



Appeal Decision

Inquiry opened on 9 April 2013

by **C Thorby MRTPI IHBC**

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

Decision date: 3 June 2013

Appeal Ref: APP/X5210/A/12/2188091

Gondar Gardens Reservoir, Gondar Gardens, West Hampstead, London NW6 1QF

- 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 Linden Wates (West Hampstead) Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2012/0521/P, dated 20 January 2012, was refused by notice dated 23 May 2012.
 - The development proposed is redevelopment of the reservoir street frontage to provide 28 residential units (Class C3 use) in two blocks from lower ground to third floors with basement parking, following substantial demolition of the roof and internal structure of the reservoir and its subsequent re-landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The inquiry sat from 9 – 11 April 2013. An accompanied site visit took place on 11 April 2013.
3. A planning agreement was submitted after the date of the Council's decision relating to social and transport infrastructure. In the light of the planning obligations contained therein, the Council considered that the reasons for refusal 3 – 14 had been overcome and they would no longer defend these at the Inquiry.

Main Issues

4. The main issues in this case are:
 - i) The effect on the open land, having regard to its designation as Private Open Space and a Site of Nature Conservation Importance, and its value to the community.
 - ii) The effect on the character and appearance of the area.

Reasons

5. The appeal site comprises around 1.24 hectares of land in West Hampstead and contains a partly underground, decommissioned reservoir and associated open land. The reservoir structure is covered over with a shallow depth of topsoil and grass giving the appeal site the appearance of elevated, open land. With the exception of a strip of land, around 70 metres, fronting Gondar

Gardens the site is enclosed by the rear elevations of mansion blocks and terraced houses. Although it is previously developed land, the majority of the appeal site is designated in the Local Plan as Private Open Space (POS) and a Site of Nature Conservation Importance (SNCI) and is of high environmental value.

Open Land

6. The development would be located along the front of Gondar Gardens infilling the gap between the existing buildings. While a small proportion of the designated POS would be lost, over 98%, located at the rear of properties along Gondar Gardens, Agamemnon Road, and Hillfield Road, would be retained. In addition, the majority of the SNCI (around 93%) would also be retained and through a legal agreement, the area would be passed on to the London Wildlife trust (or equivalent body) to manage, improving its ecological interest and introducing some public access.
7. In reaching a conclusion on this matter I have taken into account a recent planning permission where development was accepted on a significant part of the POS/SNCI and this poses a realistic fall back position to the appeal scheme. I have also considered the effect on protected species, and although there would be some disturbance to the SNCI, particularly during deconstruction of the reservoir, I am satisfied that the mitigation set out in the Reptile Mitigation Method Statement would ensure they would not be adversely affected. Therefore, in this case, the benefits to biodiversity through the future management of the SNCI, and access to the public (albeit limited, in the interests of nature conservation), together with the realistic fall back position (where a scheme with a greater loss of SNCI and POS could be built) would outweigh any small loss of designated POS/SNCI arising from the appeal scheme.
8. There would be sufficient POS/SNCI retained to ensure that its appreciation by the significant number of residents who back directly onto the site, the future occupiers of the appeal development and the public visiting the SNCI would continue and I consider it would remain a public asset. It would, therefore, still be of benefit to the community and there would be no harm in this respect. The retention of most of the POS/SNCI would ensure that the benefits it creates as a 'green lung' amid dense development and its high environmental value would not be diminished.
9. The scheme would protect the POS and enhance the SNCI in accordance with the aims of Core Strategy (CS) policy CS15 and the London Plan (LP) policy 7.18. It would improve access to the SNCI in accordance with LP policy 7.19. These policies are constant with the aim of the National Planning Policy Framework (the Framework) to protect land of high environmental value.
10. However, the policy justification for CS15 goes further, recognising that development adjacent to POS should not cause harm to its appearance or setting, or public enjoyment. Policy 7.4 of the London Plan also indicates that development should improve an areas visual or physical connection with natural features.
11. The part of the site to be built on is open land and from Gondar Gardens it offers pleasing views over the appeal site and beyond to Hampstead. Despite the appeal scheme proposing a gap between the two new blocks, the public

views from Gondar Gardens would be largely lost, reducing the appreciation of the site.

12. Although separated from the site by the road, the occupiers of properties on Sarre Road, which backs onto the opposite side of Gondar Gardens, have views towards the open appeal site. The loss of views and their infilling with new development would not affect their living conditions in terms of light or outlook as it would be too far away, but it would reduce enjoyment of their property. The land to be built on also provides the open setting for, and physical connection for the public to, the POS/SINC and this would be largely lost. There would be some harm arising from the conflict with LP policy 7.4 and CS15 policy justification in this respect.
13. However, the aforementioned recent planning permission for the appeal site accepted development which, although of a much lower scale, would obstruct views of the POS and the land beyond from the public realm. The loss of views from the public realm could take place if the permission is implemented. In addition, while Camden is meeting its housing targets, account has been taken of the considerable benefits of the appeal scheme in contributing towards overall housing numbers (including affordable housing units) in London for which the London Plan indicates that there is a desperate and pressing need. It would enable the reservoir structure (which is likely to deteriorate over time) to be safely demolished and it would add value to the biodiversity at the site. In these circumstances, the loss of views over the site for both the public and the residents of Sarre Road, and any loss to the setting or connection to the POS/SINCI would be outweighed by the significant benefits of the scheme.
14. I do not find, therefore, that the appeal scheme would fail on the first issue.

Character and appearance

15. The appeal site is within part of West Hampstead where there is a distinct local identity, derived from the rhythm, style and size of the housing. Terraced rows of substantial, ornate and highly decorative Victorian and Edwardian houses, interspersed with mansion blocks of a similar style, are typical and are prevalent in many roads surrounding the appeal site.
16. While part of Gondar Gardens follows this pattern, the appeal site stretch of Gondar Gardens is not typical. One side is lined by back garden fences or garages of properties along Sarre Road and the other with the open appeal site frontage, two mansion blocks, and a short terraced row of housing. Although the appeal site is appreciated by local residents as set out above, generally this part of Gondar Gardens lacks any sense of the co-ordinated townscape or sense of enclosure seen in other roads in the area.
17. The proposed blocks would be of a similar height and depth to the adjacent mansion blocks. Although there would be a gap between the two new blocks, the almost continuous frontage development would appropriately match the scale and layout of buildings seen in the area. It would provide a strong sense of enclosure, re-instating the strong pattern of development which is an important part of the character of the area. The size and siting of the development would, therefore, be acceptable.
18. However, my main concern with the appeal scheme is the detailed design. The proposed design seeks to repeat the proportions of houses and bay windows seen in the area, through a series of brick projections. However, the varying

size of the projections, the large expanses of brickwork (seen particularly on the two large projections), the combination of geometric shapes and the four storey sections with a flat roof, only serve to distinguish all elements of its design from those in the surrounding area. There is no visible connection to the intricate shapes, decorative detailing (including red brick and white mouldings) or the strong vertical emphasis seen in the surrounding houses which combine to determine the character of West Hampstead.

19. There are examples of new development of contrasting design in the area. However, they are generally smaller developments, which exert little influence over the area. By contrast, the appeal scheme would stretch some 70 metres along Gondar Gardens, filling most of this section of the road along one side. It would impose a long development of a very different character, thereby significantly harming the distinct and attractive character of this part of West Hampstead and its contribution to the wider area.
20. It is appreciated that the design was as a result of an iterative process with the Council, but it is the appeal submission before me that is for consideration and dealings with the Council have not influenced my decision. The building would be there for many years to come, negatively influencing the character and appearance of the area. The harm from the detailed design would not, therefore, be overcome by the significant benefits of the scheme. It would conflict with LP policy 7.6, CS policy CS14 and Camden Development Policies DP24 which seek to protect local character. These policies are consistent with paragraphs 58 and 60 of the Framework which aim to ensure that development responds to local character including the promotion of local distinctiveness.

Other Matters

21. *White Land*. The land is identified by the Council and residents as White Land; however, this does not indicate that it is suitable for development merely that it is an unallocated site in the Local Plan. Its identification as White Land carries no weight in this case either for or against the proposal.
22. *Planning Obligation*. In addition to the aforementioned matters relating to biodiversity, the planning obligations make provision for contributions towards social, transport, energy and community infrastructure. While these appear to meet the Council's policy requirements, the appeal fails for other reasons.
23. *Traffic/parking*. Parking spaces would be provided which would be acceptable in this location for the type of dwelling proposed. Residents would be unable to gain parking permits and the Council could extend the controlled parking standards if necessary. Some roads in the area are very narrow; however, traffic generated would be relatively low and there is no convincing evidence that the proposal would pose a risk to highway safety.
24. *Living conditions*. The proposed development would be stepped back at either end adjacent to the mansion blocks. While there would be some loss of sunlight and outlook to neighbouring properties, daylight levels would generally be appropriate for their use. In this urban location where substantial dwellings sit close to each other, some restriction of outlook would not be unexpected. In any event, some views across the site would remain. Screening of terraces, obscure glazing and appropriate boundary treatment would ensure that levels of privacy for neighbours and the proposed residents would be satisfactory. Noise generated would generally be of a domestic nature. The proposed car lift

would be within the Council's acceptable noise standards. Construction disruption would be temporary. The scheme would not, therefore, unacceptably harm the living conditions of the neighbours.

Conclusion

25. The development has been designed to minimise the impact on the POS and SNCI and I have concluded that the benefits of the scheme outweigh any small harm in this regard. While many other aspects of the scheme are acceptable including the siting and size of the proposed buildings, the scheme fails on the detailed design as outlined above. For this reason, it would be contrary to National and Local Plan policy and the appeal is dismissed.

Christine Thorby

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms M Thomas

She called

Mr A Wito

Mr C McDonagh

Senior Planner, Development Management
Principal Planning Officer

FOR THE APPELLANT:

Mr R Harris QC

He/She called

Mr C Graham

Mr P Radmall

Mr J Roshier

Rolfe Judd

Peter Radmall Associates

Rolfe Judd

RULE 6 PARTY – Gondar and Agamemnon Road Residents’ Association (GARA)

Mr Seaman

Mr D Yass

Mrs C McCormick

GARA

GARA

GARA

INTERESTED PERSONS:

Mr McCormick

Mr Stonebanks

Councillor Jarira

Councillor Rea

Local Resident

Local resident

Local Councillor

Local Councillor

CORE DOCUMENTS

CD1	Decision Letter
CD2	Appeal Forms
CD3	Officers Report to Committee
CD4	Copy of Planning Application Drawings
CD5	Superseded Drawings
CD6	Planning Portal Forms - Rolfe Judd (dated Jan 12)
CD7	Design and Access Statement - Rolfe Judd (dated Jan 12)
CD8	Planning Statement – Rolfe Judd (dated Jan 12)
CD9	Ecology Action Plan (Rev B) – James Blake Associates (dated Jan 12)
CD10	Statement of Community Involvement – Indigo Public Affairs
CD11 -13	Basement Assessment
CD14 - 25	Environmental Statement
CD26/27	Additional Reports Submitted
CD28	PPA
CD29	Community Forum Meeting Note (dated Dec 11)
CD30	Pre-application Meeting Note (dated Nov 11)
CD31 - 49	Letters and emails

CD50 - 53	Reservoir Scheme
CD54	Inspectors Decision letter 1 st November 2012
CD55	List of Drawings
CD56	Core Strategy Site Designation Plan
CD57	Camden Statement of Consultation (Extract) March 2012
CD58	Sites of Nature Conservation of Importance in Camden SPD (Extract)
CD59	Tree Preservation Order
CD60	S.106 Agreement Dated 1 st October 2012
CD61	Letter from Wildlife Trust
CD62	Highways and Transport Statement – Royal Haskoning dated 7 Mar 12
CD63	Letter from James Blake Associates dated 18 Mar 13
CD64	Charles Graham’s Design Proof of Evidence for Reservoir Scheme

INQUIRY DOCUMENTS

ID1	Letter of notification of the Inquiry
ID2	Attendance lists
ID3	Legal Agreement submitted by appellant
ID4	Section 106 Note submitted by Council
ID5	Statement of Common Ground
ID6 – ID8	Opening submissions for the Council the appellant and GARA
ID9	Mr Yass’s summary proof
ID10	Mr Stonebanks’ statement and attachment
ID11	Mr Seaman’s statement on behalf of GARA
ID12	List of additional material GARA
ID13	Councillor Jirira’s statement
ID14	Mrs Mc Cormick’s summary proof
ID15	Southwark Notes submitted by GARA
ID16	Housing trajectory submitted by Council
ID17	Rebuttal statement submitted by appellant
ID18-20	Closing submissions from the Council, appellant and GARA