

# Southall Gas Works Site (West Southall)

in the London Boroughs of Ealing and Hillingdon

planning application nos. P/2008/3981-S and 54814/APP/2009/430

## Strategic planning application stage II referral (new powers)

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

### The proposal

#### Outline application

Demolition of 22 houses; the remediation of the land and the redevelopment of the site to deliver a large mixed use development including residential, non-food retail, food retail, restaurants, bars and cafes, hotel, conference and banqueting, cinema, health care facilities, education facilities, office/studio units, sports pavilion, an energy centre, multi-storey car park and associated car and cycle parking, landscaping, public realm, open space and children's play space.

#### Full application

New access roads from the Hayes bypass and Southall centre to the application site for vehicle, cycle and pedestrian access, including drainage and a flood relief pond. Widening of South Road across the railway line, widening of South Road over the railway line for the creation of a bus lane and three new accesses onto Beaconsfield Road. Two new footbridges to provide central pedestrian and cycle access to the Minet Country Park, bridging over the canal and Yeading Brook and to Minet Country Park and Springfield Road.

### The applicant

The applicant is **National Grid Property Ltd.** and the architect is **MAKE Architects.**

### Strategic issues

Ealing and Hillingdon Councils have resolved to refuse permission for this application. The Mayor must consider whether the application warrants a direction to take over determination of the application under Article 7 of the Mayor of London Order 2008.

Having regard to the details of the application, the matters set out in the committee reports and Ealing's and Hillingdon's draft decision notices, the development **has a significant impact on the implementation of the London Plan**, and there are **sound planning reasons for the Mayor to intervene** in this particular case and issue a direction under Article 7 of the Order 2008.

### Recommendation

That the Mayor issues a direction to both Councils to take over and determine the application.

## Context

1 On 30 October 2008 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. On 9 March 2009 the Mayor of London received notification from Hillingdon Council that it had validated the above application for the elements within its borough boundary.

2 This was referred to the Mayor under Category 1A and 1B of the Schedule to the Order 2008:

- *“Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.”*
- *“Development outside Central London and with a total floorspace of more than 15,000 square metres.”*

3 On 9 December 2008, the Mayor considered report PDU/2310/01 and advised Ealing Council that the application did not comply with the London Plan for reasons set out in paragraph 143 of the report, but that potential remedies set out in paragraph 145 could address this. On 16 April 2009, the Head of Planning Decisions at the GLA wrote to Hillingdon Council advising it of the Mayor’s full consideration of the application on 9 December 2008 and provided a copy of the above report. On 23 September 2009, the Mayor considered updated stage one report PDU/2310/02 and advised Ealing Council that the application did not comply with the London Plan for reasons set out in paragraph 46 of the report, but that potential remedies set out in paragraph 48 could address this.

4 Copies of the above-mentioned reports are attached. The essentials of the case with regards 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.

5 On 4 November 2009, Ealing Council considered an officer-level recommendation to grant planning permission, but the planning committee resolved to refuse permission. On 10 December 2009 Hillingdon Council considered an officer-level recommendation to refuse planning permission and subsequently resolved to refuse permission.

6 Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008, the Mayor may allow the draft refusal decisions to proceed unchanged, or 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 has until 22 December 2009 to notify Ealing Council of his decision and to issue any direction and 30 December 2009 to notify Hillingdon Council of his decision and issue any direction.

7 The majority of the application site is located within the London Borough of Ealing and Ealing planning officer’s recommended that the planning committee resolve to approve the application. To justify this recommendation the officer’s comprehensive committee report addressed all the planning merits of the scheme and how it positively responded to the constraints of the site. The report concluded that the application generally complied with national, regional and local planning policy and that the many planning benefits, including new housing, new jobs, improved Southall town centre, new education, health and leisure facilities, of the proposal far out weighed any negative impacts that were proposed to be appropriately mitigated by condition and section 106 contribution in any event. However, Ealing’s planning committee member resolved the application for the single transport reason below.

- The proposal, by reason of traffic generation from the mixed uses on site, would add to local road congestion, harming traffic movement on South Road and Beaconsfield Road. This is contrary to policies 9.1 and 9.9 of the adopted Ealing Unitary Development Plan, 'Plan for the Environment' (2004) and policy 3C.1 of the London Plan.

8 A small area of the application site is located in the London Borough of Hillingdon and Hillingdon's planning officer recommended that the planning committee refuse the application for the following four reasons, which the committee agreed with.

- The proposal, by virtue of the height, size and siting of buildings proposed adjacent to Green Belt land to the west of the site (Minet Country Park), would injure the visual amenities of the Green Belt, Yeading Brook and Grand Union Canal. In particular, the limited setback provided for between the canal edge and the development restricts the potential to successfully integrate the scale of this development into its surroundings. The proposal is therefore contrary to Policies OL5, BE32 and BE34 of the adopted Hillingdon Unitary Development Plan (Saved Policies 27 September 2007).
- The proposal, by virtue of the inadequate timing and scope of the ecological surveys (including surveys of birds, reptiles, bats and invertebrates), and lack of adequate measures to mitigate habitat loss and fragmentation caused by the scheme would be unacceptably detrimental to the ecological value of Minet Country Park (a Site of Metropolitan or Borough (Grade I) Importance for Nature Conservation) the Grand Union Canal and Yeading Brook contrary to Policies EC1, EC3, BE32, and BE34 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).
- The applicant has failed to provide, through an appropriate legal agreement an adequate provision of, or contributions towards the improvement of services and facilities as a consequence of demands created by the proposed development, including:
  - \* Financial contribution to implement mitigation measures, capacity enhancements and carry out ongoing maintenance and to Minet Country Park made necessary by the proposed development;
  - \* Financial contribution to offset impacts on local educational facilities;
  - \* Provision of construction training of Hillingdon residents, by enabling them to actively work and receive construction training on the construction site;
  - \* Require the Applicant to enter into and abide by the terms of a Sustainable Travel Plan;
  - \* Financial contribution to offset cost of additional air quality monitoring made necessary by the scheme;
  - \* Financial contribution towards a strategic waterspace master plan for the wider area;
  - \* Financial contribution towards delivery and implementation of a Waterspace Strategy;
  - \* Financial contribution towards remediation of land between Yeading Brook and the Grand Union canal (Minet Tip);
  - \* Financial contribution to implement works to improve access along the canal from Uxbridge Road to Bulls Bridge;
  - \* Project management and monitoring.
 The scheme therefore conflicts with London Plan Policy 4A.16, Policies EC1, EC3, OE11 and R17 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and the Hillingdon Planning Obligations Supplementary Planning Document (July 2008).

- The application fails to demonstrate that the scheme would not result in adverse impacts on the Highway network, in particular:
  - (i) The additional 6% increase in saturation levels on the A312 South PM peak, with the resultant increase in queuing lengths, is at odds with the applicant's assertion that the development will have nil detriment. It is considered that this increase in queue length will have an adverse impact on the highway network; and
  - (ii) The Applicant has failed to satisfy the Local planning Authority that the development will not result in adverse traffic conditions on the wider surrounding highway network.
 The development is therefore considered to be contrary to be policies AM2 and AM7 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policies 3C.1 and 3C.2 of the London Plan.

9 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 has been taken into account in the consideration of this case.

10 The Mayor's 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).

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

### Policy test guidance GOL Circular 1/2008

11 The initial policy test regarding the Mayor's power to take over and determine applications referred under categories 1 and 2 of the schedule to the Order is a decision about who should have jurisdiction over the application rather than whether planning permission should ultimately be granted or refused.

12 The policy test set out in paragraph 7 (1) of the Order consists of the following three parts, all of which must be met in order for the Mayor to take over the application:

- a) significant impact on the implementation of the London Plan;
- b) significant effects on more than one borough; and
- c) sound planning reasons for his intervention.

13 Parts (a) and (b) of the test identify the impact an application would have on the Mayor's policies and the geographical extent of the impact, whilst part (c) deals with the reasons for the Mayor's intervention, having regard to the Council's draft decision on the application. In this instance part (b) of the test does not apply, as the application involves more than 150 houses. These tests are intended to ensure that the Mayor can only intervene in the most important cases.

14 This report considers the extent to which the policy tests under Article 7(1) are satisfied in this case and whether having considered and applied the policy tests set out under Article 7(3) of the Order 2008 the Mayor should direct that he is to be the local planning authority. The assessment covers both applications since both elements are necessary to deliver the scheme.

## **Policy test 7(1) (a): Significant impact on the implementation of the London Plan**

15 There are significant impacts on the implementation of the London Plan for the reasons set out in the following paragraphs.

### Opportunity areas

16 The site forms a significant element of the Heathrow Opportunity Area as identified in London Plan policy 2A.5, and the site within this wider opportunity area has been identified as a major brownfield site within London to provide significant strategic capacity to accommodate new jobs and new housing. The strategic importance of the application site has been reinforced further in the draft replacement London Plan October 2009, which contains emerging policy 2.13 and Map 2.4 'Opportunity and Intensification Areas' that identifies Southall as an opportunity area in its own right. Table A1.1 of the draft London Plan indicates that the site has an employment capacity of 2000 new jobs and targets a minimum of 4000 new homes. This application would be in accordance with the Mayor's current and emerging strategic policy for Southall and is integral to supporting the implementation of the London Plan in developing other identified opportunity areas.

### Housing delivery

17 London Plan table 3A.1 requires the borough of Ealing to deliver a minimum of 915 new residential units a year until 2015/16, and table 3.1 of the draft replacement London Plan targets 890 homes per year between 2011 and 2021. For the purposes of this application, the current London Plan figures will be considered as they can be readily compared with the London Plan Annual Monitoring Report 5 (AMR5), which contains figures of all housing delivered in during 2007/08.

18 Table 13 of AMR5 indicates that Ealing delivered 1,041 new units during 2007/8, which equates to 114% of the 915-unit minimum. This application proposes 3,750 new homes to be delivered over a 15-year building programme, which could equate to the delivery of 250 homes per year in the borough. This quantum of housing would account for 27% of Ealing Council's annual monitoring target and these calculations show that the application site is integral for Ealing maintaining this successful housing delivery in order to meet the strategic minimum target of the London Plan. There is no other site that could come forward to deliver this significant quantity of housing.

19 The housing delivery on this site is also fundamental to the implementation of the emerging policies of the draft London Plan in term of delivering homes across London. For example, draft policy 3.3 'Increasing housing supply' seeks 33,400 additional homes across London between 2011 and 2021; therefore this site alone has the potential to deliver 7.5% of this London-wide target over a 10-year period during which 2500 new homes could be delivered.

20 With regard to affordable housing, table 16 of AMR5<sup>1</sup> illustrates that Ealing delivered 35% of new housing as affordable, between 2005 and 2008. This application proposes 30% affordable housing as the maximum reasonable amount with a 50:50 split for social and intermediate. This would create approximately 1125 affordable homes on the site over a over a 15-year building programme with an average of 75 affordable units to be delivered on site per annum. If this figure of 75 is measured against Ealing's delivery of 412 affordable units in 2007/8, then the site could potentially deliver over 18% of Ealing's affordable housing per annum during build-out. The site is

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<sup>1</sup> See London Plan Annual Monitoring Report 5 – February 2009

therefore very significant to the delivery of affordable housing within the borough. Additionally, draft policy 3.12 'Affordable housing targets' estimates 18,200 affordable homes for delivery across London between 2011 and 2021 and thus this application site could potentially deliver 750 affordable homes alone in a 10-year period equating to over 4% of the London-wide estimate. The application site would be very significant for the implementation of the London Plan for its delivery of affordable housing.

### Employment

21 London Plan table 5F.1 indicates that the Heathrow Opportunity Area has the capacity to provide 11,000 jobs by 2026, whilst table A1.1 of the draft London Plan indicates that the Southall Opportunity Area site has an employment capacity of 2000 new jobs. The draft London Plan also includes emerging policy 2.7 'Outer London: Economy', which covers the application site area. This new strategic policy seeks to address the constraints on economic growth of outer London.

22 This application proposes the development of a range of employment generating land uses, including: up to 14,200 sq.m. for non-food retail, up to 5,850 sq.m. of food retail, up to 1,750 sq.m. of restaurants, bars and cafes, up to 9,650 sq.m. of hotel, up to 3,000 sq.m. of conference and banqueting, up to 4,700 sq.m. of cinema, up to 2,550 sq.m. of health care facilities, up to 3,450 sq.m. of education facilities, up to 3,500 sq.m. of office/studio units. This application would support the Mayor's existing and emerging strategic policy for Southall in terms of generating employment. Moreover, the potential employment generated by the proposed development would be fundamental to implementing the Mayor's emerging policies to improve economic growth in outer London.

### Retail

23 Up to 20,050 sq.m. of retail is proposed, broken down into 5,850 sq.m. of convenience goods floorspace (supermarket) and 14,200 sq.m. of comparison goods floorspace.

24 Southall town centre is a Major Centre in the London Plan, and is identified in need of significant regeneration in the draft replacement London Plan (table A1.2). London Plan policies 2A.8, 3D.1, 3D.2 and 3D.3 encourage retail development on sites within existing town centres, or if no town centre sites are available then provision should be made on the edge of town centres. This site is located on the edge of the town centre. The plans for the site have been developed as an extension to Southall centre with a strategic objective to improve the wider role of the centre. The retail floorspace would be proposed along a new high street at the heart of the new community as well as close to the existing town centre. Strong pedestrian connections would be incorporated between the new retail area and the existing town centre. The proposals promote the idea of an extension to the town centre in which the existing and proposed Southall communities would benefit from a full range of local services, commercial, educational, civic and recreational uses. Table A1.1 of the draft London Plan, which seeks that "*genuine linkages between the Southall Gas Works site and existing Southall centre must be secured*", supports this.

25 The application proposals have therefore been carefully designed to address a number of qualitative deficiencies in Southall's retail offer. This application would be important to improving the vitality and viability of Southall Major Centre and hence have a significant positive impact upon the implantation of the Mayor's strategic policies relating to town centres.

### Hotel development

26 This application includes 9,650 sq.m. of hotel development, which will contribute to the implementation of London Plan policy 3D.7, which identifies the need to provide 40,000 net additional hotel bedrooms by 2026.

27 London Plan paragraph 3.292 states that *“To reduce pressures on central London... increase London’s tourism attractions and contribute to broader regeneration and sustainability objectives, other locations should in future play a much greater role in provision for visitors. Town Centres and Opportunity Areas with good public transport access will be especially important”*. This application would provide a new hotel development in the Southall Opportunity Area, on a site with a public transport accessibility level of 0-3 (which will improve as Southall station will be upgraded as part of the Crossrail works scheduled for completion in 2017).

### **Policy test 7(1)(c): Sound planning reasons for intervening**

28 In addition to part (a), part (c) of the policy test is whether the Mayor considers there to be sound planning reasons to intervene. Having regard to the details of the proposal and Ealing and Hillingdon Council’s draft reasons for refusal, together with the outstanding issues identified by the Mayor in his original comments, which are examined in more detail in paragraphs 38 to 52, there are sound planning reasons to take over this application.

29 The Southall Gas Works site has been identified as part of the wider Heathrow Opportunity Area in the London Plan, a designation that has been further reinforced in the draft replacement London Plan. Failure to develop a large mixed-use development on this brownfield site would be contrary to implementing strategic policy of the London Plan, which is a sound planning reason for the Mayor’s intervention.

30 The proposal includes 3,750 new homes in the Opportunity Area, which is essential in delivering Ealing’s annual monitoring target for housing, and consequently the housing target of the London Plan. Policies 3A.1 and 3A.2 of the London Plan and emerging policy 3.3 of the draft London Plan provide a sound planning reason for the Mayor to intervene so that his draft target of 33,400 additional homes per annum, between 2011 and 2021, is delivered across London. Furthermore, the applicant has agreed to a 30% offer of affordable housing which is integral to achieving a mixed and balanced community in Southall and very significant for delivery of the Mayor’s affordable housing target for London as a whole.

31 The application includes large areas of commercial, retail and leisure floor space that would help generate employment and achieve the 2,000 new jobs, which the draft opportunity area designation demands. There are sound planning reasons for intervention in this regard as the delivery of these employment generating uses are significant in developing London’s economy (policy 3B.1) and improving employment opportunities for Londoners (policy 3B.11). Given the site’s location in outer London, emerging policy 2.7 in the draft replacement London Plan provides a sound planning reason for intervention in order to improve economic growth in outer London boroughs.

32 In addition to employment, the extension of Southall Major Centre would further improve vitality and viability and strengthen the wider role of the centre. There is a sound planning reason to intervene in this regard, which is supported by London Plan policies 2A.8, 3D.1, 3D.2 and 3D.3. Additionally, table A1.1 of the draft London Plan states *“the imperative to deliver genuine linkages between the Southall Gas Works site and existing Southall centre must be secured”*.

### **Matters the Mayor must take account of**

33 Government Office for London, Circular 1/2008, and paragraph 7 (3)(b) of the Mayor of London Order 2008, indicates that the Mayor must take account of the council’s current and past performance against development plan targets. In this instance the following targets are applicable: housing, employment and hotel targets. Only targets relevant to Ealing are taken into account, because that is where all the built development that would contribute to the targets is located.

### London Plan targets

- Housing: London Plan table 3A.1 identifies demand for 915 additional homes per annum between 2007/8 and 2016/17.
- Employment: Draft London Plan table A1.1 1 indicates that the Southall Opportunity Area has capacity to provide 2,000 additional jobs.
- Hotel: London Plan policy 3D.7 identifies the need to provide 40,000 net additional hotel bedrooms in London by 2026.

### Ealing Council's targets

- 2004 UDP (saved policies) on 'Housing' identifying targets for housing delivery within Ealing has been deleted.
- 2004 UDP (saved policies) on 'Business' and 'Shopping and town centres' does not identify targets for new jobs in Ealing.
- 2004 UDP (saved policies) on 'Hotel development' does not identify targets for the development of hotel bedrooms.

34 Ealing Council does not have adopted policy targets for housing, employment or hotel space in the Southall Opportunity Area. The most up-to-date policy targets are set out in the draft London Plan October 2009. With regards to housing, Ealing Council's performance with regard to the adopted London Plan is discussed in paragraphs 17 to 20 above. The figures indicate that its performance has been excellent in achieving the Mayor's target for the borough, however the figures also illustrate that the application site would be integral for maintaining this successful housing delivery in the future as there are no other sites that could deliver the quantum of housing proposed.

35 In terms of employment, within Southall Green and Southall Broadway (wards that geographically form the draft Southall Opportunity Area), figures from 1999 to 2009 illustrate that a total of 3,461 sq.m retail space has been completed, 529 sq.m is currently under construction and 1,067 sq.m has been permitted but not yet constructed. In relation to B1 office space total of 5,841 sq.m B1 space has been completed, 0 sq.m is currently under construction and 316 sq.m has been permitted but not yet constructed. These figures<sup>2</sup> clearly illustrate that Ealing Council has performed poorly in supply of these primary employment generating floor spaces in what is now the area identified as Southall Opportunity Area under the draft replacement London Plan. The Mayor has identified this area as having the capacity to provide 2,000 additional jobs and therefore delivery of the proposed employment floorspace, totalling over 20,000 sq.m, within the application site is fundamental for achieving the Mayor's strategic target for Southall and employment in London as a whole, especially outer boroughs.

36 From 1999 to 2009, with the London borough of Ealing, a total of 1042 hotel rooms have been completed, 165 hotel rooms are currently under construction and 129 hotel rooms have been permitted by Ealing Council but not yet started. These figures suggest that Ealing Council has performed well in the delivery of hotel rooms over the past decade, however the proposed hotel within an opportunity area is still important to help realise the Mayor's 40,000 target of net

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<sup>2</sup> The London Development Database (LDD) provided information on retail and office floor space, and hotel bedroom numbers within the London Borough of Ealing. It must be noted minimum size threshold for the boroughs to be required to add it to LDD is 1,000 sq.m. in any particular use class. There may be some smaller schemes included, but the LDD can't guarantee that the data is comprehensively includes all schemes below 1,000 sq.m.

additional hotel bedrooms in London by 2026, to create broader regeneration and sustainability objectives across London, and reducing pressure on central London.

## **Outstanding strategic planning issues**

37 The applicant must also have regard to the following matters as raised by the Mayor in his original comments and which are considered in more detail below.

### **Housing**

38 The Mayor previously requested the applicant to reconsider the affordable housing offer, either in terms of an increased guaranteed percentage to prevent harm to strategic and local targets, whilst retaining an incentive to develop, or by capturing more accurately the financial performance of the scheme through a full review of viability at appropriate stages to ensure that the maximum reasonable amount of affordable housing is delivered.

39 The applicant decided to increase the offer from 20% to 30%, comprising 50% social rent flats and 50% intermediate flats. The applicant rejected the request to agree to a review mechanism. Ealing planning committee was satisfied with this approach. Should the Mayor take over the application he will need to decide if this is acceptable.

### **Transport**

40 On 9 December 2008 TfL provided initial transport comments. In summary TfL was supportive in principle of the development proposals as submitted by the applicant subject to some revisions and submission of further information on public transport, walking and cycling. TfL was also seeking further work on the phasing and delivery mechanisms. A monitoring strategy needs to be secured to ensure that highway and public transport improvements come forward in advance of or concurrently with development. TfL is of the view that there is currently insufficient detail in respect of the delivery mechanisms and that the section 106 heads of terms reported to Ealing's committee would need to be developed in more detail. TfL must be engaged fully in progression of these matters.

#### *S106, phasing and delivery*

41 Importantly TfL requested that it be a signatory to the section 106 agreement during post Stage 1 discussions. This was agreed with the Council but was not recommended in the committee report. TfL must be a signatory due to the strategic nature of this development and due to the likely impacts on the strategic transport network. The heads of terms reported to committee (see paragraph 53 of this report) included triggers for the highway works and secured £6.6m for buses and a transport fund of £4.3m to help mitigate other impacts. TfL welcomes the bus contribution but requires some further justification of the items to be funded through the transport fund in order to ensure that this amount is sufficient. A strategy for producing and signing off the section 106 agreement will need to be agreed between TfL, the Council and the applicant.

42 The package of mitigation has been broadly agreed with TfL in terms of the junction works and level of bus contribution, however there are a number of issues that are yet to be agreed in detail. Detailed phasing plans should be submitted in advance of seeking planning permission for development within a phase setting out specific and detailed transport proposals. A Framework Travel Plan has been prepared and was amended in August 2009 following discussions with TfL. TfL welcomes the amendments but further work is required in terms of the targets for car trip reduction progressively and mode shift, and to the proposed measures and their timing. A 'Transport Review Group' would need to be secured to assist in delivery and expenditure of section

106 contributions, however the constitution and term of reference for this group must be agreed with TfL.

### *Highways*

43 A package of on and off site highway measures have been agreed in detail with TfL and the Highways Agency and could be secured through Grampian Conditions for the purposes of granting outline approval. The application provides additional and improved highway capacity to the A312 via an improved access at Pump Lane, improvements at the A312/A437 junction and at junction 3 of the M4. The 'Eastern Access' will improve highway, bus and pedestrian/cycle permeability to Southall town centre. The detailed design of these works will need to be agreed through the section 278 process. All such works will need to be funded by the developer. Traffic calming and parking management measures will also be required to reduce congestion and prevent rat running on local roads. The main corridors will need to be carefully monitored and reasonable checks and balances put in place to continually review the performance of highway and public transport networks against development quantum.

### *Trip generation*

44 TfL is satisfied with the forecast trip generation proposed as part of the development but TfL will expect this to be monitored as the development emerges and mitigation brought forward in advance of or concurrently with development. The travel plan target for reduction of highway trips should be an aspiration if the development is to achieve maximum levels of sustainability and control congestion. In accordance with London Plan policy 3C.2 Matching development to transport capacity, and policy 6.3 Assessing transport capacity in the draft revised London Plan (October 2009). These policies also require agreed phasing and development triggers to be secured through the s106 agreement and planning conditions.

### *Car parking*

45 The residential car parking ratio was agreed at Stage 1 as being within London Plan standards however car ownership and car use must be kept under review including take up or lease of parking spaces to ensure that a restraint based approach is implemented which minimises the impact on the local highway network. The retail car parking is not supported by TfL and should be reduced in order to minimise local highway impact. A car parking strategy will need to be secured by planning condition and agreed with TfL. A parking management plan, Controlled Parking Zones (CPZ), a car club of 50 spaces and other travel plan measures should also be secured to keep parking levels at a minimum. TfL would expect to have further discussions with the applicant to reduce the level of car parking in order for the application to comply with London Plan policies 3C.23 Parking strategy and 3C.24 Parking in town centres. Additionally the application does not include provision for electric vehicles, discussions would need to address this deficiency in line with the Mayor's Electric Vehicle Delivery Plan for London (May 2009) with further guidance in the draft revised London Plan policy 6.13 Parking.

### *Cycle parking*

46 All cycle parking must be delivered in accordance with TfL cycle parking standards as referred to in London Plan 3C.22 Improving conditions for cycling, and policy 6.9 Cycling, in the draft revised London Plan. Further details of cycle parking facilities and safety measures together with detailed layout plans will need to be provided to ensure compliance with the London Plan. A cycle club should also be secured within the Framework Travel Plan, as should measures such as free bicycles or vouchers for new residents. The conditions reported to committee should be amended to accommodate these changes.

### *Walking and cycling*

47 The key means of access have been established which must provide for adequate walking and cycling accessibility in accordance with TfL standards. The footbridges and links would need to be secured through Grampian Conditions. Further work is also required in terms of the overall DDA/accessibility of the site, while it is envisaged that these issues can be addressed through detailed design and reserved matters, some clearer statements and commitments will be required. One option may be set up an 'Inclusive Access Panel'. TfL requires further work on how the immediate site access points are integrated with the wider network of routes and links and the condition of those wider links in order to encourage mode shift, in accordance with London Plan policy 3C.21 Improving conditions for walking and policy 6.10 Walking in the draft revised London Plan.

### *Buses*

48 TfL reported at Stage 1 that the development would have a heavy reliance on buses but had agreed a package of bus network enhancements and highway improvements that would make the development acceptable. A total ring fenced contribution of £6.6m (index linked) has been agreed for bus improvements and TfL welcomes this and it is essential that the expenditure of this sum is flexible. The section 106 will need to state that the contribution will be expended in consultation with TfL either through an agreed sponsored route agreement or paid directly to TfL. TfL will require discussion with the applicant regarding the provision for bus standing and termination points at a convenient location within the site to include driver facilities. Further negotiation is also necessary between TfL and the applicant to ensure all users of the site would be within a maximum 400-metre distance of a bus stop. TfL would also and expect the developer to fund works relating to the provision of northbound bus stops on South Road and a widening of South Road Bridge to improve bus operations.

### *Crossrail*

49 The site will benefit from Crossrail from 2017 and it is expected that a proportion of peak hour trip generation will be associated with work trips into and from central London once this capacity enhancement is delivered. In accordance with the Draft Supplementary Planning Guidance: Use of Planning Obligations in the funding of Crossrail (amended October 2009) and policy 6.4 Enhancing London's transport accessibility. No agreement has been reached between TfL (including Crossrail) and with adjacent land owners in respect of the safeguarded land for the station plaza however conditions have been drafted which include Crossrail safeguarding. The amended SPD refers at 4.24 to contributions being sought from any office development within 960 metres of a Crossrail station, however it is accepted that the application was considered at Stage 1 prior to this guidance being published.

### *Freight, servicing and delivery*

50 The planning application is deficient with regard to freight, delivery and servicing which TfL sees as a considerable failing given the scale of the development. A full detailed site wide delivery and servicing plan must be prepared to provide the framework for individual occupiers and plots. In addition use of the river for construction and delivery of materials has not been satisfactorily addressed. TfL expects a condition restricting construction materials and goods entering and leaving the site by road to assist in reducing the impact on the local highway network. These changes are required to ensure conformity with London Plan policy 3C.25 Freight strategy and policy 6.14 Freight in the draft revised London Plan. A demolition and construction strategy needs to be secured by condition this must be agreed with TfL.

## *Conclusion*

51 TfL is broadly supportive of the planning application on transport grounds subject to necessary and reasonable planning delivery mechanism and conditions being agreed with TfL. While there has been some progress towards developing the section 106 agreement a considerable amount of work is still required to ensure TfL is satisfied that the development is acceptable, including TfL as signatory to the section 106 agreement (TfL will also require its legal fees and any further ongoing planning costs to be met by the applicant in completing and implementing the section 106 agreement). It is accepted that there are capacity problems on the local highway network, however TfL would hold discussions with the applicant to ensure that adequate highway mitigation would be secured and would also seek to agree an acceptable mechanism for monitoring performance and delivering mode shift. In order to achieve this the proposed level of car parking on site may need to be reduced supported by additional control measures. Further work is also required in respect of the Travel Plan, Transport Review Group and Transport Fund. In summary TfL is satisfied that through further co-operation with the council's and the applicant that this development can be considered to be compliant with London Plan policies 3C.1 Integrating transport and development, 3C.2 Matching development to transport capacity, and policies 6.1 Strategic approach and 6.3 Assessing transport capacity in the draft revised London Plan (October 2009).

## **Section 106**

52 The below list of terms set out the section 106 agreement in the report, which recommended approval, presented to Ealing planning committee on 4 November 2009.

- a) Provision of affordable housing totalling 30% of all units (of size as detailed in the submitted Housing Strategy) comprising 50% social rent flats, 50% intermediate flats (provided through a registered social landlord), with details to be agreed with the Council, including a provision that there will be no conversion of units by means of a cascade without the consent of the Council, such housing to meet the needs of buyers or renters on low and middle incomes who are unable to gain access to general market housing;
- b) Provision of a 2,550 sq.m. health facility (with capacity for eight general practitioners), constructed and fitted out in accordance with the details of the application, and further details to be agreed with the Council, before the ownership of the facility is transferred to the Ealing Primary Care Trust;
- c) Provision of a 3,450 sq.m, two-form entry, junior school and nursery, constructed and fitted out in accordance with the details of the application, and further details to be agreed with the Council, before the ownership of the school is transferred to the Local Education Authority;
- d) A contribution of £5,131,456 by the developer towards the improvement of local secondary education provision;
- e) A contribution of £1,000,000 by the developer towards the improvement of local parks and public open space in the vicinity of the application site to offset the shortfall of amenity space and playspace within the site;
- f) A contribution of £100,000 by the developer towards the provision of allotments in the vicinity of the application site to meet demand from occupiers of the development;
- g) A contribution of £262,000 by the developer towards the provision and maintenance of street trees on the Spine Road through the site;

- h) A contribution of £750,000 by the developer towards the provision of additional burial space at Greenford Cemetery;
- i) A contribution of £1,150,000 by the developer towards pooled funding for the provision of a swimming pool in the vicinity of the site to meet the needs of occupiers of the development;
- j) A contribution of £678,000 by the developer towards employment and training provision;
- k) The establishment and operation by the developer of an on-site employment skills training program and a commitment to a local labour scheme for the duration of the site construction, the details of which are to be agreed with the Council;
- l) A contribution of £360,000 by the developer towards the provision of a shopmobility scheme or the implementation by the developer of a shopmobility scheme, details to be agreed with the Council;
- m) A contribution of £596,000 by the developer towards the implementation of public realm improvements in the vicinity of the site;
- n) A contribution of £689,000 by the developer in association with the implementation of a low emissions strategy, the details of which are to be agreed with the Council, to allow for funding of complimentary measures and air quality monitoring;
- o) A contribution of £50,000 by the developer towards three years' part-funding of a Contaminated Land Officer post at the Council to assist in the volume of work related to the site development;
- p) The provision of a 200 sq.m. unit within the retail centre (of up to £350,000 value) at peppercorn rent to the Metropolitan Police Authority for operation as a Community Policing Station, the details of which are to be agreed with the Council;
- q) A contribution of £6,600,000 by the developer towards pump prime funding for the diversion of bus routes into and through the site;
- r) Permanent public access to the public realm within the development, and details of management/maintenance of the public realm to be agreed with the Council;
- s) Permanent public access to the open space and recreation facilities within the development in accordance with further details of this access and the management and maintenance of these facilities to be agreed with the Council;
- t) A contribution of £50,000 by the developer towards implementation of signage for the town centre;
- u) A contribution of £100,000 by the developer towards Southall town centre car parking;
- v) A contribution of £100,000 by the developer towards a review of adjoining controlled parking zones and any resulting changes required to orders, hours and signage;
- w) Provision of fifty car club parking spaces on the site and measures to ensure provision of fifty car club vehicles, the details of which, including phasing of delivery, shall be agreed with the Council;

- x) Restriction of parking permits, where all occupiers of the dwellings (affordable and market dwellings) shall be precluded from obtaining a parking permit and visitor parking vouchers to park within the surrounding controlled parking zones;
- y) A contribution of £4,300,00 by the developer towards the formation of a transport fund for such aspects as traffic management measures and travel plan measures related to the impacts of the development on the highway network in the vicinity of the site and a South Road bus priority scheme, the details of which shall be agreed with the Council;
- z) Completion of off-site highway works by the developer at Junction 3 of the M4 and the Bulls Bridge Junction of the A312 in accordance with the details of the application and further details to be agreed with the Council;
- aa) Works to improve the appearance, accessibility and personal security for users of the pedestrian underpasses beneath the railway tracks into the site from the northern end of Brent Road and Dudley Road by the developer in accordance with the principles of the application and further details to be agreed with the Council;
- bb) Provision for re-allocation of contributions within the overall amount agreed to allow flexibility with regard to final costs, to ensure that impacts of the development are properly met;
- cc) The developer to provide a surety to guarantee payment of the Section 106 contributions referred to above;
- dd) Payment of the Council's reasonable legal and other professional costs in preparing and completing the agreement.

53 The below list of terms sets out the section 106 agreement in the report, which recommended refusal, presented to Hillingdon planning committee on 10 December 2009.

- a) Financial contribution to implement mitigation measures and capacity enhancements to Minet Country Park made necessary by the proposed development. Financial contribution sought: £2,752,520.
- b) Financial contribution to offset impacts on local educational facilities. Financial contribution sought: £821,000. This represents the cost of additional secondary school children, and post 16 year old students who can reasonably be expected to reside in the proposed scheme, but attend educational institutions in the London Borough of Hillingdon. An analysis of school roles and the postcodes in which students live was undertaken, for the last five years, to establish the likely average number of students who could reasonably be expected to attend Hillingdon schools.
- c) Provision of construction training of Hillingdon residents, by enabling them to actively work and receive construction training on the construction site;
- d) Require the Applicant to enter into and abide by the terms of a Sustainable Travel Plan (10 years).

*Additionally British Waterways requested that the following planning obligations be secured:*

- e) Financial contribution towards a strategic master plan for the wider area: £20,000;
- f) Financial contribution towards delivery and implementation of a Waterspace Strategy: £10,000;

g) Financial contribution towards remediation of land between Yeading Brook and the Grand Union canal (Minet Tip): £4,000,000;

h) Financial contribution to implement works to improve access along the canal from Uxbridge Road to Bulls Bridge: £660,000.

54 The terms of the section 106 agreements identified by both local authorities would be subject for further discussion and negotiation as it is recommended that the Mayor take over and determine this application himself.

## **Response to consultation**

55 In response to the public consultation process, Ealing Council received six letters of support, 66 letters of objection and an objection petition with 278 signatories. Hillingdon Council received nine letters of objection. These public responses raised the following planning concerns:

- Proposed CHP- as the production of bio fuels is environmentally unsustainable and the energy strategy is inadequate.
- The application will generate significant amounts of traffic causing unacceptable congestion.
- The high residential density is an overdevelopment of the site.
- Proposed buildings are too high and there is not enough green space proposed.
- Decline in air quality and the increase in respiratory diseases.
- Loss of open space/children's play area at The Crescent as it would be bounded by the proposed access road to the south.
- The site is contaminated land and would be hazardous for future occupiers and neighbours.
- Alternative forms of transport such as cycling, will be ineffective because the local road system is too congested and dangerous.
- The housing element of the proposed development may not be built to acceptable standards of habitation.
- The design of the proposed buildings is poor and badly conceived, as is the design of civic spaces in the proposal, with little regard to designing out crime in development.
- The proposals do not comply with disabled access requirements.
- Construction impacts may cause damage to existing homes and the historic water tower on the site.
- The Retail Impact Assessment that has been submitted is out of date as its terms of reference are based on a West London Retail Needs Strategy that was compiled by a cluster of boroughs in 2006, before the credit crunch and the economic downturn emerged.
- The scheme may result in harmful impact to existing retail areas and town centre.
- The development will place considerable strain of social and community infrastructure (e.g. health and educational facilities).
- The scheme will result in significant additional usage of Minet Country Park.
- There would be a loss of wildlife habitat in Minet Country Park and other negative impacts on the ecological values of the park.
- The applicant has stated that the scheme is not financially viable if made to meet planning obligations; however, the lack of supporting financial information makes it impossible to confirm this.

56 Similar concerns were also raised by interest groups including: Save Our Southall, Ealing Friends of the Earth, Ealing Civic Society; Planning and the Community Group, Friends of Minet Country Park, Southall History Society, Ealing Shopping Centre Partnership, Norwood Green Resident's Association, Avenue Road and Villiers Road Resident's Association, Bovis Resident

Association, St. George's Church and Hillingdon Slipstreamers. The Commercial Boat Operators Association and The Inland Waterways Association raised no objection in principle.

57 As it is recommended that the Mayor takes over and determine this application himself. It is recommended that the Mayor consider the above matters in more detail in acting as the local planning authority.

### **Legal considerations**

58 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor 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. 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. The Mayor must also have regard to the guidance set out in GOL circular 1/2008 when deciding whether or not to issue a direction under Article 7.

### **Financial considerations**

59 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 Councils to do so) and determining any approval of details (unless the Councils agrees to do so).

### **Conclusion**

60 The power of direction under Article 7 in the case of applications of potential strategic importance is one that should be used sparingly and only exercised in the most important of cases. Having regard to the details of the application, the matters set out in the committee reports, the Council's draft decision notices and the fact that the policy tests set out in Article 7 of the Order have been met in that the development has a significant impact on the implementation of the London Plan, has a significant effect on more than one borough, and there are sound planning reasons for the Mayor to intervene in this particular case. The proposals in respect of the Southall Gas Works site warrant the issuing of a direction to take over the application and any connected application.

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