16 June	S Nesbitt	15 June
J Zajackowski	17 June	R Pease	12 June
J Humphreys	18 June	S Kang	08 June
I Rudd	22 June	S Deans	05 June
G Barnham	14 June	S Cooper	15 June
E Michell	20 June	S Robbins	15 June
H Johnson	21 June	S Krneta	09 June
A Gregorius	21 June	T Richards	08 June
D Legroux	21 June	T Essen	07 June
G Michell	19 June	V Draper	08 June
A Dewick	28 June	T Roney	10 June
A Abbott	22 June	V Gelyanhanh	10 June
C Evans	16 June	W Norman	08 June
R Yates	22 June	E Chambers	15 June
S Hung	01 June	D Cash	17 June
S McKnight	22 June	C Morton	17 June
S Rowley	20 June	D Martin-Tomkins	15 June
S Carey	20 June	C Fazi	11 June
M Noble	07 June	C Bradbury	16 June
P Wallach	15 June	C Smith	12 June
E Symmons	19 June	A Walker	15 June
R Ashmore	15 June	C Jordan	09 June
P Gerosa	15 June		