
Location	1-36 inc, Marshall House, garages, electricity substation and playgrounds, Marshall House, Albert Road, London, NW6 5DS
Description	Demolition of 4- and 5-storey block of flats and erection of 2 new blocks, ranging from 4 storeys to 11 storeys in height, comprising 153 self-contained flats and maisonettes (111 of which are Affordable), 3 communal garden areas, private garden areas to front and rear of proposed ground-floor dwellings and associated landscaping to site

Agenda Page Number: 85

The final scheme includes 40 private units and 113 affordable units, (and not 42 private units and 111 affordable units as stated on page 94 of the main report). As a result, the development description needs to be amended to reflect this.

As indicated in the main body of the report (page 98) a study has been produced assessing the possible overshadowing from the proposed buildings on the buildings to the north of the railway line. The study concludes that the impact would be acceptable. A number of points have been raised about the methodology used in producing this report and that a number of assumptions have been made in its preparation. An example is that it is claimed that without knowing the depth of any affected rooms it is not possible to fully assess impact. The applicants have considered the point further and state that any room on the ground floor of any properties to the north would need to be over 7m deep (and within the affected area) for there to be a "rights of light" issue in that room of the property. (The upper storeys are not affected by the development). They have produced a report that assesses the impact of the development on the 3 "worst case situations" to the north and it is considered reasonable to assume that in the circumstances none of the other properties would suffer an unreasonable impact.

The concerns indicate that, although it may ultimately be shown that light levels remain acceptable, this cannot be known with any certainty at present as the tests to date have not been thorough enough. The author of the report does not accept that this is the case and has re-confirmed that they consider that the impact of the proposed development on people living to the north will be acceptable.

The view of Officers is that the relationship between existing and proposed properties across the railway line is, on balance, acceptable. This view is, in part, reached as a result of the separation distance between the existing and proposed buildings which, as set down in the main body of the report is in excess of 70 metres.

However, in any planning application (regardless of its scale) there may be an issue of "right to light." If a new building limits the amount of light coming in through a particular window and the level of light inside falls below an accepted level, then this could constitute an obstruction which would need to be resolved between the parties. Officers are not aware that this is the case here and the view is that there would not be such an impact so as to justify a refusal based on loss of light or overshadowing to properties to the north of the railway line.

As Members are aware, the matter of protecting any established "right of light" would need to be enforced through the Courts and, as far as this application is concerned, the relationships with buildings to the north are considered to be acceptable.

ADDITIONAL REPORT

In response to concerns expressed by some residents, an outline wind assessment has been produced by WSP. This summarises the results of the wind environment assessment at pedestrian level around the proposed development. The assessment has been undertaken by simulating the baseline and proposed scenario. It has been based on the most frequent wind speed and direction (South-West) at this stage.

The results of this study indicate that the sensitive receptors fall within the comfort criteria in the base line scenario. They show that there is no significant increase in wind velocities and all the sensitive receptors fall within the comfort criteria. The impact of the proposed development is such that there is beneficial effect on the north and west of the development site and, simultaneously, a slight increase in wind velocity along Denmark Road to the south. However the velocities predicted with the proposed development in place still fall within the pedestrian comfort criteria for leisure and business walking.

The report concludes that there is no specific mitigation required since the site adheres to recommended criteria. However including strategic planting and landscaping in open areas will add further density and obstruction to airflow in the pedestrian areas of the site. This will help to generally improve the wind environment.

ADDITIONAL REPRESENTATION

A letter has been received from Sarah Teather MP who has been contacted by constituents in Brondesbury Road and Villas. She has repeated their concerns that the buildings are too high, that they would result in increased noise from the railway and that their concerns have not been taken into account. Sarah Teather has asked to be kept informed regarding the application.

The points raised are dealt with in the main report and require no further comment.

ADDITIONAL CONDITIONS

In connection with the need to ensure that the installation of PV (photo-voltaic) is maximised in this development, an additional condition is suggested to require further information to be submitted and approved.

"Further information relating to the provision of PV on the roofs of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing (with the exception of any demolition works). Once approved, the details shall be fully implemented.

Reason: In order to ensure that the development is sustainable and in order to allow the Local Planning Authority to exercise proper control over the development."

BOROUGH SOLICITOR

The Borough Solicitor has made a number of detailed comments on the report.

In terms of recommendation at the beginning of the report, he suggests that Officers substitute the words "Grant planning permission subject to....." for the existing first sentence beginning "Agreed in principle....."

Also, in this paragraph after “other legal agreement” insert “(to be entered into simultaneously with transfer of a land interest in the site)”

In terms of the Section 106 details (second bullet point down on page 86) after “Affordable Housing” add “(including 100% nomination rights for the Council).”

On page 94 at the end of the paragraph headed “A New Masterplan for South Kilburn” add “furthermore, this application will not conflict with any of the proposed changes to be incorporated in a revised Masterplan SPD”.

Page 104 condition 5 should be amended to substitute “commencement (save for demolition works)” for “First Occupation.” At the end of the condition, insert “shall be fully implemented and” after the word “details”.

On page 105, add at the end of condition 10 “(save for demolition works). The approved plan shall be fully implemented”.

In terms of condition 11, at the end of the first point after the words “for review” the words “prior to commencement of development any mitigation measures required by the local planning authority shall be fully implemented” shall be added. At the end of the second point, the words “in accordance with details submitted to, and approved in writing by, the local planning authority prior to commencement of development” shall be added.

ENVIRONMENTAL IMPACT ASSESSMENT

The Borough Solicitor states that the Council has adopted (under Officers’ delegated powers) a screening opinion to determine whether this development is EIA development and, therefore, requires an EIA. The opinion concluded that the development falls within Schedule 2 of the relevant regulations, but having regard to the characteristics of the development, its location and potential impact, it would not have significant environmental effects and, therefore, an EIA is not required. This opinion was formed based on whether the development was likely to have any significant impacts on the environment, in terms of traffic related impacts, open space, nature conservation, archaeology and architectural contexts, the air quality, other impacts and cumulative impacts. In respect of the latter the regulations say that in considering whether there will be significant impacts on the environment it is necessary to take into account “cumulation with other development”. Strictly speaking it is only necessary to take into account existing, or approved, development which in this case would consist of the Malvern Road site which is under construction and the approved former Texaco site at Carlton Vale. However, Officers have in fact also taken into account the potential cumulative effects of the application on the Carlton Vale roundabout site (due to come a future Committee), and the Gordon House site (which is on this agenda) as well. However, the view of officers is that even with the cumulative effects of all these development sites, there would not be significant effects on the environment so as to require an EIA to be undertaken”.

Recommendation: Remains approval subject to Section 106 legal agreement, amended development description, additional condition and amended conditions.