

Agar Grove, Block B

Local Planning Authority: Camden

Local Planning Authority reference 2022/2359/P

Strategic planning application stage 2 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

S733: Variation of conditions of planning permission 2013/8088/P (as amended by 2020/0468/P dated 16/02/2020), to allow changes to Block B, including addition of second stair cores and evacuation lifts; revised unit mix; reduction in 11 units; additional cycle storage; and changes to external appearance.

The applicant

The applicant is London Borough of Camden and the architect is Hawkins Brown, Mae Architects and Grant Associates.

Key dates

GLA stage 1 report: 1 August 2022

LPA Planning Committee decision: 4 August 2022

Strategic issues summary

Land Use Principles: The principle for comprehensive estate regeneration was supported as part of the extant permission 2013/8088/P in 2014 – this remains the case. The increase in commercial floorspace and the slight decrease in community floorspace as a result of layout changes is considered acceptable.

Housing: At Stage 1 the loss of 11 social rent units was considered acceptable on balance. A condition requiring a re-appraisal of viability testing prior to the last phase of development is secured.

Transport: The approach to cycle parking remains supported. Landscaping has been designed to allow an increase in disabled parking as required. This is supported by a condition.

Energy: The applicant has provided further justification in relation to achieving Passivhaus accreditation and the energy matters are accepted on balance.

The Council's decision

In this instance Camden Council has resolved to grant permission subject to planning conditions and conclusion of a Section 106 legal agreement.

Recommendation

That Camden Council be advised that the Mayor is content for the Council 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 18 July 2022 the Mayor of London received documents from Camden 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:
 - Art1 (2) Amends a previous application of potential strategic importance
 - 1A “Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats”
 - IC (c): Development which comprises or includes the erection of a building of more than 30 metres high and is outside the City of London
2. On 1 August 2022, the Deputy Mayor for Planning, Regeneration and Skills, acting under delegated authority considered planning report [GLA/0544/01](#)¹ and subsequently advised Camden Council Land use principles:
 - **Land use principles:** The principle of estate regeneration was supported as part of the extant permission. The slight increase in commercial space and slight decrease in community space as a result of the reconfiguration to accommodate the additional stairs and evacuation lifts is acceptable on balance.
 - **Housing:** There will be a reduction in 11 social rent units overall due to layout changes as a result of an additional stair and evacuation lifts and changes to the size mix. This is partly outweighed by the increase in larger 3 bed units and wheelchair units within this tenure. This is considered acceptable on balance.
 - **Urban Design:** The layout changes, minor increase in height, approach to public realm and fire safety are acceptable.
 - **Transport:** A commensurate increase in blue badge spaces to reflect increase in wheelchair units should be secured. 20% of spaces should have electrical vehicle charging points with 20% passive provision. Cycle parking supported. Wayfinding improvements are encouraged to be secured.
 - **Energy:** The energy statement provided does not yet comply with London Plan Policies SI3 and SI4. Further information required in relation to energy infrastructure, heat, risk, carbon savings and net zero target.
3. 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.
4. On 4 August 2022, Camden Council decided that it was minded to grant permission for the application subject to planning conditions and conclusion of a Section 106 agreement, and on 12 September 2022 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 Camden Council under Article 6 to refuse the application; or, issue a direction to Camden Council under Article 7 that he is to act as the Local Planning Authority for the

¹ <https://planning.london.gov.uk/pr/s/planning-application/a0i4J00000CQIeiQAH/20220544>

purposes of determining the application and any connected application. The Mayor has until 26 September 2022 to notify the Council of his decision and to issue any direction.

5. The decision on this case, and the reasons, will be made available on the City Hall website: www.london.gov.uk

Response to neighbourhood consultation

6. Camden Council publicised the application by issuing a site and press notices. The relevant statutory bodies were also consulted. Copies of all responses to public consultation, and any other representations made on the case, have been made available to the GLA.
7. Following the neighbourhood consultation process Camden Council received a total of 1 response which is summarised below.
 - The plans to redevelop the area are positive, and so far the existing housing flats and playground look good.
 - Object to 18 storey building as it is too high for this area and will affect the view line of residents from the surrounding area.
8. There were no responses from statutory bodies and other organisations.

Response to public consultation - conclusion

9. Having considered the local responses to public consultation, Camden Council has sought to secure various planning obligations, conditions and informatives in response to the issues raised. GLA officers have had regard to the above statutory and non-statutory responses to the public consultation process, where these raise material planning issues of strategic importance.

Update

10. Since consultation stage GLA officers have engaged in joint discussions with the applicant, the Council and TfL officers with a view to addressing the above matters. Furthermore, as part of the Council's draft decision on the case, various planning conditions and obligations have been secured. An update against the issues raised at consultation stage is set out below, having regard to responses to the public consultation.

Land Use Principles

11. This application relates to changes to Block B, as part of Phase 2A of the scheme, and is therefore not considered to alter the principle for comprehensive estate regeneration which was supported as part of the extant permission 2013/8088/P in 2014. At Stage 1, GLA officers confirmed that the changes to the commercial and community floorspace within the scheme were acceptable. The community floorspace has been appropriately secured.

Housing

12. The amendments include a reduction in 11 units due to design amendments as a result of the applicant's decision to provide additional stairs and evacuation lifts to align with policy requirements (such as fire safety) as well as an increase in family

sized units and wheelchair units to respond better to local need. At Stage 1, on balance this was considered acceptable and remains the case.

Affordable Housing

13. The consented scheme includes 507 units, of which 256 are affordable units. This equates to 50% on a unit basis or 56% on a habitable room basis. This was considered the maximum reasonable.
14. The current phase of the development, which is subject to this application, includes changes to Block B which entirely consists of social rent units.
15. The proposed amendments are being put forward to respond to the current housing needs of returning residents and in response to fire safety guidance. An additional staircase and change in the size mix, to provide an increase in larger family sized units and wheelchair units, have resulted in an overall reduction of 11 social rent units equating to a loss of 11 habitable rooms and 319 sqm of social rent floorspace.
16. Whilst it is acknowledged that the loss in overall social rent units, habitable rooms and floorspace is not desirable, this is partly caused by the increase in larger family 3 bed units and increase in wheelchair units within the social rent tenure, which have been increased to better respond to local need. In addition, affordable housing provision, on a habitable rooms basis, is still above 50%. It should also be noted that the changes are also a result of design amendments to respond to other policy requirements (such as fire safety). At Stage 1 this was considered acceptable on balance, however, GLA officers requested that the applicant and Local Planning Authority explore how the 11 social rent units could be re-provided elsewhere in subsequent phases.
17. The original permission contains a condition which requires a re-appraisal of the financial viability prior to the commencement of the last phase of development, to assess whether it is possible for the applicant to make a greater contribution to the provision of affordable housing overall. Condition 35 (as previously approved) is worded to provide flexibility so as to allow either on or off site provision, or a payment-in-lieu to be secured should viability improve in the intervening time.

Equalities

18. At Stage 1, GLA officers considered that the protected characteristics of age and disability were particularly relevant in this application and considered that the increase in wheelchair housing and family sized housing will help meet the needs of these protected characteristics, and therefore mitigate against this impact. This remains the case, and it is not considered that the proposals would give rise to any other disproportionate impacts on people with protected characteristics.

Urban design

19. At Stage 1, the approach to changes to layout, height, public realm, fire safety and inclusive access were considered acceptable. This remains the case, and compliance with inclusive access, public realm and the fire strategy have been appropriately secured.

Transport

20. At Stage 1, proposals were broadly supported in strategic transport terms and the approach to cycle parking was strongly supported. Cycle parking quantum and design has been appropriately secured.
21. In relation to disabled parking, the applicant was requested to provide a commensurate increase in blue badge parking to match the increase in wheelchair units. The applicant explained that the landscaping scheme has been designed to allow zones to flex between parking and public realm such that there is more than sufficient capacity to accommodate the needs of residents, including the increased number of wheelchair units now being delivered within Block B. In addition, a condition has been secured to ensure this, whilst at the same time trying to reduce overall parking across the site.

Sustainable development

Energy strategy

22. At Stage 1, an energy statement was provided that did not comply with London Plan Policies SI3 and SI4. The applicant was requested to submit further information in relation to energy infrastructure, managing heat risk, carbon savings and the meeting net zero target. The applicant has provided further justification and a condition requiring low cost energy and lower bills for occupiers has been secured. Whilst the overall approach to the energy strategy is not in compliance with Policy SI 3, it is acknowledged that the scheme will be achieving Passivhaus accreditation and achieves a greater carbon reduction of 69% which is more than double the carbon reduction of the consented scheme at 32%. Given the improvement to the carbon performance of the extant consented scheme, and given that this application is a S73 application seeking changes to that consented scheme rather than a new planning application, it is considered that the proposals respond positively to current policy and are therefore acceptable on balance. However it should be noted that any new application would need to follow adopted policy.
23. A Be Seen Energy Monitoring condition has also been secured.

Section 106 agreement

24. An updated Shadow Section 106 agreement will include the following provisions:
- The delivery of 205 social rent units and 40 intermediate housing units
 - Car Parking Management Plan
 - Delivery and Serving Plan
 - Travel Plan and monitoring contribution of £8,593
 - Cycle hire contribution of £189,000
 - Education contribution of £335,730
 - Highways contribution of £560,000
 - Health Care Strategy

Legal considerations

25. 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. Mayor also has the power under Article 7 to direct that he will become the local planning authority for the purposes of determining the 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.
26. The local planning authority must satisfy itself that this application is in accordance with the recent Court of Appeal decision in respect of Section 73 applications *Finney vs Welsh Ministers* [2019] EWCA Civ 1868 before issuing a final decision notice. This case established that a Section 73 application cannot be used to amend the description of development.

Financial considerations

27. 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.
28. 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.

Should the Mayor take over the application he would be responsible for holding a representation hearing and

[negohhttps://gla.lightning.force.com/lightning/r/arcusbuiltenv_Planning_Application_c/a0i4J000005R Bok/view](https://gla.lightning.force.com/lightning/r/arcusbuiltenv_Planning_Application_c/a0i4J000005R Bok/view)

29. tiating 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

30. The strategic issues raised at consultation stage with respect to the affordable housing, urban design, transport and energy have been acceptably resolved on balance, and having regard to the details of the application, the matters set out in the committee report and the Council's draft decision, and considering the material planning considerations of strategic importance raised in responses to the public consultation, the application is acceptable in strategic planning terms, and there are no sound planning reasons for the Mayor to intervene in this case. It is therefore

recommended that Camden Council is advised to determine the case itself, subject to any action that the Secretary of State may take.

For further information, contact GLA Planning Unit (Development Management Team):

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