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Retrofit v redevelop: implications of the M&S flagship London store decision

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Insight from Savills

On 5 December 2024, Deputy Prime Minister Angela Rayner granted permission for the demolition and redevelopment of Marks and Spencer's flagship London store, overturning the decision of the previous Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, Michael Gove, to refuse it.

The proposals – which seek to demolish the existing buildings to provide a 9-storey retail space, café, gym and office as well as pedestrian enhancements and public realm works – have been the subject of a controversial planning row, with opposers of the scheme insisting that the building should have been retrofitted. Angela Rayner's decision not only terminates a three-year-long planning battle but sheds some long-awaited clarity on the retrofit v redevelopment debate.

Context and the politics that prevented it from happening

Originally submitted in March 2021, Westminster Council resolved to grant planning permission in November of that year, however the then secretary of state, Michael Gove, called in the application and refused it on grounds of heritage impact, carbon impact and a perceived misalignment with planning policy in July 2023.

Marks and Spencer challenged the decision with hearings taking place in February 2024 and, in March 2024, Mr Gove's decision was quashed by the High Court. Angela Rayner was therefore able to reconsider the proposals.

The case for retrofit and GLA sustainability policies

At the heart of the controversy lies the debate around retrofitting and redevelopment – the implications on the sustainability agenda and in particular embodied carbon release, and how the very limited amount of policy guidance at the national level can be interpreted to ensure consistent decision-making and policy formation at the local level.

While paragraph 157 of the NPPF – encouraging reuse over redevelopment – is a useful start, the policy vacuum allows room for misinterpretation. In fact, when quashing Michael Gove's decision, the High Court noted that the secretary of state at the time had 'rewritten' planning policy by introducing an unwarranted presumption in favour of reuse over demolition.

In her decision letter, Angela Rayner considered that options for retaining the buildings had been adequately explored with no viable and deliverable alternatives, and concluded that there is a compelling justification for demolition and rebuilding. Crucially, she has taken into account the significant employment and regeneration benefits offered by the scheme (circa 450 jobs during construction and 2,000 additional full-time jobs post construction) and attributed them substantial weight when collectively assessed with the design, public realm and regeneration benefits of the proposals.

This decision is a strong signal that redevelopment can proceed provided that the wider strands of sustainable development can be delivered and that embodied and operational carbon emissions can be minimised through high quality design, based on technical expertise.

Takeaways for the retrofit agenda in London and beyond

The High Court decision noted that the former secretary of state was in error to say there was no dispute about whether redevelopment would involve much greater embodied carbon than refurbishment. In this way, while sustainable and low carbon retention and refurbishment should be the highest priority, they do not automatically represent the most sustainable option when assessed against the three strands of sustainable development (economic, social and environmental) which are at the heart of the NPPF. Relying on the assumption that retrofit is always the most sustainable alternative – at the cost of hindering sustainability in economic and social terms – does not adequately balance the three interdependent objectives of sustainable development which need to be pursued in mutually supportive ways.

Recommendations and emerging policy

In the UK's transition to a zero-carbon economy, the case continues to highlight the importance of a consistent policy approach as confirmed by Angela Rayner's decision which notes that 'in terms of the policy, there is a partial failure to support the transition to a low carbon future'.

Within the local planning policy context, Westminster City Council's Emerging Local Plan Policy 43 (Retrofit First) is of particular relevance. The policy – which requires developers to explore retrofitting options comprehensively before proposing demolition – was referred to by the group SAVE Britain's Heritage which stated that the proposals were in conflict with the emerging planning policy and would not meet any of the four exceptions identified in Part A of the policy. On the contrary, Angela Rayner considered that the proposals are not in conflict with emerging policy 43. In the absence of a standardised approach set out in national planning policy, it is hoped that local policies of this kind will provide more clarity and certainty for developers and their design teams.

Whilst the proposals now represent clear precedent in favour of sustainable redevelopment, the recommendations set out in the London Property Alliance's 'Retrofit First Not Retrofit Only: Future-proofing national policy to support sustainable development' – focusing on improved consistency at the different spatial spheres of policy, promoting a retrofit first not retrofit only approach and ensuring adequate sustainability expertise within planning departments – continue to be relevant. This approach can provide a holistic overview of sustainable development issues, retain developer confidence and reduce uncertainty in decision making to ensure that, moving forward, planning sagas such as this one remain an exception and not the rule.

What is important is that both national and local policies that tackle the issue of retrofit v redevelopment provide a clear basis when assessing sites so that applicants are not faced with undue requirements on optioneering, and that the three strands of sustainable development are duly recognised in the decision making process.