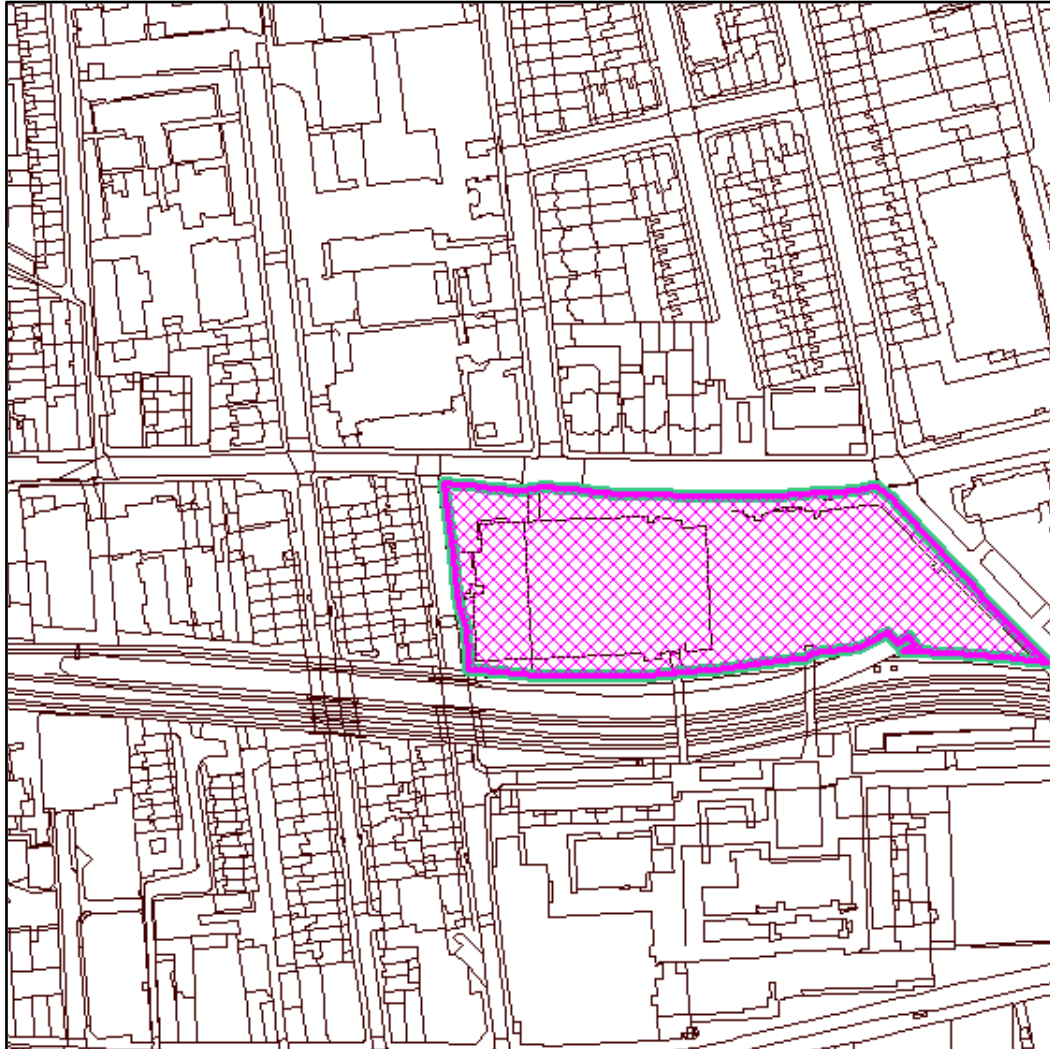


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**Ward:** Hammersmith Broadway

**Site Address:**

Kings Mall Car Park, Glenthorne Road, London, W6 0LJ



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**For identification purposes only - do not scale.**

**Reg. No:**  
2020/01206/VAPO

**Case Officer:**  
Jacques du Plessis

**Date Valid:**

**Conservation Area:**

**Committee Date:**  
02.06.2020

**Applicant:**  
St George West London

**Description of Development:**  
Variation of Schedule 2 (Discount Market Sale Housing) of the Section 106 Agreement attached to planning permission ref: 2012/03546/FUL granted 1 July 2013 (as varied by permission ref: 2014/02370/VAR granted 7 May 2015) to permit (1) the occupation of no more than 63% market units until the practical completion of 60% Discount Market Sale units and; (2) the occupation of no more than 80% market units until the practical completion of 80% Discount Market Sale units.

**Drawing Nos:** Existing Site Plan

**Application Type:**

Vary or Discharge Planning Obligation

### **Officer Recommendation:**

- 1) That the Strategic Director of Economy be authorised to grant permission upon the completion of a satisfactory legal agreement.
- 2) That the Strategic Director of Economy, after consultation with the Director of Law and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed Heads of Terms of the legal agreement and any such changes shall be within their discretion.

### **Reasons for allowing Varying Planning Obligation:**

- 1) Housing: It is considered that the proposed development, would allow for nine residential units to be occupied earlier than originally anticipated. It is considered that the proposed housing would assist the regeneration of Hammersmith Town Centre thereby achieving the Council's strategic objectives. The proposal is therefore supported and considered to be in accordance with the NPPF, London Plan Policies 3.3, 3.4, 3.5, 3.8, 3.9 and 8.2 of the London Plan and Policies HO1, HO3, HO5, and Strategic Policy HRA (Hammersmith Regeneration Area) of the Local Plan 2018.
- 2) Planning Obligations: Planning obligations to offset the impact of the development have been secured under the extant consent. It is considered that the additional financial contribution towards supporting infrastructure is necessary, proportionate, reasonable, fair and linked to the development. It is considered that the S106 contribution is justified under the tests set out in CIL Regulation 122 and Regulation 123, for major developments. The proposed development is therefore considered to adequately mitigate external impacts and is considered to be acceptable in accordance with Policy 8.2 of the London Plan and Strategic Policy HRA (Hammersmith Regeneration Area) of the Local Plan 2018.

## Officer Report

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### LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

#### **All Background Papers held by Andrew Marshall (Ext: 3340):**

Application form received: 12<sup>th</sup> June 2019

**Policy documents:** National Planning Policy Framework 2019  
The London Plan 2016  
The Local Plan 2018  
LBHF - Planning Guidance Supplementary Planning Document 2018

#### **Consultation Comments:**

**Comments from:**

**Dated:**

None

#### **Neighbour Comments:**

**Letters from:**

**Dated:**

None

## **1. APPLICATION SITE**

- 1.1. The site is Sovereign Court residential-led development located within Hammersmith Town Centre. The site is 1.03 hectares in size and lies close to Lyric Square, King Street and Hammersmith Broadway. The site is bound to the west by Leamore Street, to the north by Glenthorne Road, to the east by Beadon Road, and to the south by the London Underground railway lines used by the Piccadilly and the District Lines.
- 1.2. The site does not lie within a Conservation Area, but it adjoins the Bradmore Conservation Area to the north and west and is close to the Hammersmith Broadway Conservation Area to the south east.
- 1.3. The (former Kings Mall Car Park and West 45 office building) buildings have been demolished and Phase 2 of the Sovereign Court development is currently under construction with Phase 1 completed. Demolition of the existing buildings on site has commenced.

## **2. RELEVANT PLANNING HISTORY**

- 2.1. Planning Permission (2012/03546/FUL) was granted 1 July 2013 for the demolition of the existing West 45 office building, 950 space public car park and small section of railway viaduct which lies within the site boundary, and redevelopment of the site comprising a single building with heights ranging from 4 to 17 storeys, plus 2 basement levels, to provide a mixed use development comprising a 700 space replacement public car park, 529 square metres of ground floor commercial floorspace (use classes A1-A4, D1 and D2) and 418 new homes, with associated hard and soft landscaping, private open space, vehicular accesses and servicing facilities, residential parking (53 spaces), and cycle parking (460 spaces).
- 2.2. A Variation Application (2014/02370/VAR) was granted 7 May 2015 to vary Conditions 2 and 31 of planning permission 2012/03546/FUL which consisted of alterations and amendments to: the external design and cladding; window layout and design; the insertion of additional balconies and ground floor entrances; an increase in parapet height and the provision of flues, and; an increase in the building envelope (Block A1 Penthouse).

## **3. CURRENT APPLICATION**

- 3.1. The Applicant seek permission to vary the S106 legal agreement dated 1 July 2013 attached to the variation application ref 2014/02370/VAR to amend the following;
  - (a) Change the first affordable housing delivery trigger to allow the occupation of nine more market housing units before July 2021;
  - (b) Change the second affordable housing delivery trigger to allow the early completion of 5% more affordable housing units;

- (c) Agree a financial contribution of £135,000 which is supported by Strategic Policy HRA (Hammersmith Regeneration Area).

#### **4. POLICY FRAMEWORK**

- 4.1. The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011 are the principal statutory considerations for town planning in England.
- 4.2. Collectively the three Acts create a plan led system which requires local planning authorities to determine planning applications in accordance with an adopted statutory development plan unless there are material considerations which indicate otherwise (section 38(6) of the 2004 Act as amended by the Localism Act).
- 4.3. In this instance the statutory development plan comprises the London Plan, the Local Plan 2018 and the Planning Guidance Supplementary Planning Document 2018. A number of strategic and local supplementary planning guidance and other documents are also material to the determination of the application.

#### **National Planning Policy Framework (February 2019)**

- 4.4. The application has been evaluated against the Development Plan and the NPPF and the Authority has assessed the application against the core planning principles of the NPPF and whether the proposals deliver “sustainable development.”
- 4.5. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

#### **The London Plan**

- 4.6. The London Plan was published in July 2016. It sets out the overall strategic plan for London and a fully integrated economic, environmental, transport and social framework for the development of the Capital over the next 20-25 years. It forms part of the development plan for Hammersmith and Fulham.

#### **The Draft New London Plan**

- 4.7. On 29 November 2017, the Greater London Authority published their Draft London Plan. The consultation period ended on 2 March 2018. In August

2018 the Mayor published a revised version of the draft Plan that includes minor suggested changes. Consultation comments relating to the draft Plan have been reviewed by the independent Planning Inspector appointed by the Secretary of State and the Plan's formal Examination in Public (EIP) took place from January to May 2019. Following the examination, a draft Plan – Consolidated version was published in July 2019. The Mayor has considered the Inspectors' recommendations and, on the 9th December 2019, issued to the Secretary of State his intention to publish the London Plan. Where a policy in the 'intend to publish' London Plan has not been queried by the SOS it has significant weight.

### **The Local Plan (February 2018)**

- 4.8. The policies in the Local Plan together with the London Plan make up the statutory development plan for the borough. The Planning Guidance Supplementary Planning Document (SPD) (February 2018) is also a material consideration in determining planning applications. It provides supplementary detail to the policies and is organised around key principles.
- 4.9. With regard to this application, all planning policies in the National Planning Policy Framework (NPPF), London Plan, Local Plan 2018, and Planning Guidance Supplementary Planning Guidance (SPD) which have been referenced where relevant in this report have been considered with regards to equalities impacts through the statutory adoption processes, and in accordance with the Equality Act 2010 and Council's PSED. Therefore, the adopted planning framework which encompasses all planning policies which are relevant in officers' assessment of the application are considered to acknowledge protected equality groups, in accordance with the Equality Act 2010 and the Council's PSED.

## **5. PLANNING CONSIDERATIONS**

### **Housing Delivery Triggers**

- 5.1. The initial Section 106 agreement was signed on 1 July 2013 and planning permission was granted on the same day. The Section 106 agreement contained a variety of planning obligations including a requirement for 124 (30%) on-site Discount Market Sale affordable housing units. The level of affordable housing was deemed to be the maximum reasonable amount and acceptable to members at the time of the grant of planning permission.
- 5.2. The delivery of affordable housing triggers was set in 2013 S106 in advance of a detailed construction programme and prior to logistics having been considered. Since then site constraints have made construction logistics and sequencing challenging. Part of this was the requirement to revise the build sequencing to be west to east in order to prevent the project effectively being built into a corner.
- 5.3. There was also the requirement to locate the construction pit lane on Glenthorne Road to efficiently service the site. This prevents the handover of

Buildings C1 and C2 until such time as the pit lane is no longer required (July 2021). When Buildings C1 & C2 (Phase 2) are ready to be handed over, there will be enough affordable homes to meet the first trigger requirement.

#### First Affordable Housing Delivery Trigger

- 5.4. The first affordable housing trigger requires the completion of 60% of the affordable units prior to occupying more than 60% of the market units.
- 5.5. However, due to the construction programme and site constraints the first delivery trigger will now result in a total of 18 market units (Phase 1) to be locked up until July 2021 when 60% of the affordable housing units will be completed within Phase 2. As such, the applicant seeks to amend the first delivery trigger to allow 63% market units to be occupied before 60% of the affordable units are completed. This will allow an additional nine market units to be occupied.

#### Second Affordable Housing Delivery Trigger

- 5.6. Officers requested that the delivery of affordable housing be increased within the second delivery trigger. It was agreed with the applicant that the second delivery trigger be amended so that 80% of the affordable housing units are completed instead of the current requirement of 75% prior to the occupation of more than 80% of the market units.
- 5.7. Officers consider that the early delivery of housing and the improvement to the delivery of affordable housing is supported in accordance with Policies 3.3, 3.4, 3.5, 3.8 and 3.9 of the London Plan and Policies HO1, HO3, HO5, and Strategic Policy HRA (Hammersmith Regeneration Area) of the Local Plan 2018.

#### Financial Contribution

- 5.8. **Strategic Policy HRA (Hammersmith Regeneration Area)** states that the council will support the continuation of Hammersmith as a major town centre with a wide range of major retail, office, local government services, leisure, arts, entertainment, community facilities and housing. The policy further state that proposals for development in the HRA should provide appropriate social, physical, environmental and transport infrastructure to support the needs arising from the development and seek the creation of an urban environment, with public spaces, architecture and public realm of the highest quality, that is sensitively integrated into the existing context.
- 5.9. The extant permission provides in total, approximately £6.27million as part of the current Section 106 agreement. These obligations would also cover any feasibility exercises that are carried out to identify the scope of the infrastructure to be delivered.



- 5.10. The Council's CIL Charging Schedule identifies a number of exceptions to the R123 List where the Council intends to negotiate S106 obligations to secure the provision of infrastructure. One of these exceptions are the provision of infrastructure which is required to ensure compliance by a development with a policy of the Development Plan. A financial contribution of £135,000 will be secured towards the provision of infrastructure which is supported by Strategic Policy HRA of the Local Plan. It should be noted that this payment is contingent upon the occupation of more than 60% market units prior to the practical completion of 60% affordable units.
- 5.11. Officers considered that the Section 106 contribution towards supporting infrastructure is necessary, proportionate, reasonable, fair and linked to the development. It is considered that the S106 contribution is justified under the tests set out in CIL Regulation 122 and Regulation 123, for major developments. Officers are satisfied that the financial contribution will contribute towards mitigating any need for social and physical infrastructure in accordance with Policy 8.2 of the London Plan and Strategic Policy HRA (Hammersmith Regeneration Area) of the Local Plan 2018.

## **6. RECOMMENDATION**

- 6.1. It is recommended that the Committee approves the proposed variation to the Section 106 agreement to allow the following changes to Schedule 2 (Discount Market Sale Housing) of the Section 106 dated 1 July 2013;
- (a) Change the first affordable housing delivery trigger to permit no more than 63% market units to be occupied unless and until 60% affordable units are practically complete;
  - (b) Change the second affordable housing delivery trigger to permit no more than 80% market units to be occupied unless and until 80% affordable units are practically complete;
  - (c) Agree a financial contribution of £135,000 towards the provision of infrastructure that is supported by Strategic Policy HRA of the Local Plan which is contingent upon the occupation of more than 60% market units prior to the practical completion of 60% affordable units.