



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

F12/8/A
9200002
3629

Direct Line 0272-218927
Switchboard 0272-218811
Fax No 0272-218769
GTN 1374

Pantelli Mitchell Associates
29 Park Road
London
N8 8TE

Your Reference:

Our Reference:
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Date: 30 OCT 1992

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MESSRS M SINCLAIR, J MCDONAGH, L COBRIN
APPLICATION NO: PL/9200002/R1

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Council of the London Borough of Camden to refuse planning permission for the redevelopment of land to the rear of 10 Ascham Street, London NW5 to provide a residential care home within Class C2 of the Town and Country Planning (Use Classes) Order 1987. I have considered the written representations made by you and by the Council. I have also considered the written representations made by interested persons, including those made at the application stage. I made an accompanied inspection of the site on 20 October 1992. During this inspection, I viewed the site internally and from the upper floors of 8 Ascham Street.
2. The appeal site, some 0.15 ha. in size and rectangular in shape, is a substantial area of backland with access through a narrow arch from Ascham Street to the north. It lies at the rear of several 3 and 4 storey Victorian residential terraces, fronting Ascham Street, Leverton Street, Lady Margaret Road, and Falkland Road. The site is occupied by a number of very dilapidated buildings which formerly comprised a metal plating works. This has been vacant for several years, and the whole site is in an advanced state of decay and dereliction.
3. Following an unsuccessful appeal in 1990, the Council granted planning permission for redevelopment of the site with a 2 storey B1 development. This has not been implemented. Your clients' current proposals envisage a 55-bed nursing home within a 3 storey building, having a long axis abutting the southern site boundary, and 2 wings set back between 3 m. and 4.5 m. from both the eastern and western boundaries. These boundaries abut the rear gardens of the flats and houses in Lady Margaret Road and Leverton Street. The site would be excavated by some 1.0 m. to allow for a reduction by this margin of the overall ridge height compared with the approved B1 scheme.
4. The Council has no objections on land use grounds, as it considers a nursing home appropriate in principle within this (otherwise) wholly residential area, and compatible with the objectives of the emerging Unitary Development Plan. In general the third party representations also support this particular re-use of the site. The 10 parking spaces proposed within an



internal courtyard would meet the relevant Council standard, and despite the very congested traffic and parking conditions in all the surrounding streets it has no objections on access or traffic grounds. You point out, and the Council accepts, that the overall bulk and massing of the new buildings (following revisions to the design) would in general be less physically and visually intrusive than those of the approved building. There are therefore no outstanding objections to this scheme on grounds of loss of natural light, or resulting from any other physical impact of the new building.

5. Although it considers all the above aspects of the proposals acceptable, the Council objects to one principal feature of the design, and from its statement this appears to form the basis of its reasons for refusal. From my inspection of the site and its surroundings and from the written representations, I therefore consider that there is one main issue in this appeal. This is whether the proposals would, by incorporating numerous bedroom windows at first and second floor level, seriously affect the privacy of adjoining residents, particularly those living in Lady Margaret Road and in Leverton Street.

6. Paragraph 26 of Circular 13/87 advises that, in respect of residential institutions (Class C2 uses), local planning authorities will need to concern themselves mainly with the impact of a proposed institution on amenity and the environment. The Camden Environmental Code sets out criteria and standards for new development, including advice on visual privacy. The code has the status of supplementary planning guidance, and therefore merits some weight in this appeal. It cites 18 m. as the minimum acceptable distance between opposite windows, but adds that this distance may be reduced if windows are angled away from each other. The Council's appeal statement makes no reference to any relevant development plan policies, and I have therefore considered this appeal in the light of all other material considerations, as advised by Planning Policy Guidance Note 1.

7. The existing derelict buildings were originally designed to face inwards, and there are therefore no clear glazed windows around the site boundaries. Given also the long term vacancy of the site, existing residents around its perimeter have hitherto enjoyed a virtual absence of any disturbance or intrusion from overlooking, with its consequential loss of privacy. Although the overall number and orientation of windows in the present proposals have both been altered in negotiations, there would be some 16 residents' bedrooms - 13 at first floor level, and 3 at second floor level - whose only source of natural light and outlook would be windows along the external walls. (Those at ground floor level would be largely concealed behind rebuilt site boundary walls.) These upper level windows have been designed as splayed oriels, to avoid as far as possible any direct overlooking of the nearest facing windows in the nearby terraces.

8. From the OS 1:1250 plan, it appears that several of the residential properties in Lady Margaret Road and Leverton Street come within about 13-14 m. of the appeal site boundary. (During my site visit I was not able to verify these figures by physical measurement.) Some of these have rear extensions containing habitable rooms with clear-glazed windows. Given the aforementioned distance of the proposed east and west flank walls from the site boundary, several of the proposed new windows would be around or possibly slightly below the minimum overlooking distance referred to in the Camden Environmental Code.

9. In terms of this criterion, and bearing in mind the partial avoidance of direct overlooking, the scheme might seem marginally acceptable. Nevertheless, I find that several other factors tell against it. First, there is the

comparatively large number (16) of new windows involved, and the correspondingly large number of existing dwellings potentially affected in the 2 adjoining streets. Second, a point arising from the nature of the proposed use, the likelihood that many of the bedrooms would be occupied for much of the daytime as well as in the evenings and night-time. Third, the fact that none of these rooms would have any alternative outlook. And fourth, the virtual absence hitherto of any overlooking of the potentially affected dwellings from the rear.

10. I have concluded that all these considerations, in combination, would lead to an unduly high degree of overlooking of the nearby dwellings. This would affect the privacy of dwellings particularly in Lady Margaret Road and in Leverton Street, thereby harming the residential amenities of their occupiers. Although for town planning purposes the scheme would be acceptable in all other respects, I have concluded that this loss of residential amenity warrants the rejection of your clients' appeal.

11. In arriving at this conclusion, I have borne in mind that an appropriate redevelopment of this site would be greatly preferable to the further prolongation of its dereliction. It would also serve the desirable planning objective of securing the full and effective use of land within existing urban areas. In this context, I note that a valid and extant permission already exists, so that there is no town planning constraint upon redevelopment.

12. I have considered all the other matters raised in the written representations, including both parties' references to plot ratios and density standards. You argue that the scheme would not in fact contravene the relevant standards. Without all the relevant information and plan definitions, I am not able to resolve this disagreement. I do not however think that a technical contravention of these particular standards would by itself warrant rejection of this proposal, in the absence of convincing evidence of demonstrable harm. Indeed, the Council's statement accepts that density standards and plot ratios are at best a relatively crude tool in development control, and that they should not be applied too inflexibly. Neither these nor any other matters raised by the main parties or by third party objectors therefore alter or outweigh the considerations leading to my decision.

13. For the above reasons, and in exercise of the powers transferred to me I hereby dismiss this appeal.

I am Gentlemen
Your obedient Servant



PE DOBSEN MA(Oxon) DipTP MRTPI FRGS
Inspector