

**Minavil House, Alperton, Wembley**

in the London Borough of Brent

planning application no.16/2629

**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**

The demolition of existing two storey commercial building and erection of a mixed used development ranging from ten to twenty six storeys in height, comprising 251 residential flats, 1,942 sq.m. retail foodstore (Use class A1) on the ground floor, 622 sq.m. of office space (Use Class B1) on the first floor, 634 sq.m. retail floorspace for flexible use as cafe, bar or restaurant (Use class A1, A4 or A3) at lower ground floor and ground floor level; together with associated vehicular access, car and cycle parking spaces, bin stores, plant room, landscaping and private and communal amenity space..

**The applicant**

The applicant is **R55**, the architect is **FAL** and the agent is **Colliers International**.

**Key dates**

Pre-application: 14 December 2015

Stage 1 reporting: 1 September 2016

Planning Committee date: 24 May 2017

**Strategic issues summary**

**Affordable housing:** The affordable housing offer has increased from 72% to 91% by unit and habitable room following further review and negotiation.

**Energy:** Since Stage 1 the applicant has provided the requested verification information.

**Transport:** Since Stage 1 TfL has continued discussion and negotiation with the applicant and have managed to resolve the transport issues identified.

**The Council's decision:** Brent Council has resolved to grant permission.

**Recommendation**

That Brent 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 28 July 2016 the Mayor of London received documents from Brent Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. Category 1A, 1B, and 1C of the Schedule to the Order 2008:

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

2 On 1 September 2016 the Mayor considered planning report D&P/3584a/01, and subsequently advised Brent Council that the application did not comply with the London Plan, for the reasons set out in paragraph 93 of the above-mentioned report; but that the possible remedies set out in that paragraph 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, the application has been revised in response to the Mayor’s concerns (see below). On 24 May 2017 Brent Council decided that it was minded to grant planning permission, and on 21 June 2017 it 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 Brent Council under Article 6 to refuse the application or issue a direction to Brent Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application and any connected application. The Mayor has until 17 July 2017 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](http://www.london.gov.uk).

## Update

6 At stage 1 London Plan policies on retail, housing mix, affordable housing, density, children & young person’s play, urban design, energy, flood risk, air quality and transport were considered. Whilst the principle of development was strongly supported, a number of issues were raised, and consequently the application did not accord with London Plan Policy. The conclusions reached at the initial consultation stage were as follows:

- **Affordable housing:** The proposed affordable housing offer is 72% by unit, which exceeds the Council’s affordable requirement of 50%, this aspect of the application is therefore compliant with the London Plan and strongly supported.

- **Energy:** The carbon dioxide savings exceed the target set within Policy 5.2 of the London Plan. However, the applicant should provide the required verification information before stage 2 submission.
- **Air quality:** The applicant should carry out further modelling on the impact of the proposed energy centre; no Air Quality Neutral assessment has been undertaken and this should be provide before stage 2 referral; consideration should be given to how residential layouts can be modified to deal with poor air quality; and conditions should be adopted in relation to construction and demolition and missions limits for all CHP boilers.
- **Transport:** An innovative solution to accessible car parking could be supported but it is unclear whether such a scheme would be viable for this development. The applicant will need to submit additional supporting information on car parking; the applicant should clarify the location of the EVCPs and they should be secured by condition; Brent Council should seek contributions towards improving the pedestrian and cycle environment in the vicinity of the site, consistent with the objectives of the Alperton Masterplan.

7 Since stage 1 further information and discussion has taken place. Taking each outstanding issues in turn the following is noted:

### Affordable housing

8 At stage 1 the proposed affordable housing offer was 72% by unit and habitable room this exceeded the 35% threshold set by draft Affordable housing and Viability SPG and Brent Council’s affordable requirement of 50%. Since stage 1 an independent review of the applicant FVA and further negotiation has been undertaken that has further increased the affordable offer to 91% by unit and habitable room (see Table 1).

Table 1: Housing mix and tenure (Final offer)

Size	Affordable Rented	Affordable Shared Ownership	Market	Total No.	Total %
1B2P	13	55	15	83	33.07
2B3P	8	118	10	136	54.18
3B5P	11	21	0	32	12.75
Total No.	32	194	25	251	100
Total %	12.75	77.29	9.96		100

9 The initial offer included 180 affordable residential units, representing 71% affordable housing by unit with 45 affordable rent and 135 intermediate housing units were representing a tenure ratio of 25:75. This essentially reversed the local and regional affordable housing tenure policy ratio and negotiation has taken place whether the offer could increase the proportion of affordable rent units.

10 The applicant submitted a Financial Viability Assessment (FVA) that has been independently reviewed of behalf of Brent Council. The Council review demonstrated the applicant’s FVA had overstated the development finance costs by over £8 million and it also disputed the applicant’s Market Value approach to benchmarking the land value at £3.5 million and in turn made a series of amendments to other financial variables. The review concluded that the scheme had the potential to viably deliver a more policy compliant mix of affordable housing, with

a higher proportion of affordable rented housing more accessible to local households, incomes and needs.

11 In response the applicant submitted further evidence that indicated the FVA review assumed construction costs were significantly understated. Whilst, simultaneously increasing the amount of affordable housing to 229 units or 91% affordable housing by unit and habitable room. This offer was for 32 affordable rent and 194 intermediate units, representing a 15:85 tenure ratio weighted even more heavily towards intermediate housing.

12 A further additional independent review of the applicant's revised construction costs was undertaken which confirmed the reasonableness of the revised cost submittal. This was followed by a series of sensitivity analysis tests including policy compliant schemes and exploring the introduction of housing grant in line with the draft Mayoral Affordable Housing and Viability SPG. It assumed that the affordable rent was at 60% of the market rate (inclusive of service charges). It also factored in proposed affordable workspace. The analysis concluded that the proposed scheme is not viable against the £1.7 million Existing Use Value of the site, and that a viable scheme with a policy compliant tenure mix would deliver no more affordable rented housing than the proposed offer.

13 The applicant has lined up a registered provider to deliver the affordable units, and it is essentially a special purchase agreement which would allow the proposals to come forward – with Genesis Housing Group using Re-Cycled Grant Funding (RCGF) to support the scheme viability and deliver a large number of shared ownership units. Discussion has been held with the registered provider and they were requested to explore options to increase the proportion of affordable rented housing on the scheme, however it stated it is not viable to do so without levels of grant subsidy in excess of those available from the Mayor. Brent Council has included a clause that the registered provider will be party to the s106 agreement in order to ensure the scheme is deliverable.

14 The 32 affordable rental units are secured at 60% of market rent including service charges and capped at LHA rates, whilst the 194 intermediate units income thresholds are capped at £90,000 in line with the London Plan monitoring report threshold. A Shared Ownership Nominations Agreement is also included in the form of a ring-fenced marketing period for the shared ownership units to local people, and that priority be given for applications from local people after that ring-fenced period expires, in order that the scheme endeavour to best meet local housing needs. On balance the affordable offer is therefore considered acceptable.

## **Sustainability**

### **Energy**

15 Since stage 1 the applicant has provided the requested verification information and this aspect of the application is compliant with the London Plan. A condition has also been agreed requiring details of district heat network future proofing. This aspect of the application is compliant with the London Plan.

### **Air Quality**

16 As requested attention has been given to air quality issues and a package of mitigation measures are proposed during demolition and construction. In response to modelling showing some exposure to poor air quality at a number of points at second and third floors levels due to exposure to road traffic on Ealing Road mitigation measure will be adopted including mechanical ventilation with an inlet at or above fourth floor level or alternatively nitrogen oxide filters to reduce pollutant concentrations. The draft decision notice includes a condition requiring prior to

commence of development an Air Quality Neutral Assessment is submitted and that the Combined Heat and Power unit meet or improve on the emissions standards in the Air Quality Impact Assessment. This aspect of the application is compliant with the London Plan.

### **Flood risk**

17 A suitable planning condition has been provided as requested at stage 1 and this aspect of the application is therefore compliant with the London Plan.

### **Transport**

18 Since Stage 1 TfL has continued discussion and negotiation with the applicant and have managed to resolve the transport issues identified.

19 The proposal will generate an increase in bus trips during peak hours and as such the Council has secured a sum of £50,000. This shall be made available to TfL upon request to fund bus capacity enhancements in the Alperton Masterplan area. A number of local highway improvements have also been secured by the Council and these measures are welcomed.

20 One wheelchair accessible car club vehicle shall be provided in lieu of one space per wheelchair accessible unit and this approach is acceptable. A car park management plan, funding towards car club provision and membership, a review of on-street parking and potential implementation of a CPZ has been secured by the Council. Occupants of this development will not be eligible for future on-street parking permits. An acceptable number of electric vehicle charging points has been secured on the basis that rapid charging points will be provided for the retail element.

21 Cycle parking in accordance with London Plan standards will be provided for all land uses. Travel plans have been secured in the s106 agreement and a delivery and servicing plan and construction management plan have both been secured by condition.

22 Having consideration for the above measures, the application is considered to meet the relevant London Plan polices and be acceptable in transport terms.

### **Response to Borough consultation**

23 Brent Council consulted the occupants of 773 existing properties and neighbouring properties as well as statutory and non-statutory organisations together with a press and site notices. A total of 61 letters of were received from local residents and businesses raising the following issues:

- **Land use:** wholly employment scheme would be preferable; other uses should be included; affordable workspace should be included; community centre and park preferable; negative impact on Locally Significant Industrial Site; and support for modernisation of the area and local economy.
- **Design, conservation and heritage:** building height out of character with the areas; building to height, bulky and design quality; not in line with Alperton Masterplan; prefer previous scheme; narrow route between plant room and substation creates narrow alley allowing for potential crime; increased anti social behaviour; overhanging balconies encroach on other land owners and support for development as removing existing eyesore and for the building height.
- **Residential quality:** insufficient outdoor space.

- **Affordable housing:** support for level of affordable housing.
- **Neighbouring amenity:** daylight and sunlight on neighbouring development; loss of local views; separation distance between development and 243 Ealing Road; construction impacts noise, dust and traffic; light pollution at night; concern over refuse and servicing; impact on moored boats on the canal; overlooking and privacy; and further environmental consultation required.
- **Highways and transportation:** negative impact on existing junctions; lack of parking provision; impact on existing street parking; insufficient public transport to cope with scheme; traffic pollution; building servicing and HGVs; impact on road safety; effectiveness of servicing delivery plan; no drop off zone; and impact of construction traffic.
- **Landscaping, ecology, sustainability and public realm:** insufficient landscaping and green space; no pathways proposed along the canal and impact on the canal ecology; closure of the canal must be agreed with British Waterways; and support for carbon dioxide savings.
- **Other issues:** impact on property values; limited developer information; impact on existing healthcare facilities and schools; and will there be a reduction of business rates if development is approved

24 The issues raised by the consultation process have been addressed by Brent Council's committee report, at stage 1 and this Stage 2 report.

### Statutory consultees

25 Representations were also received from the following statutory organisations and bodies:

- **Thames Water:** No objection subject to condition that is included in the draft decision notice.
- **Canal and River Trust:** Issues raised resolved through conditions and informatives that are included in the draft decision notice.
- **Environment Agency:** No objection.
- **British Waterways:** No objection.
- **Natural England:** No objection.

### Letters to the Mayor

26 The Mayor received two letters and a 211 person petition raising issues with the height, scale and massing of the development and impact of overshadowing on Venice House (243 Ealing Road). The height, scale and massing of the development have been addressed in the stage 1 report (at paragraphs 36 to 46) and the officers are supportive of the development design quality which was a result of an effective pre-application process.

27 In relation to daylight, sunlight and overshadowing and overlooking, the applicant's Environment Statement completed studies of the impact of the scheme on surrounding properties including: Alperton House and 300 Ealing Road to the south west, the Boat public house to the south, 360 Ealing Road to the south east, and 243 and 245 Ealing Road to the east.

28 The applicant has completed a Vertical Sky Component (VSC) assessment which is a measure of daylight. The criteria to consider are whether the resulting levels of daylight are less than 27%, and if not whether the level remains above 80% of the existing level. The results show that there are windows where the impact would be adverse and major, but these are commercial space in 300 Ealing Road where the expectation of daylight is less.

29 Within Alperton House and the Boat public house (subject of a recent pre-application discussion for a residential development in a tall building) there are also non-residential windows, but the loss of daylight is within the acknowledged parameters of VSC.

30 A total of four out of 31 windows within 360 Ealing Road would fail to meet the VSC criteria. However, this is very marginal and the level of light remaining would be very close to 80% of what it is now. In the case of 243 Ealing Road four windows would also not meet the VSC criteria and each of these is at the first floor level -falling below 27% and would have ratios of less than 80% of their existing values: 65%, 66%, 67%, and 69% respectively.

31 No windows would be adversely affected within 245 Ealing Road. The increase in height which has been considered necessary logically increases the impact, but the Statement of Conformity includes revised calculations. The difference between the originally proposed development and the revised development is small: the impact on some of the windows referred to above is unchanged, with some slightly worse, but not significant to change the overall conclusion.

32 The sunlight assessment is expressed as a percentage of Annual Probable Sunlight Hours (APSH) and this demonstrates that 14 windows would experience a reduction in sunlight, but in each case this is considered marginal. A total of 4 windows within 300 Ealing Road, one each within Alperton House and the Boat public house, 7 within 360 Ealing Road and one within 243 Ealing Road and the increase in height would have no difference on this conclusion.

33 Overshadowing impacts on existing amenity spaces involve calculating the effects of these spaces being in permanent shadow on 21 March (the spring equinox), when at least half of the space should receive at least 2 hours of sunlight. The applicant's assessment identifies 8 amenity spaces 360 Ealing Road, a common garden between 243 and 245 Ealing Road, the canal and 3 areas further from the site. In each case the impact would be negligible.

34 In relation to the loss of privacy and overlooking the distance from surrounding residential properties is in excess of 20 metres at all points. The other nearby buildings are non-residential, including those on Rosemont Road and the Alperton Bus Garage, and so do not have the same expectation of privacy.

35 It is officers opinion that the overall impact of the proposal on daylight, sunlight and overshadowing is considered acceptable. Although there are instances reductions in daylight/sunlight amenity the overall number is considered relatively minor considering the urban location where dense development has already come forward at 243 Ealing Road (5 to 14 storeys), Peppermint Heights (18 Storeys) and Atlip Road (13 storeys). Given this context and the design quality of the proposals a building of the proposed height is viewed as suitable for this location.

## **Financial contributions**

36 In addition to the affordable housing provision the following contributions have been secured by the s106 agreement:

- Affordable workspace -contribution of £100,000 towards off-site provision.
- Bus services contribution of £50, 000.

- Carbon offset contribution of £38,417.
- Obligation to relating to local employment and training during the construction phase.

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

37 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**

38 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**

39 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.

40 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.

41 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**

42 Having regard to the details of the application, the matters set out in Brent Council's committee report, its draft decision notice, the scheme is acceptable in strategic terms. Further information has been provided and conditions and planning obligations have been secured where appropriate, which address the outstanding issues that were raised at Stage 1.

---

for further information, contact GLA Planning Unit (Development & Projects Team):

**Juliemma McLoughlin, Assistant Director -Planning**

020 7983 4271 email [juliemma.mcloughlin@london.gov.uk](mailto:juliemma.mcloughlin@london.gov.uk)

**Sarah Considine, Senior Manager – Development & Projects**

020 7983 5751 email [sarah.considine@london.gov.uk](mailto:sarah.considine@london.gov.uk)

**Jonathan Aubrey, Case Officer**

020 7983 5823 email [jonathan.aubrey@london.gov.uk](mailto:jonathan.aubrey@london.gov.uk)

---