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| Address: | 7-15 Whitfield Street, W1 | |
| Application Number: | 2007/5162/P | Officer: Alex Bushell |
| Ward: | Bloomsbury | |
| Date Received: | 08/10/2007 | |
| Proposal: | Redevelopment of site comprising the erection of a part 2, 3, and 6 storey building with retained basement, for uses comprising 22 self contained residential flats (Class C3), flexible Class B1/D1/D2 uses, a secondary electricity substation (Sui Generis) and ancillary facilities including a service area with retained vehicular access from Whitfield Street, refuse store and cycle parking. | |
| Drawing Numbers: | C1 – C5, CP.01, CP.02, P.01 – P.08, E1 – E4, S1 – S3, Planning Statement ref: 14297/A5/3 rd PA/Planning Statement dated Oct 2007, Design and Access Statement Ref: A07.58.2A dated Oct 2007, Ecology Appraisal ref C2764_03b dated 3 rd October 2007, Ecohomes and BREEAM Preliminary Assessment ref D11660 dated 3 rd October 2007, Renewable Energy Statement dated November 2007, Sunlight and Daylight Report ref IA/SW/WH09 dated 17 October 2007, Transport Statement dated October 2007, and Bat Survey ref C2764_04b dated 12 November 2007. | |
| RECOMMENDATION SUMMARY: Grant Planning Permission Subject to a Section 106 Legal Agreement and Conditions | | |
| Related Application | | |
| Date of Application: | 08/10/2007 | |
| Application Number: | 2007/5188/C | |
| Proposal: | The substantial demolition of the existing sub-station building. | |
| Drawing Numbers: | C1 – C5 | |
| RECOMMENDATION SUMMARY: Grant Conservation Area Consent Subject to Conditions | | |
| Applicant: | Agent: | |
| Artesian Property Partnership | Barton Willmore | |
| 60 Webbs Road | 7 Soho Square | |
| London | LONDON | |
| SW11 6SE | W1D 3QB | |

ANALYSIS INFORMATION

| Land Use Details: | | | |
|---------------------------|--------------|--|------------------------------|
| | Use Class | Use Description | Floorspace (m ²) |
| Existing | B1 | Offices | 522 |
| | B8 | Depot/Storage | 1,044 |
| | SG | Substation | 1446 |
| | Total | | 3,012 |
| Proposed | C3 | Residential flats | 2,896 |
| | B1/D1/D2 | Office/Non-residential institution/Community use | 1,289 |
| | SG | Substation | 46 |
| | Total | | 4,231 |
| Total Increase (%) | | | 1219 (40%) |

| Residential Use Details: | | | | | | | | | | |
|--------------------------|-------------------------|--------------------------------|---|---|---|---|---|---|---|----|
| | Residential Type | No. of Bedrooms Rooms per Unit | | | | | | | | |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ |
| Proposed | Flats/maisonette/houses | 3 | 7 | 5 | 7 | | | | | |

OFFICERS' REPORT

Reason for Referral to Committee: The proposal is defined as a 'major' application comprising more than ten residential units and more than 1000m² of non-residential floorspace. Any grant of permission would also require the conclusion of a Section 106 Planning Obligation in part relating to matters outside the normal scheme of delegation. In addition the recommendation includes conservation area consent for the substantial demolition of a building in a conservation area [Clauses 3(i), (v) and (vi)]

Members are advised that the application is one that should be determined within 13-weeks, the expiry of which is 7th January 2008. However, in light of the appeal hearing date of 12th December 2007 and the S106 undertaking to withdraw the appeal (see relevant history below for more details) should Members be minded to grant permission, it would be necessary to make a decision on the Committee date.

1. SITE

- 1.1 The site is located to the immediate south of the Crabtree Fields area of public open space with a frontage facing Whitfield Street. The south and west boundaries of the site adjoin the rear of buildings facing Windmill Street and Charlotte Street.
- 1.2 The existing building on the site forms part of a substation/depot/office building permitted in 1954 which has been partially constructed. In its existing form, the building is 2/3 storeys high with a higher component facing Whitfield Street, basement and service access road. The 1954 permission is addressed in greater detail in the Planning History section below.
- 1.3 The site is within the Charlotte Street Conservation Area and the UDP-designated Fitzrovia Central London Area. Significant to the application is the Council-approved (2002) Planning Brief relating specifically to the development of the site, which has been further reinforced by the replacement UDP as Land Use Proposal Site 41. The adjoining Crabtree fields is designated as public open space in the UDP and there is a listed building to the west of the site facing Charlotte Street (No. 26) and others beyond the park in Colville Place.

2. THE PROPOSAL(S)

- 2.1 The application for conservation area consent relates to the substantial demolition of the existing building on the site. All below ground elements comprising the foundation and lower ground floor would be retained.
- 2.2 The planning application for redevelopment proposes a part two, three and six storey building utilising the existing foundation and retaining the basement floor and a similar access arrangement. The front part of the building facing Whitfield Street would be the six storey component, the top floor forming a smaller subservient component with part of the roof area of the fifth floor setback being a 'green' roof. The rear part of the building is three storeys in height also with a 'green' roof, and a smaller two storey component is proposed at the rear of the site closest to the rear of the Charlotte Street properties.

- 2.3 The uses proposed incorporate flexible B1 (office), D1 (Non-residential institution) and D2 (Assembly and leisure) in the two level basement with a lobby/entrance area on the ground floor Whitfield Street frontage. The applicant wishes that this area remain flexible as no use/user has been identified at this stage. Some interest has been expressed by a private medical provider (Class D1) and the applicant anticipates that there may also be demand for a private gymnasium (Class D2).
- 2.4 The predominant use proposed is residential comprising 22 units with a mix of nine units social rent, two units intermediate (shared ownership) and 11 units market. The size mix comprises three one-bedroom (all affordable), seven two-bedroom (four affordable and three market), five three-bedroom (four affordable and one market) and seven four-bedroom (private). The private market units will be in the rear lower three and two storey component of the building and the affordable in the six storey frontage building facing Whitfield Street.

3. RELEVANT HISTORY

- 3.1 Planning permission was granted in 1954 for the erection of a 5-storey building on the site of 7-15 Whitfield Street and a 6-storey building on 22-26 Whitfield Street for use as a bulk supply electricity substation, depot and offices. The permission was partially implemented by way of the substation and depot with a small office component and could, in theory, be completed and/or further partially implemented at any point in the future. However, one of the buildings in Charlotte Street has since been listed and the conservation area designated. Consequently, the Charlotte Street element cannot be implemented without a grant of conservation area consent for the demolition of the unlisted buildings and listed building consent for the demolition of the listed building. Such consents are unlikely to be forthcoming and the design is from a different era with different technical needs suggesting little likelihood of continued implementation, which would limit the weight that can be attached to the extant planning permission in the determination of the planning application the subject of this report.
- 3.2 Temporary planning permission was granted for the change of use of parts of the basement, ground and first floors as a training school for electrical fitters for a period covering 1967 to 1972.
- 3.3 The 2005 Committee refused permission for a scheme with a different mix of uses within a building with a larger external envelope on 30/09/2005 as reference 2005/2739/P described as follows: "The redevelopment of the site by the erection of a part 4, part 5 storey building with retained basement, for uses comprising 13 self-contained residential units (Class C3), flexible non-residential institutions/community use (Class D1 and/or Class D2), offices (Class B1), and a secondary electricity substation (sui generis), and ancillary facilities including a service bay with retained vehicular access from Whitfield Street, refuse store and cycle parking". The reason for refusal was an objection to the physical scale of the building and the overbearing effect it would have on the adjoining public open space. An appeal was made against the refusal of permission.
- 3.4 The appeal against refusal of permission/consent was determined following a hearing held on 11th April 2006 and the Planning Inspectorate issued the decision notice on 5th May 2006 allowing the appeal. As a result of a subsequent challenge

to the High Court on a point of law under Section 288 of the Town and Country Planning Act 1990 by a interested party (The Charlotte Street Association), the Treasury Solicitor took the view that there were merits to the claimant's case and proceeded to decision with the effect that the planning permission and conservation area consent were quashed. Consequently, the appeal has been referred back to the Inspectorate for determination a second time. The date for the hearing is set for the 12th December 2007 and the applicants have included an undertaking to withdraw the appeal if this application is approved by the Committee, which they have agreed to be incorporated as a head of term in the Section 106 accompanying the recommendation

- 3.5 Prior to the date of the first appeal hearing (April 2006) and the issue of the Planning Inspectorate Decision Notice, the Council refused planning permission and conservation area consent for a second revised redevelopment scheme – references 2006/0242/P and 2006/0245/C, decision date 31/03/2006 – described as “The redevelopment of the site by the erection of a part 2, part 3, part 5 storey building with retained basement, for uses comprising 8 self-contained residential units (Class C3), flexible medical floorspace (Class D1), office floorspace (Class B1), a secondary electricity substation (sui generis), and ancillary facilities including a service provision with retained vehicular access from Whitfield Street, refuse store and cycle parking, involving substantial demolition of the existing sub-station building (retention of basement and lower ground levels)”. This decision was made within the current policy context (ie following the adoption of the 2006 UDP) and was refused permission for the following reasons:
- The scheme did not make the ‘fullest possible’ use of the site for residential purposes and it did not represent the ‘predominant’ use contrary to Policy H1 and the guidance in Land Use Proposals in the UDP in respect of the site (Site 41);
 - The mix of uses was contrived to avoid a requirement for affordable housing;
 - The residential component failed to incorporate a suitable range of unit sizes;
 - The building would have an overbearing impact on the public open space (as per the previous decision); and
 - Various other matters that would have been included in and addressed by a Section 106 had a recommendation to grant been forthcoming.

- 3.6 The scheme the subject of this report has evolved to address the reasons for refusal detailed in the preceding paragraphs.

4. CONSULTATIONS

- 4.1 Note: The consultation period expired on 16th November, which was the Friday preceding the week this report was included on the agenda. In light of the fact that a number of consultees have advised by telephone that Post Office industrial action disrupted the consultation period and all who may wish to have submitted representation may not have had the opportunity to do so, it is proposed to report and respond to all additional representations verbally to the Committee or on the supplementary papers.

Conservation Area Advisory Committee

- 4.2 The **Charlotte Street CAAC** has commented on the application and officers are seeking further clarification in respect of whether it constitutes an objection. The full comments and response will be included on the supplementary papers.

Local Groups

- 4.3 The **Charlotte Street Association** is cognisant of the history of the site and considers that, whilst there remain shortcomings in respect of bulk and failure to include open space, it nonetheless represents a significant improvement on earlier schemes and the scheme the subject of the appeal hearing on 12th December. In particular, the Association considers the reduced bulk will materially reduce the impact on the park and the increase in the proportion of residential use with affordable housing is welcomed. The Association now believes ‘that it is realistically the best balance of priorities likely to be achieved and therefore supports the scheme’ subject to caveats as follows: the flexible uses for the basement are too wide ranging and certain uses may cause nuisance – suggests that this matter may be resolved by limiting the flexibility of use by condition or using conditions to address the nature of the potential disruption; The scheme does not include any public open space and the submitted undertaking for specified financial contribution is totally inadequate having regard to the formula in CPG. Any negotiated monies should be spent on Crabtree Fields; that the pedestrian pavement on the Whitfield Street frontage would remain too narrow and requests that the lightwell be redesigned to extend the pavement into the site; it is assumed that the private and affordable housing would share refuse space as no separate space is shown; and suggests improvements to the entrance to the affordable housing/wheelchair unit is not to standard and can easily be modified to make it acceptable. In addition, the Association requests that the dimensions between the new housing and the boundary of the open space be fixed and that construction management forms part of a Section 106.
- 4.4 The **Friends of Open Spaces – Fitzrovia** considers the scheme to be an improvement on previous schemes and welcomes the reduction in bulk and reduced impact on the park. However, whilst noting the reduction in depth of the larger component facing Whitfield Street, it considers that the height is excessive and ‘may well have an adverse effect on that corner of the gardens’. The Friends of Open Spaces points out that there is still no open space included within the site and the offered financial contribution in lieu is derisory. Such payment should be increased and spent on Crabtree Fields. Finally concern is expressed in respect of the excessively wide range of uses included for the basements.

4.5 **Adjoining Occupiers**

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|-------------------------------------|------------|
| <i>Number of Letters Sent</i> | 107 |
| <i>Number of responses Received</i> | 16 |
| <i>Number of Objections</i> | 12 |
| <i>Number of comments</i> | 4 |

- 4.6 Objections are raised on the following grounds: the proposed building would have an overbearing physical impact on the POS, which would result in loss of openness

and sunlight detracting from its use and damaging to flora and fauna; the design of the 'office block' (it is thought that the objector is restating objections from a previous incarnation of the scheme as refers to the larger part of the building facing Whitfield Street) is rather assertive and inappropriate in terms of proportions, materials and fenestration; building is out of character with the Conservation Area; development is 'against the guidelines in the Conservation Area Statement' (not specified); loss of sunlight, daylight, privacy and air to residents in Windmill Street (occupants of flats in nos 33, 34 and 37 have responded on direct amenity issues); increased noise and traffic congestion; bulk exceeds the requirement of the brief; scheme is for expensive homes and does not include affordable housing; development would result in excessive disruption during construction (respondent is a full time writer that works from home); and a suggestion that the existing building be demolished and replaced with a public open space.

5. POLICIES

5.1 Set out below are the UDP policies that the proposals have primarily been assessed against, together with officers' view as to whether or not each policy listed has been complied with. However it should be noted that recommendations are based on assessment of the proposals against the development plan taken as a whole together with other material considerations.

Camden Unitary Development Plan 2006

- 5.2
- SD1 Quality of life (complies);
 - SD2 Planning obligations (complies subject to S106);
 - SD3 Mixed use developments (complies);
 - SD4 Density of development (complies);
 - SD5 Location of development with significant travel demand (complies);
 - SD6 Amenity for occupiers and neighbours (complies);
 - SD7 Light, noise and vibration pollution (complies);
 - SD8 Disturbance (complies subject to conditions/S106);
 - SD9 Resources and energy (complies subject to S106);
 - H1 New Housing (complies);
 - H2 Affordable housing (complies);
 - H7 Lifetime Homes and wheelchair housing (complies subject to Section 106);
 - H8 Mix of units (complies);
 - B1 General design principles (complies);
 - B2 Design and layout of large developments large enough to change their context (complies);
 - B7 Conservation areas (complies);
 - N2 Protecting open space (complies);
 - N4 Providing public open space (complies subject to S106);
 - N5 Biodiversity (complies subject to conditions/S106);
 - N6 Protected species and their habitats (complies subject to S106);
 - T1 Sustainable transport (complies subject to S106);
 - T2 Capacity of transport provision (complies subject to S106);
 - T3 Pedestrians and cycling (complies subject to conditions and S106);
 - T8 Car free housing and car capped housing (complies subject to S106);
 - E1 Location of business uses (complies);
 - E2 Retention of existing business uses (overridden by site designation);

C1 New community uses (complies); and
LU1/Site 41 Schedule of land use proposals (complies).

Supplementary Planning Guidance

- 5.3 Planning Brief No. 33 (complies);
Charlotte Street Conservation Area Statement (complies);
Internal arrangements for residential development (complies);
Community safety (complies);
Pollution – Noise/construction/plant and machinery/light (complies subject to conditions/S106);
Car free housing (complies subject to S106);
Planning obligations (complies);
Education contributions (complies subject to S106);
Public open space contributions (complies subject to S106);
Sustainable design and construction (complies subject to S106);

6. ASSESSMENT

- 6.1 The principal considerations material to the determination of this application are summarised as follows:

- Land use;
- Tenure, unit size mix and quality of proposed residential use;
- Design and townscape;
- Impact on public open space;
- Residential amenity; and
- Transport and parking.

Land Use

- 6.2 Residential Use Relevant to the redevelopment of this site is the approved Planning Brief 33 (2002), which acts as supplementary planning guidance and carries significant weight in the determination of the application. The planning brief states that housing should be the 'primary' land use in any proposed mixed-use scheme and that the major land use anticipated is housing. The site is included in the replacement UDP land use schedule (Site 41) with a change stating that the preferred use be "residential or mixed use, predominantly residential". Also relevant to the application is UDP policy H1, which sets out the Council objectives of meeting and exceeding the strategic housing target for the Borough, by in part, seeking "to secure the fullest possible residential use of vacant and underused sites or buildings"
- 6.3 The overall quantum of residential floorspace proposed in the application is 2,896m², representing a 68% proportion of the scheme. It is considered that this proportion represents the fullest possible use of the site for residential use and is the primary or predominant use, particularly when considering that the non-residential use would be confined to the below ground component of the scheme. Consequently the use split is welcomed and in compliance with generic and site specific policy requirements.
- 6.4 It is important to stress that all former incarnations of the scheme do not include the same amount of residential or proportion of residential floorspace, indeed the

appeal scheme that the applicants have agreed to withdraw if permission is granted for this application would contain roughly 35% residential without affordable housing. The Council and local groups are particularly keen to secure residential use in the Fitzrovia Central London Area, particularly if it is of a scale that assures provision of affordable housing, the latter in acute need in the local area (see also paras 6.7 – 6.9 below).

- 6.5 Protection of Employment Use The nature of the existing lawful use of the site as a combined electricity sub-station and partially unimplemented office (Class B1) is not a use or building that the Council seeks to protect under the terms of policy E2, particularly as the site designation seeks predominantly residential use and the building has been vacant and unused for a significant period of time. Such considerations are allied with the assessment of the character of the area, which provides for a residential enclave in an otherwise commercial area. The incorporation of the flexible uses (see below) would, in any event, provide an element of employment generating floorspace
- 6.6 The Flexible B1/D1/D2 uses The application includes the flexible use of the two basement levels for class B1, D1 and D2 uses with an access lobby on the ground floor frontage of the proposed building facing Whitfield Street. This component of the use is proposed to be flexible as the applicant wishes to keep options open in respect of finding a suitable occupant, although interest has been expressed by a private medical provider. There are certain uses within the defined use classes that have the potential to cause nuisance to existing residential neighbours and the proposed residential users within the site/scheme. As the provisions of planning legislation allows for applications for flexible use, it would be inappropriate to restrict the use range by condition, consequently conditional control is recommended to tackle the specific problems that may arise from certain uses, particularly within Class D2 (Assembly and Leisure). To this end it is recommended that the hours of use be limited in the evenings and weekends and that the use of amplified music be restricted in such a manner that ensures it would not be audible outside the building envelope.

Tenure, unit size mix and quality of proposed residential use

- 6.7 Affordable Housing As the amount of residential floorspace and numbers of units exceeds the trigger for affordable housing; the applicants have included provision for both social rented and shared ownership housing. Of the 22 residential units proposed, 11 would be affordable with a split of nine social rent and two intermediate. The two intermediate units are at the west end of the Mews (facing the POS), the wheelchair one-bed unit fronts Whitfield Street alongside the various receptions and entrances, and the remaining eight social rented units are located two on each of the four floors above (1 x 2 bed, 1 x 3 bed).
- 6.8 Whilst the numbers of units proposed meets the target for affordable housing, a calculation of the approximate floorspace figures shows the split to be 68.7% market, 27.0% social rent, 4.3% intermediate. In floorspace terms, this is a relatively poor offer of affordable housing, 31.3% when considered against the policy objective of 50%. On balance, it is considered that this proportion may be acceptable in this instance partly on the basis that the Council attaches greater significance to the social rented element. This estimated social rented proportion by floorspace is 27%, rather closer the guideline target of 35% than the overall

proportion is to 50%. Further, there is no major shortfall in the quality of the social rented units or mix of unit sizes offered (see paras 6.10 and 11 below). A financial appraisal has been requested, both to persuade the Council that a 31.3% affordable housing proportion (by floorspace) is acceptable, and to enable an RSL to seek Housing Corporation funding.

- 6.9 Negotiations in respect of the involvement of an RSL and the precise rental levels and control mechanism for the intermediate housing are ongoing as part of the conclusion of the Section 106. If the outcome of negotiations has an affect of any of the assumptions herein, the matter will be reported verbally to the Committee.
- 6.10 Mix The market housing involves 3 x 2-bed, 1 x 3-bed and 7 x 4-bed units. Although skewed towards large units, this represents a mix of large and small units, which would comply with policy H8. Mix guidance is more specific for affordable housing as set out in the CPG. Intermediate should ideally include units with 2 habitable rooms and units with 2 or more bedrooms, but para 3.47 allows for a high proportion of 1-bed units where larger social rented units are provided. The intermediate proposal of 2 x 1-bed units is acceptable in this respect. CPG for social rented seeks 50% x 3-bed plus and 30% x 2-bed. The Council also seeks a proportion of 4-beds, but acknowledges the difficulties in provision in specific contexts. The proposal involves 4 x 3-bed, 4 x 2-bed (44% each) and 1 x 1-bed, which is as close to the guidelines as could be achieved, and is acceptable. All units are stated to comply with lifetime homes criteria. A wheelchair unit is proposed on the ground floor fronting Whitfield Street. Policy H7 requires 10%, or 2 units for this scheme. At least one of the market units should also be identified as, and shown to be, easily adaptable to wheelchair standards. Both full demonstration of the 'Lifetime Homes' standards and the provision of the two wheelchair adaptable units are proposed as a head of term for the accompanying S106.
- 6.11 Other qualitative issues The applicant acknowledges that no on-site amenity space is provided for the social rented units, but notes the proximity of Crabtree Fields. All other units have a reasonable amount of private amenity space, although this is relatively limited for market units above the access arch. In the context of the streetscene and in the interests of maintaining internal space, the absence of balconies to the social rented space is considered to be appropriate. For affordable housing (specifically the two-bed plus units), all the kitchen and living spaces are combined. However, this is not part of published CPG at this time. In this instance, no flat is intended for more than 4 persons, and the shared kitchen-living space is reasonably large.

Design and Townscape

- 6.12 The site, being within the Charlotte Street CA, near to listed buildings in Charlotte Street and Colville Place and adjacent to the Crabtree Fields public open space, is significant in townscape terms and any replacement building should be of a high quality design and respect its context. The Brief for the site reinforces this position and sets out a number of additional parameters to be considered, summarised as follows: the existing building does not contribute the character and appearance of the CA and its demolition is acceptable subject to a suitable replacement; the main elevation of the development should face the open space; potential for up to five storeys on the Whitfield Street elevation and the rear stepped down to the rear and

exceed no more than three storeys; and the Whitfield Street elevation should have a vertical emphasis in its elevational design.

- 6.13 Demolition As set out in the Brief, the existing building on site, being a partially complete structure of no architectural merit, has no particular value to the Conservation Area and no objection is raised in respect of its removal subject to any replacement being of equal or greater value to the character and appearance of the Conservation Area.
- 6.14 Bulk, Scale and Massing Unlike the 2005 and 2006 schemes (see history section above), the bulk, scale and massing of the above ground component now complies with the letter of the brief proposing five floors to the Whitfield Street frontage stepping down to three storeys at the rear. The one exception is the incorporation of the set back top (sixth) floor on the Whitfield Street part of the building. However the degree of set back and the subservient nature of the material choice and design reduce its visual significance when viewed from principal street level vantage points. Significantly the parapet line of the adjoining building to the south (3-5 Whitfield Street) would be matched by that on the proposed building.
- 6.15 Design and Materials The elevational design of the building and the palate of materials proposed have evolved significantly since the 2005 and 2006 schemes in close consultation with the Council's Conservation and Urban Design Team, largely in response to the differing scale now proposed and the removal of the commercial element to the Whitfield Street frontage. The building design, particularly the smaller long elevation facing Crabtree Fields POS, now draws on the form and proportions of the surrounding streets' domestic scale, particularly the rows of terraced town houses facing the site in Colville Place, and creates an acceptable scale relationship with the park. The proposed design is carried through to the larger front and flanks elevations at the street frontage with a grander vertical emphasis on the frontage building, also in compliance with the parameters set out in the Development Brief. Brick panels have now been introduced to draw on the material character of this enclave of the Conservation Area. Conditions are recommended to exercise precise control over the material finish and quality of detailing.
- 6.16 Sustainability The applicant has submitted supporting BREEAM and Ecohomes pre-assessment statements as well as a renewable energy statement to demonstrate that the proposed building is capable of achieving a rating of 'very good' and meet the 10% renewable energy target for major development in line with Policy SD9 and supporting CPG. The relevant formal assessment will have to be undertaken, a matter the subject of a recommended head of term in the S106, which will include provisions to ensure that the relevant credits are achieved for energy, water, materials and resources. The development is unlikely to materially worsen drainage conditions as the existing basements would be retained and reused.
- 6.17 The significant components of the sustainable design relate to the formation of extensive areas of green roof and the provision of a biomass heating system. The submitted renewable energy strategy both demonstrates why other techniques are not feasible in this site and includes precise designs and calculations to demonstrate that the biomass system backed up by conventional boilers will

produce 10% of the site electricity needs shared among the respective users of the building. Alternative techniques such as borehole cooling cannot be utilised due to the extent of concrete in the basement to be retained (a consideration that must be balanced against the embodied energy in the below ground part of the building to be retained) and the solar heating as it would reduce the amount of green roof proposed, itself a potential benefit to the biodiversity of the site and the adjoining POS. The undertakings in the submitted renewable energy statement are the subject of the recommended S106 head of term.

- 6.18 Overall it is considered that the size and design of building together with the materials proposed relates well to its surroundings, both the interface with the larger scale street elevation and the smaller domestic scale of buildings facing the park such that it would be of greater benefit to the character and appearance of the Conservation Area and appropriately respect the setting of nearby listed buildings. The incorporation of sustainable design and construction techniques including the green roof and biomass boiler are welcomed and ensure compliance with the relevant policies.

Impact on Public Open Space (POS)

- 6.19 In addition to the design/townscape considerations above, the Council must have regard to the relationship between the proposed building and the park; in particular Policy N2 applies and is reinforced in the Brief. The policy requires that development adjoining public open space should not harm its wholeness, appearance or setting or is likely to intrude on public enjoyment of the space. In addition, the policy 1 of the Mayor's Draft Biodiversity Strategy seeks to promote the protection of London's wildlife and important species. The site includes important habitat for Starlings and Sparrows, both protected species in their own right (Wildlife and Countryside Act 1981). A sighting of a protected bat species has also been reported but not formally confirmed. Finally, the POS is the only space in the CA and is within an area with a general deficiency in green space accessible to the public.
- 6.20 Physical Impact of the Structure The Committee in 2005 placed considerable emphasis on the issues associated with the bulk of the proposed building and the impact it would have on the open space. Indeed the 2005 refusal of permission was solely on this basis. Consequently the applicant has worked closely with the Council and local groups to ensure that the development now proposed addresses those concerns. Significant factors in support of the scheme include a reduction in the scale of the building such that the height of the lower elevation facing the park is not significantly higher than the existing building parapet and has the same elevational plane and therefore separation from the space; combined with the removal of the external plant tower and the overall reduction in bulk of the frontage building. In addition, the applicant has adjusted the elevation design and amount of fenestration to present a more neutral relationship with the space. The combined effect significantly reduce the sense physical dominance that the previous building was perceived to have to the extent that it would not demonstrably harm the wholeness, appearance or setting of the POS or detract from the public enjoyment of the space.
- 6.21 Overshadowing In terms of the precise degree of overshadowing Council assessment must have regard to the Building Research Establishment (BRE)

guidance, which requires that no more than two-fifths of a park be prevented by buildings from receiving any sunlight at all on 21st March. The applicants' have submitted an independent shadowing assessment demonstrating that there would be shadow during the morning (measured at 10am), significantly reduced by 12noon and there would limited shadow in the afternoon. The area of permanent shadow would be less than the two-fifths specified by the BRE and is consequently acceptable in sunlight terms and would not materially affect its usability.

- 6.22 Biodiversity The development has also been modified to increase the existing limited biodiversity value of the application site, whilst simultaneously enhancing the value of the park having regard to the small amount of additional overshadowing that would result. An independent ecological appraisal has been submitted as well as a bat survey in support of the application.
- 6.23 Significant in terms of the protected bird habitat, the application now includes the retention of the southern boundary fence and all associated vegetation, which the Council's biodiversity officer and the Ecological Appraisal has identified as being a nesting habitat. The retained boundary will also be supplemented with additional planting within the application site. The bat survey shows that there is no evidence that the existing building has been used for nesting purposes. Provided demolition works are not undertaken during the bird nesting period and the works of construction are suitably controlled (part of the requirement of the S106 construction management plan), then it is anticipated that the development could be undertaken without harm to existing protected species or their habitat and that the development would therefore comply with policy N7. Nonetheless the applicants must also satisfy Natural England that the works will not harm protected species and comply with the provisions of the 1981 Act.
- 6.24 Policy N5 requires that in addition to preserving biodiversity, measures will also be sought to enhance and create new wildlife habitat. To this end, the application includes extensive areas of green roof. A condition is recommended to control the precise form of the green roof to ensure that it makes a genuine contribution to biodiversity. In addition, the applicant has undertaken to include a financial contribution to bat and bird nesting boxes in the adjoining open space (See S106 heads of terms). The council is also able to require the submission of a landscaping scheme for the site and incorporate additional measures to enhance biodiversity.
- 6.25 Increased demand on POS Policy N4 of the UDP seeks to ensure that the existing deficiency in open space provision in the area is not made worse as a result of additional pressure to use the space by the future residents or other users of the building proposed for the application site. To this end the policy and supporting CPG seeks POS within the site, or if this not practicable, then CPG includes a formula for calculation a payment in lieu for contribution to existing POS. The Development Brief also includes an aspiration for extending the existing open space into the site.
- 6.26 It has been accepted that the wide ranging constraints to the redevelopment of this site would mean that provision of public open space within the site would not be practicable having regard to the financial returns and likelihood of the site being redeveloped at all. Consequently, the applicants have included an undertaking to provide a payment in lieu for the Council to be spent on maintaining and upgrading

Crabtree Fields. The amount initially offered is significantly below the amount required in the CPG formula. It is recommended therefore that the relevant S106 head of term be negotiated to ensure that the correct amount is included.

Residential Amenity

- 6.27 Those most likely to be affected are the rear of properties facing Windmill Street and Charlotte Street (largely the upper floors due to the extent of ground floor development), the adjoining building in Whitfield Street and Colville Place. The material considerations in this regard relate to loss of light, outlook, privacy, noise – from proposed plant, and light pollution. The new building would not be significantly higher than the existing building from parapet level and 2.5m closer to the rear of the Windmill Street elevation.
- 6.28 Light The applicants have commissioned a detailed independent daylight assessment, which includes a vertical sky component (VSC) and average daylight factor (ADF) tests as recommended by the BRE in respect of all residential uses specified above. The report concludes as follows: In 33-37 Windmill Street – all second floor windows apart from 33 would pass the VSC test which specifies a reduction of less than 20% of its former value. In the case of 33 and all first floor windows the change is greater than 20%; however, the more detailed ADF tests indicates full light penetration and demonstrates that the amount of light meets the minimum British Standard for relevant room types. In 41-42 Windmill Street – all windows pass the VSC test. In both cases the elevation faces north and there would be no loss of direct sunlight. All other addresses affected would meet the relevant standards in BRE and are acceptable in daylight and sunlight terms.
- 6.29 Outlook The small increase in height of the building and its closer proximity of the rear elevations of Windmill Street and Charlotte Street properties and in the case of the Whitfield Street property, a deeper projection – is not sufficient to materially detract from the level of outlook that residents currently enjoy. There will be some loss of view; however such a consideration is not material to the planning process. It should be noted that the green roof would improve outlook from higher windows.
- 6.30 Privacy The windows facing the rear of properties facing Windmill Street (the south elevation) fall within the 18m separation distance set out in the UDP. In recognition of this fact the applicants have included a purpose-designed window screen to minimise direct views, which is the subject of a recommended approval of details condition. Such control would enable to Council to prevent direct views between the existing and proposed buildings. There would be no windows facing Charlotte Street (west) and the separation from Colville Place (beyond the park) would be well over the 18m standard.
- 6.31 Noise The main issue in this regard relates to potential incompatibility of residential and certain Class D1/D2 uses that may or may not occur as part of any grant of flexible permission for the basement. As discussed in para 6.6 above the Council is confident that any loss of amenity can be overcome by targeted conditions to control hours of use and amplified music. Such controls would enable a wide range of uses to coexist with loss of amenity.
- 6.32 Light Pollution The application has been revised in this regard and the current scheme keeps external lighting to a minimum. It is not considered that the

additional light from the new residential use would materially detract from the amenity of the surrounding occupiers or detract from the biodiversity value of the POS.

Transport and Parking

- 6.33 None of the residential units proposed incorporate on-site parking provision; however the site and its surrounds are suitable for a car-free development. The S106 requires that all new residential units be car-free.
- 6.34 The proposed vehicular access utilises the existing access point to the building and is intended for servicing purposes only. To ensure this is used efficiently without obstruction to the highway, a condition is recommended to require the submission of details of a servicing management plan. In addition the S106 includes a requirement for a financial contribution to highway improvement works.
- 6.35 The office/employment component of the scheme is of a sufficient scale to require the submission of a green travel plan – also part of the S106. In addition, a condition is recommended to ensure the provision of secure cycle storage and associated shower facilities.
- 6.36 Finally, the scale of the development and the location of development near to residential properties requires that a construction management plan be agreed (by S106) to minimize disruption to the public highway and ensure amenities of residential occupiers is protected. In addition the plan should ensure that no works of demolition are undertaken during the nesting period of protected birdlife as discussed in para 6.23 above.

Other Matters

- 6.37 Educational contributions The number of residential units proposed exceeds the threshold in SPG (5 units) whereby the Council can require a financial contribution to local educational provision. The financial contribution relates to only those units that would result in child 'yield' (two bedroom units and above). The suitable control mechanism is the recommended Section 106 Planning Obligation and, as with the car-free requirement, a second reason for refusal is included should be applicant be unwilling or unable to conclude within the 13-week period.
- 6.38 Pavement to Whitfield Street frontage The Charlotte Street Association has requested that the pavement to the Whitfield Street frontage be extended as it is excessively narrow at the present time. Whilst this is not a matter that would result in the application be refused permission, (the applicant would have to provide additional space within the site) officers will investigate the possibility of securing a minor revision to the drawings to enable the Association's concerns to be addressed.

7. CONCLUSION

- 7.1 The development proposed as part of this application has been in evolution for a number of years and permission for earlier schemes has been refused on two separate occasions. The scheme currently before Members of the Committee has been designed in close consultation with Officers and local groups to ensure that a balance can be struck between the various competing objectives. It is important to

stress that an appeal against a refusal of a much larger scheme without residential being the predominant use is to be heard by Informal Hearing on 12th December 2007 and should Members be minded to grant permission, the applicant has made legal undertaking to withdraw the appeal.

7.2 It is now considered that the principal objectives for the redevelopment of this sensitive site have now been addressed and are summarised as follows:

- the scheme is predominately residential with an acceptable proportion of affordable housing provision, satisfying both the use objectives for the site and acute need in the locality.
- the incorporation of secondary flexible Class B1/D1/D2 uses in the basement would be acceptable subject to conditional control over potential disruptive aspects of certain high intensity/noisy uses.
- the overall bulk of the building proposed matches the guidance in the brief and the design respects both the setting of the adjoining historic townscape and open space without detracting from the character and appearance of the Conservation Area or the usability of the public open space.
- the existing building to be substantially demolished does not make positive contribution to the local area and the proposed building would make greater contribution in terms of character and appearance and biodiversity/sustainability.
- the design incorporates measures to both protect the biodiversity of the adjoining open space and enhance habitat on parts of the development site whilst demonstrating that protected species will not be harmed; and
- various measures/controls have been included in the recommendation to ensure that local amenity is protected both as a result of construction works and from the completed and occupied development.

8. LEGAL COMMENTS

8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

9. RECOMMENDATION

9.1 That planning permission be granted subject to conditions and the satisfactory conclusion of a Section 106 Planning Obligation relating to the following heads of terms:

- An undertaking to withdraw the outstanding appeal for the same site;
- Car free for all residential units;
- Securing tenure for the proposed nine social and two intermediate affordable housing units;
- That financial contributions be paid in respect of education, public open space (including nesting boxes), and highways works
- The submission of a construction management plan;

- The submission of a servicing management plan;
- That the sustainability construction and renewable energy undertakings be complied with in full; and
- To secure the provision of two wheelchair adaptable units.

9.1 That conservation area consent be granted subject to conditions.

9.2 In the event that the applicant fails to conclude the Section 106 within the 13-week period, then the Director of Environment be authorised to issue a refusal of permission in respect of the failure to provide the matters set out in the above heads of terms.

Application reference 2007/5162/P conditions

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Prior to the commencement of any development hereby permitted, samples of all external facing materials and detailed drawings of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - (a) all glazing bar/frames for fenestration;
 - (b) doors;
 - (c) balustrades; and
 - (d) timber screens.

Thereafter the development shall be constructed in precise accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies B1, B2 and B7 of the London Borough of Camden Unitary Development Plan 2006

- 3 Details of the green roofs, including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long-term viability of the green roof, and a programme for a scheme of maintenance, shall be submitted to and approved by the Council prior to the commencement of works. Thereafter, the green roof shall be fully provided in accordance with the approved details, and permanently retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies SD9, B1 and N5 of the London Borough of Camden Replacement Unitary Development Plan 2006 and design advice in the Council's Supplementary Planning Guidance

- 4 Prior to the occupation of any of the uses hereby permitted, precise details of secure and weatherproof cycle storage space together with details of showers for

incorporation in the B1/D1/D2 space shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in precise accordance with the approved details.

Reason: To promote the use of cycles in pursuance of sustainability objectives in accordance with the requirements of Policy T2 of the London Borough of Camden Unitary Development Plan 2006.

- 5 Prior to the first occupation of any of the residential units hereby permitted, details of a window privacy screen that will prevent direct views into private habitable rooms of residential flats facing Windmill Street from the rear (south) elevation of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed and maintained in precise accordance with the approved details.

Reason: To protect the amenities of adjoining occupiers in accordance with Policy SD6 of the London Borough of Camden Unitary Development Plan 2006.

- 6 The flexible Class B1/D1/D2 use hereby permitted shall not be carried out outside the following times 0800 - 2200 hours Mondays to Saturdays. It shall not be carried out at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 7 No music shall be played on the part of the building proposed for flexible B1/D1/D2 use in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Application Ref: 2005/5188/C conditions

- 1 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been made and full planning permission has been granted for the redevelopment for which the contract provides.

Reason: To protect the visual amenity of the area in accordance with the

requirements of policy B7 of the London Borough of Camden Replacement Unitary Development Plan 2006.

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