

Report of the Head of Planning, Transportation and Regeneration

Address OLD VINYL FACTORY BLYTH ROAD HAYES

Development: Modification of S106 Planning Obligation relating to Planning Application 59872/APP/2012/1838 (Outline planning application for a mixed use development of the Old Vinyl Factory site including the demolition of up to 12,643 sqm of buildings and construction of up to 112,953 sqm (112,953 sqm includes the retention and re-use of 784 sqm of the Power House and 901 sqm Pressing Plant) of new floorspace. Uses to include up to 510 residential units (maximum area of 49,000 sqm GEA), up to 7,886 sqm of new B1 floorspace, up to 4,000 sqm of A class uses (A1, A2, A3, A4, A5), up to 4,700 sqm of D1 and D2 uses, an energy centre (up to 950 sqm), car parking, works to access and creation of new accesses and landscaping) to remove The Machine Store and Pressing Plant Phase from the legal obligations except in relation to Energy Strategy and Travel Plan.

LBH Ref Nos: 59872/APP/2018/2841

Drawing Nos:

Date Plans Received: 01/08/2018

Date(s) of Amendment(s):

Date Application Valid: 11/09/2018

Reason for Urgency

To prevent delays in the commencement of development of The Machine Store and The Pressing Plant, including the provision of a health centre.

1. SUMMARY

Planning permission (reference 59872/APP/2012/1838) was granted on 19th April 2013 for 'Outline planning application for a mixed use development of the Old Vinyl Factory site including the demolition of up to 12,643 sqm of buildings and construction of up to 112,953 sqm (112,953 sqm includes the retention and re-use of 784 sqm of the Power House and 901 sqm Pressing Plant) of new floorspace. Uses to include up to 510 residential units (maximum area of 49,000 sqm GEA), up to 7,886 sqm of new B1 floorspace, up to 4,000 sqm of A class uses (A1, A2, A3, A4, A5), up to 4,700 sqm of D1 and D2 uses, an energy centre (up to 950 sqm), car parking, works to access and creation of new accesses and landscaping'.

The above planning permission was granted subject to a section 106 Legal Agreement dated 31 July 2014. This application seeks a Deed of Variation (DoV) to that legal agreement 'to remove The Machine Store and Pressing Plant Phase which is subject to a separate planning permission and to correct drafting errors in Schedule 4: Affordable Housing'.

It is recommended that the Machine Store and Pressing Plant Phase are carved out of the section 106 agreement dated 31 July 2014 in order that the planning obligations under that agreement are no longer applicable with the exception of the obligations pursuant to Schedule 13 (energy strategy) of the section 106 agreement dated 31 July 2014 and for the purposes of co-ordination between the obligations under Schedule 15 (travel plan) of the section 106 agreement dated 31 July 2014 and the travel plan required under the

section 106 agreement dated 26 January 2018. No objections have raised by either the Council's S106/CIL Officer or the Council's Legal Team in relation to this intended variation of the section agreement dated 31 July 2018.

The proposed variation to the section 106 agreement dated 31 July 2014 is deemed acceptable as the section 106 agreement dated 26 January 2018 requires the health centre or an affordable housing contribution in relation to the Machine Store and Pressing Plant Phase. As such the Old Vinyl Factory development would continue to appropriately comply with relevant Local Plan, London Plan and national planning policies and, accordingly, approval for this element of the Deed of Variation is recommended.

It is not recommended that the drafting to Schedule 4 (Affordable Housing) be amended as it would be inappropriate and unreasonable given that those amendments shall affect the affordable housing review mechanism, which has now been triggered.

2. RECOMMENDATION

APPROVAL subject to the following:

1 NONSC Recommendation

1. That the Council enter into a deed of variation with the applicants under Section 106 of the Town and Country Planning Act 1990 (as amended) or other appropriate legislation to secure the removal of 'The Machine Store' and 'Pressing Plant' Phase from the planning obligations under the section 106 agreement dated 31 July 2014 except in relation to those obligations pursuant to Schedule 13 (Energy Strategy) and for the benefit of co-ordination between the obligations under Schedule 15 (Travel Plan) dated 31 July 2014 and the travel plan required under the section 106 agreement dated 26 January 2018.

It is not recommended that Schedule 4 (Affordable Housing) of the section 106 agreement dated 31 July 2014 be amended.

2. That the applicant meets the council's reasonable costs in the preparation of the deed of variation and any abortive work as a result of the deed not being completed.

3. That Officers be authorised to negotiate and agree the amended terms for the Deed of Variation.

3. CONSIDERATIONS

3.1 Site and Locality

The whole of The Old Vinyl Factory (TOVF) site consists of approximately 6.6 hectares of land set in an irregular quadrilateral shaped site. The multi-phase site was originally constructed between 1907 and 1935 by the Gramophone Company and was later the production centre of EMI Ltd, producing the majority of vinyl records for distribution worldwide. Associated record production works had ceased by the 1980s after which time the site was largely vacant with many buildings falling into disrepair. The site is subject to a residential led redevelopment with several buildings already completed, including The Boiler House, The Material Store and the Record Stack car park. The site also includes a new University Technical College.

The site is bounded by Blyth Road to the north and by the Great Western Mainline railway to the South, with Hayes and Harlington rail station to the east of the site. Opposite the site on Blyth Road lies the Grade II Listed Enterprise House, an eight storey office building,

together with a variety of industrial and office buildings. The wider area is a mixture of residential, industrial and office uses with Hayes Town Centre located to the northeast of the site.

Much of the application site, as well as The Record Store, The Cabinet Building and The Shipping Building, which lie immediately outside of the application boundary, is situated within a Developed Area, The Botwell: Thorn EMI Conservation Area and partly within an Industrial and Business Area, as identified in the Policies of the Hillingdon Local Plan (November 2012) and a Strategic Industrial Location (SIL) as designated within the London Plan (March 2015).

3.2 Proposed Scheme

Planning permission (reference 59872/APP/2012/1838) was granted on 19-04-13 for 'Outline planning application for a mixed use development of the Old Vinyl Factory site including the demolition of up to 12,643 sqm of buildings and construction of up to 112,953 sqm (112,953 sqm includes the retention and re-use of 784 sqm of the Power House and 901 sqm Pressing Plant) of new floorspace. Uses to include up to 510 residential units (maximum area of 49,000 sqm GEA), up to 7,886 sqm of new B1 floorspace, up to 4,000 sqm of A class uses (A1, A2, A3, A4, A5), up to 4,700 sqm of D1 and D2 uses, an energy centre (up to 950 sqm), car parking, works to access and creation of new accesses and landscaping'.

The above planning permission was granted subject to a S106 Legal Agreement dated 31 July 2014. That Legal Agreement covered the entire site, including 'The Machine Store' and 'Pressing Plant' buildings which are shown as Phase 6 on Plan Reference 0157-9004 Rev 13.

This application seeks a Deed of Variation (DoV) to that legal agreement 'to remove The Machine Store and Pressing Plant Phase which is subject to a separate planning permission and to correct drafting errors in Schedule 4: Affordable Housing'.

It is recommended that the section 106 agreement dated 31 July 2014 is amended to carve out the Machine Store and Pressing Plant Phase, with the exception of the obligations relating to the Energy Strategy and the Travel Plan. The change in drafting to Schedule 4: Affordable Housing is not recommended as the proposed changes relate to the Affordable Housing Review Mechanism, which has been triggered. Any amendments to the affordable housing review mechanism would now be deemed inappropriate and unreasonable given that the process has already begun.

3.3 Relevant Planning History

Comment on Relevant Planning History

59872/APP/2012/1838 - Outline planning application for a mixed use development of the Old Vinyl Factory site including the demolition of up to 12,643 sqm of buildings and construction of up to 112,953 sqm (112,953 sqm includes the retention and re-use of 784 sqm of the Power House and 901 sqm Pressing Plant) of new floorspace. Uses to include up to 510 residential units (maximum area of 49,000 sqm GEA), up to 7,886 sqm of new B1 floorspace, up to 4,000 sqm of A class uses (A1, A2, A3, A4, A5), up to 4,700 sqm of D1 and D2 uses, an energy centre (up to 950 sqm), car parking, works to access and creation of new accesses and landscaping - Approval 19-04-13

59872/APP/2016/3454 - Mixed use redevelopment of the Pressing Plant, at The Old Vinyl Factory site, including the partial demolition of the Pressing Plant (formerly Apollo House),

retention of front facade and part of the western facade of the Pressing Plant and construction of a 3 screen cinema, with retail, bar, restaurant and exhibition spaces and construction of the Machine Store, comprising 81 residential units, a health centre, bars/cafes, associated parking, landscaping, and access works - Approval 26-01-18

4. Planning Policies and Standards

Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)
Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012)
London Plan (2016)
National Planning Policy Framework
Hillingdon Supplementary Planning Document - Planning Obligations

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

LPP 3.11 (2016) Affordable housing targets
LPP 3.12 (2016) Negotiating affordable housing on individual private residential and mixed-use schemes
LPP 3.13 (2016) Affordable housing thresholds
LPP 8.2 (2016) Planning obligations
LPP 8.3 (2016) Community infrastructure levy
NPPF National Planning Policy Framework
R17 Use of planning obligations to supplement the provision of recreation, leisure and community facilities

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Not applicable

Internal Consultees

LEGAL SERVICES TEAM

A section 106 agreement was entered into on the 26 January 2018 in relation to the Pressing Plant and the Machine Store (Planning Reference: 59872/APP/2016/3454) land (Phase 6 of the Development). A deed of variation is now required in order to carve out the planning obligations under the section 106 agreement dated 31 July 2014 in relation to Phase 6 of the Development with the exception of the obligations pursuant to Schedule 13 (energy strategy) of the section 106 agreement dated 31 July 2014 and for the purposes of co-ordination between the obligations under Schedule 15 (travel plan) of the section 106 agreement dated 31 July 2014 and the travel plan required under the section 106 agreement dated 26 January 2018. The Legal Services Team has no

objection to this approach.

The Legal Services Team would object to the amendments to Schedule 4 (Affordable Housing) as the proposed amendments relate to the Affordable Housing Review Mechanism, which has been triggered. Any amendments to the affordable housing review mechanism would now be deemed inappropriate and unreasonable given that the process is already in motion.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Not applicable. The principle of development has been accepted through the granting of planning permission for the scheme.

7.02 Density of the proposed development

Not applicable. No changes are proposed which would impact on the density of the approved development.

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

Not applicable. No changes are proposed which would impact on heritage assets.

7.04 Airport safeguarding

Not applicable. No alterations are proposed which would impact on safeguarding criteria.

7.05 Impact on the green belt

Not applicable. No changes are proposed which would impact on the green belt.

7.06 Environmental Impact

Not applicable. There are no direct significant environmental impacts as a result of the changes proposed.

7.07 Impact on the character & appearance of the area

Not applicable. No changes are proposed which would impact on the character or appearance of the area.

7.08 Impact on neighbours

Not applicable. No changes are proposed which would impact on residential amenity.

7.09 Living conditions for future occupiers

Not applicable. No changes are proposed which would impact on residential amenity.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Not applicable. No changes are proposed which would impact on traffic, parking or pedestrian safety.

7.11 Urban design, access and security

Not applicable. No changes are proposed which would impact on urban design, access and security.

7.12 Disabled access

Not applicable. No changes are proposed which would impact on accessibility.

7.13 Provision of affordable & special needs housing

Planning Policy H2 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) states:

'Housing provision is expected to include a range of housing to meet the needs of all types of households and the Council will seek to maximise the delivery of affordable housing from all sites over the period of the Hillingdon Local Plan: Part 1- Strategic Policies. For sites with a capacity of 10 or more units the Council will seek to ensure that the affordable housing mix reflects housing needs in the borough, particularly the need for larger family units.'

London Plan (March 2016) policies 3.10, 3.11, 3.12 and 3.13 relate to affordable housing provision. In particular Policy 3.12 states that the maximum reasonable amount of affordable housing should be sought, having regard to (amongst others) current and future requirements for affordable housing at local and regional levels, the size and type of affordable housing needed in particular locations and the specific circumstances of individual sites.

The application for a Deed of Variation to amend the section 106 agreement dated 31 July 2014 intends to remove the Machine Store and Pressing Plant Phase from the obligations of the section 106 agreement obligations with the exception of the energy strategy and travel plan, which is subject to a separate planning permission (application reference 59872/APP/2016/3454). The Council's Legal Team has reviewed the proposal and raised no objections to this element of the application. If this element of the deed of variation is agreed and the new consent implemented, then Machine Store and Pressing Plant Phase would not be included as part of the affordable housing assessment for the wider Old Vinyl Factory site. However the Heath Care facility or an affordable housing commuted sum would be secured under the consented scheme's (59872/APP/2016/3454) section 106 agreement.

The amendments to Schedule 4: Affordable Housing is not recommended as the proposed changes relate to the Affordable Housing Review Mechanism, which has been triggered. Any amendments to the affordable housing review mechanism would now be deemed inappropriate and unreasonable given that the process has already begun.

Given that obligations will be secured in either scenario, and it would be unacceptable for the Council to seek to secure two sets of obligations for the same site, the proposed Deed of Variation is considered to accord with Policy H2 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) and London Plan (March 2016) policies 3.10, 3.11, 3.12 and 3.13.

7.14 Trees, landscaping and Ecology

Not applicable. No changes are proposed which would impact on trees, landscaping and ecology.

7.15 Sustainable waste management

Not applicable. No changes are proposed which would impact on refuse provision.

7.16 Renewable energy / Sustainability

Not applicable. No changes are proposed which would impact on renewable energy / sustainability.

7.17 Flooding or Drainage Issues

Not applicable. No changes are proposed which would impact on flooding or drainage issues.

7.18 Noise or Air Quality Issues

Not applicable. No changes are proposed which would impact on noise or air quality.

7.19 Comments on Public Consultations

Not applicable

7.20 Planning obligations

The alterations proposed to the agreed planning obligations have been discussed throughout this report and are considered to be acceptable for the reasons discussed in section 7.13.

7.21 Expediency of enforcement action

Not applicable

7.22 Other Issues

None

8. Observations of the Borough Solicitor

General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in Probity in Planning, 2009.

Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal. Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The requirement to have due regard to the above goals means that members should consider whether persons with particular protected characteristics would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the

circumstances.

Members should also consider whether a planning decision would affect human rights, in particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

9. Observations of the Director of Finance

None

10. CONCLUSION

Discussions with the Council's Legal Team have amended the Deed of Variation so that it now applies to remove The Machine Store and Pressing Plant Phase, which is subject to a separate planning permission (application reference 59872/APP/2016/3454) with the exception of the obligations relating to the Energy Strategy and the Travel Plan. The change in drafting to Schedule 4: Affordable Housing is not recommended to be agreed as set out in section 3.2 above.

No objections have been raised to the requested variation to remove The Machine Store and Pressing Plant Phase from the original s106, with the exception of the obligations relating to the Energy Strategy and the Travel Plan, by either the Council's S106/CIL Officer or the Council's Legal Team. The proposed variation is deemed acceptable and the health centre or affordable housing contribution for Phase 6 would be secured under the site's own planning consent and s106 legal agreement. As such the Old Vinyl Factory development would continue to appropriately comply with relevant Local Plan, London Plan and national planning policies and, accordingly, approval for this element of the Deed of Variation is recommended.

11. Reference Documents

Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)
Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012)
London Plan (2016)
National Planning Policy Framework
Hillingdon Supplementary Planning Document - Planning Obligations

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