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# Appeal Decisions

Site visit made on 13 November 2012

by **B J Juniper BSc, Dip TP, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 December 2012

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## **Appeal A - Ref: APP/X5210/E/12/2177813**

### **62-63 Tottenham Court Road and 1-7 Goodge Street, London, W1T 2EP**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
  - The appeal is made by Goodge Street (Tottenham Court Road) LLP against the decision of the Council of the London Borough of Camden.
  - The application Ref 2011/1837/C, dated 5 April 2011, was refused by notice dated 6 December 2011.
  - The demolition proposed is of 63 Tottenham Court Road and 5-7 Goodge Street and the substantial demolition of 1-3 Goodge Street behind a retained façade.
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## **Appeal B - Ref: APP/X5210/A/12/2177819**

### **62-63 Tottenham Court Road and 1-7 Goodge Street, London, W1T 2EP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Goodge Street (Tottenham Court Road) LLP against the decision of the Council of the London Borough of Camden.
  - The application Ref 2011/1821/P, dated 5 April 2011, was refused by notice dated 6 December 2011.
  - The development proposed is the erection of a five-storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-3 Tottenham Court Road and 1-3 Goodge Street (including a mansard roof) all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Class A1/C3).
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## **Decisions**

### Appeal A

1. The appeal is allowed and conservation area consent granted for the demolition of 63 Tottenham Court Road and 5-7 Goodge Street and the substantial demolition of 1-3 Goodge Street behind a retained façade in accordance with the terms of the application Ref 2011/1837/C, dated 5 April 2011 and the drawings submitted with it and subject to the conditions set out in Annex A.

### Appeal B

2. The appeal is allowed and planning permission is granted for the erection of a five-storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-3 Tottenham Court Road and 1-3 Goodge Street (including a mansard roof) all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Class A1/C3) at 62-63 Tottenham Court Road and 1-7 Goodge Street, London,

WIT 2EP in accordance with the terms of the application, Ref 2011/1821/P dated 5 April 2011, and the drawings submitted with it, subject to the conditions set out in Annex B.

### **Procedural Matters**

3. It was confirmed at the site visit that the relevant drawing numbers were those now listed in Condition 2 in Annex B, which includes minor variations from those shown on the Council's decision notice.
4. I have used the Council's description of the proposals in the headings to these Decisions as I consider they succinctly set out what is proposed.
5. A third party representative who attended the site visit objected to the appellants' refusal to allow him to take part in the internal inspection of Nos.1-3 Goodge Street. I was not precluded from inspecting any part of the building, however, and my consideration of the representations made by objectors to the proposals has not been affected by this refusal which is not a matter within my control in any event.

### **Main Issue**

6. An agreement under section 106 of the above Act and dated 20 September 2012 has been concluded in respect of the appeal proposal and I have had regard to it in reaching my decision. The agreement relates to the matters which formed the subject of reasons for refusal Nos. 2 to 7 of the Appeal B proposal. With these matters resolved, the main issue in both appeals is the effect of the proposal on the character and appearance of the Charlotte Street conservation area.

### **Reasons**

7. The appeal site comprises in effect four buildings each of which impact on the conservation area in a different way and require separate consideration in respect of Appeal A.
8. *62 Tottenham Court Road* is a late Victorian building with a four storey, gabled, brick and stucco façade. It is a handsome building in its own right and contributes positively to the frontage of the site to Tottenham Court Road. The appeal proposal would retain and refurbish the building. Much of the internal accommodation and the rear elevation would be replaced but these elements of the building contribute little to the street scene and are of no intrinsic merit. This element of the proposal is therefore acceptable.
9. *63 Tottenham Court Road* is a three storey building on the southern corner of the junction of Tottenham Court Road and Goodge Street. It was constructed in the 1930s and is faced in white faience with steel framed casement windows to the upper floors. In a location where a more assertive building would be appropriate, the existing structure is deficient in bulk and height, providing rather a weak townscape element. Although the façade appears to have survived from the 1930s in a largely unaltered form (apart from the shop front) it includes no architectural features of especial merit. Structural analysis of the building has concluded that it would not be suitable for any significant internal re-arrangement or, more pertinently, for addition of features that would give it a greater presence, such as additional storeys. Provided that an appropriate replacement scheme is in place, therefore, there would be no objection to the removal of this building.

10. *1-3 Goodge Street* is a four storey building dating from the late C18th. Its brick façade survives with most of its features intact and the structure has added merit through the retention of the principal elements of a late Victorian shop front. The building is similar to others further west along Goodge Street but its interior and roof show little sign of its origins. Most of the internal features have been removed (including the ceilings), the staircase is evidently a relatively modern introduction and the roof appears to have been rebuilt in a simple pitched form rather than the double pitched roof which would probably have been installed originally.
11. This building has twice been considered for inclusion on the statutory list by English Heritage (EH), most recently in the autumn of 2012, and on each occasion the proposal was rejected. Although I recognise that the recent removal of some internal features was not welcomed by those seeking to have the building listed, these works did not require planning permission or any other consent and in any event the features were present when EH examined the building prior to the recent rejection of the listing proposal. Whilst there is some historical association with the buildings further to the west, 1-3 does not form part of a cohesive group. The appellants' proposal is to retain and repair both the façade and the shop front so, with an appropriate replacement scheme in place, there would be no objection to the proposal to adapt the present structure.
12. *5-7 Goodge Street* is a single storey building which presents a modern shop front to the street with shoring timbers above between the flanking buildings. The site appears to have remained in this condition since the area was damaged by bombs in WW2. As such this is a structure of no architectural merit and the void between the buildings to either side is visually thoroughly harmful. Its replacement with a sympathetically designed building would thus be of considerable benefit to the conservation area.
13. Overall, therefore, I have come to the view that, provided that construction of an appropriate replacement scheme is committed, the Appeal A proposal would not harm the character or appearance of the conservation area or run contrary to Core Strategy Policy CS14 or Development Policy DP25.
14. Turning to Appeal B, the proposal would comprise retail floorspace at ground floor level and nine flats above. The accommodation behind the façades would be wholly integrated but the street elevations would be divided into essentially the same units as the existing buildings. At 62 Tottenham Court Road and 1-3 Goodge Street this would comprise a refurbishment of the existing frontages but with adaptations to the roofs. In the former case this would entail a modest increase in the roof ridge height and the insertion of rooflights whilst on the latter building a mansard roof with three windows vertically above those in the existing façade would be added. Both adaptations would be sympathetic to the retained elevations and typical of the changes made to comparable buildings. Neither of these arrangements would be especially obvious or intrusive from the street.
15. The treatment proposed for 5-7 Goodge Street comprises what is effectively an entirely new building filling the void left from the bomb-damaged site. In scale it would be identical to the adapted building at 1-3, but the fenestration would more innovative, flanking pairs of traditionally proportioned windows in the centre of the elevation with a vertical stack of narrow windows to the left hand side and fritted glass panels to the right, linked at the top by a frameless glass

balustrade containing the top floor balcony. This would result in a more sculptured effect, but which would be at one with the street scene and would visually link the more traditional façades to either side.

16. The most innovative treatment, however, is proposed to be applied to the corner of the site at 63 Tottenham Court Road. Although no higher than the buildings which flank it, the upper storey would be flat roofed and be jettied out to a modest degree at the corner. This would give the building a greater presence and reflect the modelling of the more imposing former department store building on the opposite side of Goodge Street. The Council criticise the fenestration of the building on the grounds that it includes larger areas of glazing rather than the individual window openings of the surrounding frontages. However, the proposed treatment would be articulated by considerable modelling, including recessed balconies, and, more significantly, by a geometric pattern of a frieze in Portland stone linked by vertical elements at either end of alternate floors on the Tottenham Court Road frontage. This feature, together with the palette of materials, would give the elevation a strong resonance with the retained façade at No.62 whilst forming the strong townscape element that the site demands.
17. The Council is also critical of the somewhat different treatment applied to the north-western side of the building facing Tottenham Court Road. Here the Portland stone cladding would be restricted to a panel at the corner at first floor level and to the framing of the full height window on the fourth floor, the remainder of the elevation above fascia height being finished in ceramic panelling specified to match the adjoining brick. I acknowledge the Council's argument that, from viewpoints to the north along Tottenham Court Road the two façades of the corner building would have somewhat divergent treatments, but, given the strong design linkages between the two, this would have the benefit of visually linking the rather different street pictures in the two thoroughfares which meet at the appeal site.
18. I have therefore come to the view that the scheme as a whole would not harm either the character or appearance of the Charlotte Street conservation area and that the requirements of the relevant development plan policies, principally Core Strategy Policy CS14 and Development Policy DP25, would be met.

#### *Obligations and Conditions*

19. Reasons for refusal Nos. 2 to 7 deal with aspects of the proposal the Council consider could be addressed through a legal agreement and such an agreement, under S106 of the Act, has been concluded. I consider that the terms of the agreement justify the relevant obligations for car free development (Policy CS11); environmental sustainability measures (Policies CS13, DP22 and DP23); improvements to pedestrian facilities (Policies CS11, DP16, DP17 and DP21); education (Policies CS10 and CS19) and open space contributions (Policies CS15, CS19 and DP31) and that the agreement meets the tests in the CIL regulations. I thus give these aspects of the S106 agreement some weight in my decision. The requirement for a construction management plan is justified, given the location of the site and the surrounding uses, but this could equally have been achieved through a condition so I give this aspect of the agreement less weight.
20. The Council suggests a range of conditions all of which I consider appropriate although I have adapted the wording in some cases to conform to the advice in

Circular 11/95 - *The Use of Conditions in Planning Permissions*. For Appeal A it is necessary only to ensure that there is commitment to a replacement scheme before demolition commences so as to protect the character and appearance of the conservation area. For Appeal B, the same reason, requires conditions defining the details of the scheme, including provision of additional drawings and materials samples, and preventing extraneous additions to the elevations. To ensure that the scheme is sustainable the provision and retention of cycle parking and a commitment to lifetime homes facilities are needed. To prevent nuisance to nearby occupiers controls over installed plant are necessary and the transmission of noise from the commercial to the residential areas can also be minimised through a condition. Finally, the scale of the scheme is such that precautions need to be taken to ensure that neighbouring occupiers and the nearby underground line are protected from structural damage.

21. With the conditions in place as set out in Annex B, the Appeal B proposal would not harm either the character or appearance of the Charlotte Street conservation area. It follows that the demolition which is the subject of Appeal A is also acceptable. Both appeals therefore succeed.

*B J Juniper*

INSPECTOR

## **Annex A**

### **Conditions – Appeal A**

- 1) The works hereby permitted shall begin not later than three years from the date of this decision.
- 2) The demolition works hereby permitted shall not be undertaken before a contract for the carrying out of the works for redevelopment of the site has been let and full planning permission granted for the development for which the contract provides.

## **Annex B**

### **Conditions – Appeal B**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings numbered 4840/T(10) E01 A; E02 A; E04 A;E05 A;P00 A; P0-1 A;P01 A; P02 A; P03 A;P04 A; S02 A; 4840/T(20) E01 E; E02 F; E03 C; E04 D; E05 C; D01 B; D02 B; P-1 D; P00 F; P01 E; P02 E; P03 E; P04 F; P05 E; P101 B; S02 A; 4840/T(11) P0-1 A; P00 A; P01 A; P02 A and P03 A.
- 3) Detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the Council before the relevant part of the work is begun
  - a) Plan, elevation and section drawings, including jambs, heads and cills of all new external windows and doors at a scale of 1:10 with typical glazing bar details at 1:1;
  - b) typical details of balustrades at a scale of 1:10 including methods of fixing;
  - c) samples and manufacturers details of new facing materials including windows and door frames, glazing, balconies, balustrades, natural stone and cladding. A sample panel of all facing materials shall be erected on site and approved in writing by the Council before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approved details.
- 4) Plan, elevation and section drawings, including where appropriate pilasters, fascias, stallrisers, capitals and cornices and transoms of all new shopfronts at a scale of 1:20 with typical glazing bar details at 1:1 and a survey of existing frontages identifying original features to be retained shall be submitted to and approved in writing by the Council before the relevant part of the work is begun. The development shall be carried out in accordance with the approved details.
- 5) No lights, meter boxes, flues, vents, pipes, telecommunication devices, alarm boxes, television aerials or satellite dishes shall be installed on the north-west or north-east elevations of the buildings.
- 6) Before any development commences, details of the proposed storage facility for 14 cycles shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details

and the storage facilities shall thereafter be retained at all times for their designed purpose.

- 7) The development shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed, and that appointment has been confirmed in writing to the Council, to supervise the demolition and construction works throughout their duration in accordance with the recommendations of the structural engineering details hereby approved. Any subsequent change or re-appointment before the completion of the development shall be confirmed in writing to the Council.
- 8) Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all the plant and equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete, continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90 level, expressed in dB(A).
- 9) Before the use commences details of any plant shall be submitted to the Council for approval, the details to include a full noise survey and details of any acoustic isolation and sound attenuation required to ensure that the plant complies with the Council's noise criteria. The plant shall be installed in accordance with the approved details and thereafter operated in accordance with the manufacturers requirements.
- 10) Before the use commences sound insulation against airborne and impact sound between the proposed commercial uses and any adjoining residential accommodation shall be provided for the building in accordance with a scheme which has been submitted to and approved in writing by the Council. The use shall thereafter not be carried out other than in complete accordance with the approved scheme.
- 11) Any lifetime homes features and facilities indicated on the approved drawings shall be provided in their entirety prior to the occupation of any of the residential units and shall be permanently retained thereafter.
- 12) The development hereby approved shall not commence until a detailed design and method statement of all foundations, basement and ground floor structures to be retained has been approved in writing by the Council in consultation with London Underground Ltd. These details shall demonstrate that the structures to be retained shall be supported throughout the construction period and that there will be no adverse impact on neighbouring buildings or London Underground lines. The development shall be carried out in accordance with the approved details.