

## **THE LONDON BOROUGH OF CAMDEN**

At a meeting of the **PLANNING COMMITTEE** held on **THURSDAY, 30TH MARCH, 2023** at 7.00 pm in The Council Chamber, Crowndale Centre, 218 Eversholt Street, London, NW1 1BD

### **MEMBERS OF THE COMMITTEE PRESENT**

Councillors Heather Johnson (Chair), Edmund Frondigoun (Vice-Chair), Sagal Abdi-Wali, Lotis Bautista, Danny Beales, Lloyd Hatton, Liam Martin-Lane, Andrew Parkinson, Prince and Tom Simon

### **MEMBERS OF THE COMMITTEE ABSENT**

Councillors Nasrine Djemai and Sue Vincent

### **ALSO PRESENT**

Councillors Nina De Ayala Parker, Sharon Hardwick, Izzy Lenga and Shiva Tiwari

**The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of the Planning Committee and any corrections approved at that meeting will be recorded in those minutes.**

## **MINUTES**

### **1. GUIDANCE ON HYBRID MEETINGS**

#### **RESOLVED –**

THAT the procedures for hybrid meetings be agreed.

### **2. APOLOGIES**

Apologies for absence were received from Councillors Djemai and Vincent.

### **3. DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA**

Councillor Parkinson declared for transparency that he was Chair of the Redington Frognal Neighbourhood Forum which had put in an objection to the O2 application. He was also on the Committee of the Netherhall Neighbourhood Association. He however had not had any role or input in objecting to the application.

#### **4. ANNOUNCEMENTS**

##### **Webcasting**

The Chair announced that the meeting was being broadcast live to the internet and would be capable of repeated viewing and copies of the recording could be made available to those that requested them. Those seated in the Chamber were deemed to be consenting to being filmed. Anyone wishing to avoid appearing on the webcast should move to one of the galleries.

##### **Adjournment of the meeting at 7.30pm**

The Chair further announced that the meeting would adjourn at 7.30pm for 30 minutes to allow for all those who were fasting, who were attending in person or watching the proceedings online, to break their fast. The meeting would resume promptly at 8.00pm. She also informed and asked those present that during the break, they not approach Members of the Committee for any reason – as Members would not be able to discuss the application.

#### **5. REPRESENTATIONS TO THE COMMITTEE**

##### **RESOLVED –**

THAT the written submissions and deputation requests contained in the supplementary agenda and tabled paper be accepted.

**6. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT**

There was none.

**7. MINUTES**

**RESOLVED –**

THAT the Minutes of the meetings held on 15 December 2022, 19<sup>th</sup> and 30<sup>th</sup> January 2023, 8<sup>th</sup> and 23<sup>rd</sup> February 2023 were agreed as accurate records.

**8. PLANNING APPLICATIONS**

Consideration was given to the report of the Executive Director Supporting Communities.

**8(1) THE O2 MASTERPLAN SITE, FINCHLEY ROAD LONDON NW3 6LU**

Consideration was also given to the information provided in the Supplementary Agenda and the written submissions and deputation requests referred to in Agenda Item 5 above.

The Planning Officer highlighted to the Committee:

- Information in the Supplementary Agenda which contained officers' fuller summaries of local groups objections, clarified and made corrections to the officer report and republished all the listed conditions with minor amendments for ease of reference.
- The tabled paper which provided comments from the Greater London Authority (GLA) relating to the design and height of the development and further clarification by removal of the community infrastructure levy (CIL) from the public benefit list, as CIL payments simply mitigated the impact of the development.
- Late written submissions that were received after the deadline which raised similar objections to those already summarised in the report.
- Clarification that minimum floor space of the supermarket, community facility specification should be included in the planning obligations listed on page 295

*Planning Committee - Thursday, 30th March, 2023*

of the agenda and the affordable workspace head of term should be omitted as this duplicated the commercial space plan.

Councillors Shiva Tiwari and Nina de Ayala Parker as Ward Councillors made statements objecting to the application.

The following information was provided in response to questions from Members:

With regards to why a social housing target of 35% was used rather than 50%, the Planning Officer commented that the 35% affordable housing target enabled the scheme to qualify for the Mayor's fast-track approach which did not require viability testing. However, viability was looked at in this case because part of it was an outline application, further detail would come through in the reserved matters.

The BPS Independent Advisor commenting on viability for the Council informed the Committee that the scheme was not going to make vast amounts of profit, there was a £200m deficit, the only way the deficit would be bridged would be through values growing at a faster rate than costs. Cost growth was currently going up at a faster rate and was forecast to be 13% over the next 5 years. The forecast had not been projected beyond the life of the development and it was somewhat optimistic to assume positive sales growth relative to cost growth, and as a consequence there was no viability justification for the level of affordable housing at the moment let alone additional provision.

Invited to comment further on the viability of the scheme, the applicant informed the Committee that the BPS Independent Advisor had concluded that the developer had a proceedable scheme but was unable to deliver any more than 35% affordable housing, however the applicant was of the view that delivering the masterplan would have value in the long-term highlighting that there were a number of special circumstances that went beyond the viability approach. For example, it aligned with their wider strategic goals approach and their model of managing and investing operations in long term sustainable places. Creation of that value would be through delivery of the whole masterplan in full and realising the potential of the masterplan through the lifetime of the development.

Commenting on the deliverability of the entire scheme, officers advised that the proposals were for 35% affordable housing across the whole masterplan, pointing out that it was not in the applicant's interest commercially to have an island of housing in the middle of the development site. Members were also informed that officers were already considering the wording of the Section 106 obligations and these would need to be robust to ensure step delivery and that one phase was delivered before the next process or point in development process was started. Ensuring the scheme could be delivered was a key part of the process and before anything could happen it would also need to be referred to the Mayor of London for approval who would be looking at the detail of this.

The Head of Development Management also commenting on the deliverability of the whole scheme advised that delivering the entire comprehensive scheme was really

important to the Council. Reiterating the Planning Officer's comments, she remarked that the wording of the S106 legal agreement needed to be robust to tie the respective phases of the scheme together to keep the momentum going. Noting also however, realistically that every eventuality could not be covered and sometimes schemes did stall which then needed to be addressed and dealt with. In this particular situation the challenge from the outset was around land ownership which had to be resolved for the scheme to be delivered. The Council does have statutory powers to intervene to make that happen if it were appropriate.

Commenting further she informed members that it was unrealistic to expect that any scheme of this scale over this build period would deliver all the benefits upfront. The scheme had been phased to try and deliver a range of benefits across each phase at the right point in time where it was justified against the planning policies and the legal tests. She was of the view that it would be unreasonable to ask the applicant to provide all the contributions at the moment they started on site, pointing out however, that the trigger points needed to be right. In some cases, the officers' report made this quite clear and others for example the £10m for West Hampstead Station, was something that needed to be agreed with TfL and officers would be led by them as to what the right point in the process was to get the money. The feasibility work for looking at Finchley Road needed to come early on in the process so the Council could start looking at what the options were. Interim strategies and meanwhile uses meant that the site would not just be a building site whilst waiting for the final public benefits to be delivered.

Invited to comment on whether the plan for the market component of the housing was to be sold or a section set aside to rent, the applicant informed the Committee that the proposal was for the first phase to be built for homes to rent with outlining phases following that but advised that there was flexibility on this. The operation of homes to rent was in line with their long-term strategy purposes and achieving the full potential of the masterplan.

The BPS Independent Advisor commenting on whether viability wise it would be more beneficial to build to sell rather than rent, informed the Committee that build to rent schemes were often less viable, but in this case, the developer had a declining retail asset in the current buildings, and build to rent would probably be an appreciating asset in the scheme. A rental product would probably be more attractive than just a single point in time sale to a long-term landowner.

In terms of how it could be ensured that the benefits of the scheme would be realised, the Head of Development Management remarked that the S106 obligations would be robust and would require the benefits to come forward. If there were any change then there would need to be amendments to the S106 terms which would need to go through a formal process of agreement. There was a challenge with the Healthcare facilities as needs changed over time and requirements could be different in the future. The Council had done everything as a Planning Authority to make sure the vision and the benefits came forward for example by securing space for the NHS on terms that were right for them.

*Planning Committee - Thursday, 30th March, 2023*

The £10m towards West Hampstead Station improvements works was locked in. It was a significant contribution towards station improvement works. There was uncertainty around what the overall costs of delivering step free access and enhanced capacity would be at West Hampstead. Officers had worked hard with TfL and the applicant to ensure what was secured through the scheme was a significant contribution towards the station improvements to act as a catalyst for further funding. There would be potential additional funding required, this could come from TfL and the Council could also explore other funding opportunities such as CIL if required.

A Committee member welcomed the application, commenting that for a long time in the local area issues had been raised about much needed investment in transport infrastructure. The fact that this application might kick start this investment resulting in improvements to TfL infrastructure around West Hampstead Station was key to the application.

Invited to comment on why the proposals were for demolition of the buildings on the site rather than retrofit, the applicant informed the Committee that demolition of a 25-year-old building was not ideal, however in working with their partners on analysing the site, they had realised that the O2 had an issue with permeability. It did not meet current retail needs and prevented Finchley Road connecting into the wider site and leaving the O2 centre as it was, was not an option. It was an inward facing shopping centre, was very single transactional, people came in by car to the centre and then left, it did very little to contribute to the wider economic prosperity of Finchley Road Town Centre. The O2 Centre was struggling to retain its tenants, the evidence had shown that tenants did not want this type of space anymore. The O2 Centre was at risk of falling into decline and becoming obsolete, therefore there was a need to be proactive and address this. The applicant advised that a lot of thought had been put into how to dismantle the building in the most carbon sensitive manner.

The Planning Officer also commenting on the issue of demolition informed the Committee that at the pre-application stage in discussions with the applicant various options were considered including retention, it was however felt that none of the options would work well to achieve a well-connected scheme, except demolition of the O2. Officers were of the view that whilst there would be an impact in terms of sustainability, this was the preferable option and focus needed to be on making the scheme as sustainable as possible.

Responding to further member questions, the following comments were made:

- There was always the risk with every application that a further application would be made to amend it, however the Committee was being asked to consider the application in front of it, if there were to be any changes to the scheme a further application would need to be considered on its merits at the time and the Committee could not second guess what were to happen in future

*Planning Committee - Thursday, 30th March, 2023*

- With regards to the Builders Depot on Blackburn Road, the Council intended to issue the lawful development certificate that was under current consideration, officers were of the view that it was an extant permission for the site.
- The Supplementary Planning Document (SPD) and Development Planning documents set out the need for cooperation and coordination between landowners to deliver comprehensive redevelopment. Officers did not consider the extant permission for the Builders' Depot to be an adequate replacement for plot S8 in the masterplan as it would not deliver the same level of benefits as a comprehensive redevelopment.
- There were powers available to the Council if required to ensure comprehensive redevelopment of the scheme. The proposals for the part of the application relating to the builders' merchant site were also consistent with the aspirations of the Neighbourhood Plan.
- In relation to the flood risk, officers had worked hard with the applicant to achieve greenfield run off rates and features such as swails, the greening improved flood prevent measures by 90% on the site.
- The flood prevention measures such as the attenuation tanks and swails would slow down the flow of water on the site, reduce the pressure and slowly release water into the sewers, the overall impact were significant improvements on the current position.
- In terms of the impact of the development on local services such as health facilities, the modelling carried out by the NHS and officers showed that the scheme proposals would compensate for the impact of the development and provide additional capacity in the area.
- The affordable housing proposals relating to social affordable rented homes and intermediate rent levels were policy compliant and was not based on a discount market rent.
- In terms of reuse of materials there was a condition which indicated that 95% of all waste needed to be diverted from landfill. The aim being to keep the waste on site and reuse it. There were also some parts of the substructure being retained and reused on site.
- In terms of addressing the loss of the uses valued by the community on the site, there was a S106 obligation and conditions to control future uses and ensure there would always be a supermarket, and measures to ensure reprovision of leisure and cinema uses on site.
- In terms of actions taken to engage with residents and the local community, the applicant advised that they were part of a partnership of network

*Planning Committee - Thursday, 30th March, 2023*

organisations which included engagement with the Young Camden Foundation and Camden Giving. They advised that they would also continue to engage with communities in the context of an existing asset owner in the area and in the context of bringing forward a more detailed design of the first phase and the outline phase of the scheme. The Community Centre offering was an important part of this engagement and embedding in the wider community.

- There would be a Construction Management Plan which would be secured as part of the S106 agreement. This would monitor all the impacts, it would include liaison with local residents/groups which would mitigate their concerns. The local groups would be involved in the Construction Management Working Group.
- A Committee member commented that it was disappointing that in terms of carbon emission, the scheme did not meet the Council's carbon reduction minimum policy requirements and the Council was securing a carbon offset payment, querying where the innovation and ambition was in getting the carbon impact of the development down.
- In response the Planning and Sustainability Officers commented that carbon off set was part of policy and in terms of on-site savings it exceeded policy targets. The scheme did meet all the minimum requirements and exceeded them for the residential new builds, they were meeting net zero carbon through the carbon off set scheme in the borough.
- In terms of the urban greening factor, the open space across the site was considered to be quite generous. There were conditions about the urban greening factor to meet the requirements of the London Plan. It was hoped that the urban greening factor could be improved further.
- In terms of the design, the layout of the masterplan as outlined in the officer presentation showed the principal of promoting the national design code which was about well laid out streets, spaces, and buildings that surrounded and overlooked those.
- In terms of the height the impact of this was two-fold, the experience within the site and the wider views of the site. The taller elements moved away from the open spaces to lessen the impact. In relation to the architecture and design this consisted of materials used in the local area. Officers were of the view that these features picked up on the local architecture particularly the mansion blocks down towards Swiss Cottage and St Johns Wood.
- In terms of whether the scheme would bring about improvement for cyclists on Finchley Road, there were various transport improvement works which were around improving the environment for cyclists in South Hampstead and West End Lane and this scheme did make a significant contribution to that. There



***Planning Committee - Thursday, 30th March, 2023***

were proposals to create a crossing across Finchley Road which allowed pedestrians/cyclists to access Netherhall Gardens and Fitzjohns Avenue in an eastward direction in that part of the borough.

- The plots for further stages were large enough to fall under the terms of reference of the Planning Committee so reserved matters for further phases would require to be determined by the Committee.

For clarity, the Head of Development Management summarised the updated conditions requested at the start of the officers' presentation, as follows

- Amendments to the head of term on page 295 to include the minimum floorspace for supermarket (para 10.21). To include the community facility specification and to omit affordable workspace Head of Terms which was a duplicate to the affordable commercial space plan.

On being put to the vote, with 7 in favour and 3 against it was

**RESOLVED –**

To grant conditional planning permission following:

- (i) Referral to the Mayor of London for his direction.
- (ii) Finalisation of detailed wordings for conditions following consultation with the Mayor.
- (iii) Completion of a Section 106 Legal Agreement.

**ACTION BY: Director of Economy, Regeneration & Investment  
Borough Solicitor**

**9. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

There was none.

Having adjourned between 7.30pm – 8.01pm and 9.58pm-10.01pm and having applied committee procedure rule 19(a) at 10.00pm, the meeting ended at 10.24 pm.

**CHAIR**

*Planning Committee - Thursday, 30th March, 2023*

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**MINUTES END**