



Appeal Decisions

Hearing held and Site visit made on 12 May 2010

**by Martin Andrews MA(Planning)
BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
14 June 2010**

Appeal A: APP/X5210/A/10/2122792

7 Northington Street and 14-17 Kings Mews, London WC1N 2JF

- 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 Capitol City Limited against the decision of the Council of the London Borough of Camden.
- The application, Ref. 2009/4991/P, dated 20 October 2009, was refused by notice dated 27 January 2010.
- The development proposed is the demolition of the existing buildings and erection of a part 3, part 4 storey block comprising 6 flats.

Appeal B: APP/X5210/E/10/2122803

7 Northington Street and 14-17 Kings Mews, London WC1N 2JF

- 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 Capitol City Limited against the decision of the Council of the London Borough of Camden.
- The application, Ref. 2009/5074/C, dated 20 October 2009, was refused by notice dated 27 January 2010.
- The demolition proposed is the existing buildings on the site.

Applications for costs

1. At the Hearing applications for costs were made by Capitol City Limited against the London Borough of Camden. The applications are the subject of separate Decisions.

Decisions

2. For the reasons given below I allow Appeals A and B.
 3. **In respect of Appeal A**, planning permission is granted for the demolition of the existing buildings and erection of a part 3, part 4 storey block comprising 6 flats in accordance with the terms of the application, Ref. 2009/4991/P, dated 20 October 2009, subject to the following conditions:
 - 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 approved plans listed in the schedule (below) which forms part of these decisions.
 - 3) The details of all external facing and roofing materials (including windows, doors and balustrades) to be used on the building shall not be
-

otherwise than those submitted to and approved by the Council before any work is commenced on the relevant part of the development. Such details shall include proposed slab levels of the building in relation to the existing and proposed levels of the site and the surrounding land. These parts of the development shall not be carried out otherwise than in accordance with the details thus approved.

- 4) Sample panels of the external materials, including those demonstrating the proposed colour, texture, face-bond and pointing of the facing brickwork, shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.
 - 5) Obscure glazed privacy screens, details of which shall have been submitted to and approved by the Council, shall be erected on the east side of the 4th floor roof terrace and on the west and east sides of the 3rd floor roof terraces prior to commencement of the use of these roof terraces and they shall be permanently retained thereafter.
 - 6) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
4. **In respect of Appeal B**, conservation area consent is granted in accordance with the terms of the application, Ref. 2009/5074/C, dated 20 October 2009, for the demolition of the existing buildings on the site subject to the condition that the demolition hereby permitted shall not be undertaken before a contract for the carrying out of works of the redevelopment of the site has been made and full planning permission has been granted for the redevelopment for which the contract provides.

Main issue

5. The appeal site lies within the Bloomsbury Conservation Area and the main issue in these appeals is whether the demolition of the existing buildings (which are unlisted) and their replacement by the appeal proposal would be acceptable in terms of the effect on neighbouring properties and the street scene, and would thereby preserve or enhance the character and appearance of the conservation area.

Reasons

6. **Turning firstly to Appeal A**, the application was refused by the Council for eight reasons. However the second of these, relating to a loss of privacy to neighbouring properties opposite the site in Kings Mews, has been withdrawn by the Council following the submission of amended plans prior to the appeal Hearing. As these amendments address a specific concern to the Council's satisfaction and without significantly altering the appeal proposal or causing any apparent disadvantages to third parties I consider that I can determine the appeal on this basis.
7. A further six reasons refer to shortfalls in the application arising from the absence of a 'legal agreement' and at the Hearing the appellants submitted a

Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 which the Council considers has satisfactorily addressed all but one of its original concerns. I have addressed this matter in paragraphs 19-21 below. This leaves the main issue in these appeals as defined in paragraph 5 above, namely the effect of the replacement of the existing buildings by the submitted scheme on the street scene and on the conservation area.

8. In this regard the Council's first reason for refusal refers to just two policies of the London Borough of Camden Replacement Unitary Development Plan 2006 and I agree that these are the key policies in this appeal. Policy B1 sets out general design principles to ensure that development is of a high standard and relates appropriately to its context, whilst Policy B7 seeks to safeguard conservation areas in Camden. The policy indicates that the Council will only grant permission for development that preserves or enhances the special character or appearance of the conservation area and that in the absence of exceptional circumstances conservation area consent will not be granted for the demolition of an unlisted building that makes a positive contribution to the area.
9. Camden (Supplementary) Planning Guidance includes the Bloomsbury Conservation Area Statement (CAS) adopted in 1998 and an emerging (and therefore still to be adopted) revision of that document, the Bloomsbury Conservation Area Appraisal and Management Strategy (CAAMS). The most relevant national guidance is Planning Policy Statement (PPS) 5: 'Planning for the Historic Environment' which supersedes PPG15, applicable at the time of the Council's decision.
10. The thrust of the Council's concern is twofold. Firstly the existing buildings are considered to make a positive contribution to the street scene and therefore the conservation area, such that they should be retained in line with UDP Policy B7. Secondly it is considered that in any event the replacement building would be inappropriate in design, scale, height and form in relation to neighbouring buildings and the street scene. The first point falls to be considered under Appeal B but as the Appeal A application includes the description 'demolition of the existing buildings' and that element is wholly bound up with the proposal for their replacement I hold the view that it can be equally addressed as part of Appeal A.
11. I consider the issue of demolition to be finely balanced. The Council has been consistent in its view that urban renewal on the site should retain the existing buildings, albeit with substantial alterations as envisaged in the January 2009 permission for three houses including two mansard roof extensions. I recognise that this approach is particularly appropriate if the subservient character of Kings Mews, derived from providing service functions to the listed Georgian buildings on the adjoining streets, is to be substantively retained. However that point notwithstanding I am minded to agree with the appellant that there are a number of examples of mews that have retained much more of their historic characters. In contrast Kings Mews has only limited architectural consistency or coherence of style as a result of the piecemeal development that has occurred.
12. This is not to deny that the appeal buildings themselves retain enough of their original characteristics, or perhaps more accurately basic form and scale, to bear at least some witness to their historical role. But whilst I consider that this

- warrants an essentially positive response to question 4 of English Heritage's 10 questions for an assessment of the contribution of unlisted buildings in a conservation area, I concur with the appellant's judgement that the various external alterations (and reported internal alterations) to the buildings result in a largely negative response to the other nine criteria used to ascertain the significance of the building.
13. The omission of appeal site and adjoining properties from the 1998 CAS as making a positive contribution to the character or appearance of Bloomsbury Conservation Area lends support to this view, although on the other hand the Council can refer to the emerging CAAMS with its detailed analysis of Sub Area 11 and scheduling of the appeal site and its neighbours as a 'positive contributor'. However this analysis, undertaken when PPG15 was in force, is now less relevant and I agree with the appellant's view that the new PPS, to which I must attach considerable weight because of its recent publication, is helpful to the justification for the demolition of the existing buildings and their replacement.
 14. Compared with PPG15 there is clearly a change of emphasis, with in particular the policy principles of Policy HE9 making it clear that any loss of a building must now be measured against its contribution to the conservation area as a whole rather than an assessment of its individual merits. Bearing in mind that the appeal site comprises unlisted buildings that have suffered a number of unsympathetic alterations and in part have a context of recent large scale contemporary redevelopments, I do not regard them as satisfying the 'significance criteria' in PPS5. Accordingly, because I consider that at best the buildings make a neutral contribution to the character and appearance of the conservation area, I regard the principle of their demolition as on balance acceptable and not in harmful conflict with UDP Policy B7.
 15. On the second issue, the appearance of the proposed building in its context, I regard the balance of the arguments to be more strongly weighted in the appellant's favour. Although I give some credence to the Council's concern that the appeal scheme places too much emphasis on the appearance of Northington Street and the concept of unifying the building heights of the four corners of the intersection, in my view the appearance of this part of the conservation area is in fact harmed by the somewhat drab and unremarkable appearance of the appeal buildings, in particular No. 7's elevation to Northington Street and its unfortunate conjunction with the much taller No. 9.
 16. To an extent this poor visual quality represents a tension between the character of the area in historic terms and its appearance as an attractive place to live and work in and to visit. But it is because the character of Kings Mews has already been diluted by the various examples of unsympathetic development that this dichotomy exists. It is against this background that I have carefully considered the Council's criticisms of form, scale, height and detailed design.
 17. In making this assessment I have been helped by the photomontages shown in Perspective Views 1-4 which are accepted by the Council as being accurate, albeit partially restricted in their scope by the scaffolding attached at that time to 5 Northington Street. In my opinion these illustrations do support the appellant's view that the replacement building would make a positive

- contribution as required by UDP Policies B1 and B7. Some of the Council's detailed criticisms may well have some validity and indeed I accept the points made as being the components of an ostensibly reasonable development control critique, albeit informed by the assumption that the existing buildings should be allowed to remain. But to my mind the key consideration is how the new building would read as an entity in its varied context and as a link between the quite different street scenes of Northington Street and Kings Mews.
18. When assessed against the Council's issues of form, scale, height and detailing this is a contemporary scheme which in all these key aspects would successfully resolve the difficulties of linking the markedly contrasting buildings of No. 9 Northington Street and 12-13 Kings Mews on a prominent corner visible from Grays Inn Road. In particular the scale and height of the new building at the corner relates well to No. 9 and the set back roof storey of the proposed buildings in Kings Mews ensures a harmonious relationship with the existing mews building of Nos. 12 and 13. And in respect of detailed design I am satisfied that the scheme picks up as much of the existing more traditional building characteristics that can be successfully assimilated in a contemporary scheme. Overall and when considered as a whole the proposed building would be a successful addition to the locality, at least equal in merit to the new building on the opposite corner (No. 5 Worthington St) allowed on appeal and in my view superior to the scheme diagonally opposite (No. 2) which was approved by the Council. I therefore see no harmful conflict with the Council's policies and consider that the character of the conservation area would be at least preserved and its appearance actually enhanced.
19. The final matter to be addressed is the Section 106 Undertaking which the Council accepts satisfactorily addresses the issues raised in reasons 4, 5, 6, 7 and 8 of the Refusal Notice relating respectively to implications of the development as regards requirements for contributions to the provision of educational facilities, public open space, highway works, car free housing and a Construction Management Plan. I am satisfied that the terms of the Undertaking meet the provisions of UDP Policy SD2 (Planning Obligations) and the further individual UDP policies that apply to each subject area. Following discussion at the Hearing and further consideration I am additionally satisfied that the Undertaking meets the statutory tests set out in Regulation 122 of the Community Infrastructure Levy regulations 2010.
20. However an issue remains between the parties in respect of Refusal Reason 3, the absence of any arrangements in the Undertaking for a post construction sustainability review of the new building pursuant to UDP Policy SD9 (Resources and Energy). The appellant is content to be bound by a condition requiring compliance with Level 3 of the Code for Sustainable Homes whereas the Council considers that this would be inadequate as regards ensuring ongoing compliance and that to achieve this a clause should be included in the Section 106.
21. Whilst I can appreciate the Council's preference for such a clause, it seems to me that to all intents and purposes UDP Policy SD9 would be adequately met by a suitably worded condition which would preclude occupation of any of the dwellings unless Level 3 had been achieved in line with the Energy Assessment and Code for Sustainable Homes Pre Assessment Reports submitted as part of the application. As I understand it formal compliance with the Code is still

- voluntary, albeit that the equivalent of Level 3 will shortly be a minimum requirement under the Building Regulations. And I accept the appellant's point that it is unlikely both that future occupiers of the building would make significant changes to the fixtures and fittings detrimental to its energy efficiency or that the Council or others would undertake regular monitoring of the building during its lifetime.
22. Overall in respect of Appeal A, I consider that, on balance, there would be no harmful conflict with UDP policies, in particular Policies B1 and B7, and local and national guidance and accordingly conclude that the demolition of the existing buildings and their replacement by the appeal proposal would, as a minimum, preserve the character and appearance of the street scene and the conservation area.
23. The Council has suggested some conditions if the appeal is allowed. Two conditions require the submission of further details of existing and proposed levels of the site and surrounding land and of external materials including samples. These are necessary to ensure a harmonious form of development, whilst a further condition requiring obscure glazed privacy screens will protect the privacy of existing residents and future occupiers of the scheme. Finally, in the light of my findings in paragraphs 20 & 21 above I consider that a condition is required for the building to be constructed to Code level 3 in the interests of energy efficiency and the encouragement of sustainable homes.
24. **Turning briefly to Appeal B** in respect of the refusal of conservation area consent for the demolition of the existing buildings on the site, as I have concluded in Appeal A that both the loss of the existing buildings and the form of the proposal would be acceptable in the street scene and not harmful to the character and appearance of the conservation area there is now no reason to withhold permission for demolition. However to safeguard the character and appearance of the conservation area a condition is necessary to ensure that the demolition is not carried out until there is a reasonable certainty of a replacement building being erected, as evidenced by a contract and, if appropriate, an alternative permission to that granted in Appeal A.

Martin Andrews

Inspector

APPEARANCES

FOR THE APPELLANT:

Ms H Cuthbert	Planning Potential
Ms J Fox	" "
Mr J Edis	CgMs Consulting
Mr A Pile	A + D Studio
Mr N Wainwright	" "
Ms E Wainwright	" "
Mr D Spencer	Capitol City Ltd, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Thuair	London Borough of Camden
Ms V Fowls	" " "

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Section 106 Unilateral Undertaking Planning Obligation
- 2 Appeal decisions ref. Bedlington Old School, Bedlington, Northumberland.

SCHEDULE OF PLANS

- A Application plans (as amended) and listed in schedules in Appellant's Drawings Folder cited 'Final Drawings - April 2010':

Drawings Nos. 0526-0200; PL1; 0526-0202 Rev. M; 0526-0203 Rev. M; 0526-0204 Rev. M; 0526-0205 Rev. N; 0526-0206 Rev. G; 0526-0300 Rev. K; 0526-0301 Rev. D; 0526-0302 Rev. E; 0526-0400 Rev. C; 0526-0401 Rev. E; 0526-0402 Rev. D; PR001 Rev. G; PR002 Rev. C; PR004 Rev. A; PR005; PR006 Rev. B; PR007; 1052_07_05_01; 1052_07_05_02; 1052_07_05_03; 0526-0001; 0526-0002; 0526-0003; 0526-0004 Rev. A; 0526-0005; 0526-0006; 0526-0007.

Illustrative Drawings Nos. 0526-0101; 0526-0102; 0526-0103; 0526-0303 Rev. A; 0526-0305; PR003 Rev. B.