
Appeal Decision

Hearing held on 20 May 2014

Site visit made on 20 May 2014

by Lesley Coffey BA(Hons) BTP MRTPI

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

Decision date: 24 June 2014

Appeal Ref: APP/X5210/A/13/2210360

John Stewart House, 51 Calthorpe Street, London WC1X 0HH

- 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 Mr Simon Firth against the decision of the Council of the London Borough of Camden.
 - The application Ref 2013/5445/P, dated 20 August 2013, was refused by notice dated 9 December 2013.
 - The development proposed is the change of use from office to residential, an additional storey at the front and a three storey extension to the rear to provide a total of 16 new residential units.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr Simon Firth against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant submitted a Unilateral Undertaking. This undertook to make financial contributions towards education, public open space, community facilities, training and employment and affordable housing. It also covenants to submit a construction management plan to include measures to limit the impact and disturbance to the surrounding environment and highway network; submit a sustainability plan and an energy efficiency plan; use a minimum of 20 percent local labour during construction; provide opportunities for local businesses to bid/tender for the provision of goods and services during the construction phase; and to advise residents that they shall not be entitled to apply for a residents parking permit.
4. The parties agree within the Statement of Common Ground that the Unilateral Undertaking would overcome reasons for refusal 3-11. However, the reason for refusal in relation to affordable housing (reason 1) would not be overcome.

Main Issues

5. Taking account of the matters agreed within the Statement of Common Ground I consider the main issues to be:
- Whether the proposal would make acceptable provision for affordable housing; and
 - The effect of the proposal on the character and appearance of the building, the setting of the adjacent listed buildings, and the surrounding area, with particular reference to the Bloomsbury Conservation Area.

Reasons

Affordable Housing

6. The appellant does not dispute the need for affordable housing or the scale of affordable housing sought. The appeal scheme does not make any provision for on-site affordable housing, but proposes a financial contribution of £850,915 in lieu towards the provision of off-site affordable housing.
7. The development plan includes the London Plan 2011 and the Camden Local Development Framework (adopted November 2010) which comprises the Camden Core Strategy and the Camden Development Policies.
8. Amongst other matters Core Strategy policy CS6 aims to secure high quality affordable housing by seeking the maximum reasonable amount of affordable housing. Policy DP3 of the Camden Development Policies sets out the detailed approach to the provision of affordable housing within the borough. All residential developments with a capacity for 10, or more, additional dwellings are expected to make a contribution to the supply of affordable housing. This should be provided on-site, but where this can not practically be achieved, the Council may accept off-site affordable housing, or exceptionally, a payment in lieu.
9. In considering whether it is practical to provide affordable housing on-site, the Council take account of a number of factors. These include the accessibility of the site; the character of the development, the site and the area; the financial viability of the development; the need to create mixed and inclusive communities; and any other planning objectives considered to be a priority for the site.
10. The accompanying text to policy DP3 indicates where a development is relatively small (up to 3500 square metres) an off-site contribution may be acceptable. In addition, the Council will take account of whether on-site affordable housing is practical for management purposes; whether the management or service charges would be too costly; the particular costs associated with the development and whether an off-site contribution would maximize the overall delivery of affordable housing.
11. Policy DP3 is consistent with Paragraph 50 of the Framework which requires any need for affordable housing to be met on-site, unless off-site provision or a financial contribution can be robustly justified. I therefore accord it significant weight.
12. The Council's Affordable Housing Development Co-ordinator advises that due to the very high market values within the locality of the appeal site, the proposed

dwelling is unlikely to be affordable as part of a shared ownership scheme. The Council therefore considers that any affordable housing provided by the proposal should take the form of intermediate rented accommodation. The Council suggest that in the case of a three bedroom unit the rent should be based on an income cap of £50,000 and the rental level should be up to 80% of the market rent. *Camden Planning Guidance Housing 2* (adopted September 2013) promotes the take up of intermediate rented housing. The income level suggested in relation to the appeal proposal would significantly exceed the £30,000 income cap specified within paragraph 2.47 of CPG2.

13. At the time of the application, Circle Housing Association stated that it was unable to consider the provision of affordable housing within the scheme for marketing reasons. The flat was also considered by Origin Housing Association in 2013, but was not progressed. In the week prior to the Hearing, Origin Housing Association advised that it may be willing to take Flat 1 subject to agreement on price and specification. At the Hearing it was confirmed that Origin considered that the unit would not be viable due to the high service charges associated with it.
14. It was considered by the Council that the most suitable unit for use as affordable housing would be Flat 1, which would be a three bedroom flat with its own entrance. Flat 1 is one of the larger dwellings within the scheme and the appellant advised that the service charge would be about £16,000 a year. The Council consider this charge to be excessive. Neither party submitted any evidence as to comparable service charges within the area, therefore it is unclear whether the service charge proposed is typical of schemes with a concierge service.
15. The Council suggest that service charges for the affordable housing unit could be limited if future occupants of the dwelling did not use the concierge service (which accounts for about 50% of the service charge), and if some maintenance, such as window cleaning, was carried out by the Housing Association. I am concerned as to whether such an approach would work in practice. The appellant and future occupants of the other flats would undoubtedly be concerned that the entire building would be adequately maintained. Therefore to permit one flat to be independently maintained could be detrimental to the interests of the occupants and owners of the other dwellings within the block. I am also concerned that such an approach would socially exclude future occupants of Flat 1 from the residential community formed by occupants of the other flats at the property. Therefore this approach would not contribute to a balanced community.
16. The difficulty of apportioning service charges is recognised by CPG 2. This acknowledges that service charges can often be a significant proportion of overall housing costs particularly in market housing blocks. For this reason the Council does not generally seek to mix affordable and market housing on the same corridor, or sharing the same lifts, stairs or entrance lobbies. Moreover, the law states that an occupier cannot be required to pay a higher service charge to subsidise another occupier receiving the same services.
17. The appeal site is a small site where policy DP3 recognises that the provision of off-site affordable housing may be appropriate. It would seem that the management and service charges are too costly for an affordable housing provider. Whilst the concierge service undoubtedly adds to the level of the

service charges, it is an integral part of the scheme and is referred to in the Design and Access Statement which accompanied the application. It was also a feature of a previous application in relation to the appeal site. Due to the high rental levels within the area, even if the service charges were considerably reduced, the dwelling would be unaffordable to those with incomes below £30,000. This is the target group for intermediate rented housing specified by CPG2.

18. The appellant has not made independent efforts to find an affordable housing provider. However, the submitted correspondence clarifies that the Council has adopted a process whereby it acts as an intermediary between developers and affordable housing providers and it discouraged the appellant from acting independently.
19. The appellant has not identified an alternative location for the provision of affordable housing. The Council identified a number of locations where the affordable housing contribution could be used. These include the Tybalds Estate where it is proposed to provide a mixture of new affordable and private homes and the Bourne Housing Estate nearby. Using the contribution in these locations would be likely to provide a greater amount of affordable housing. It would also provide greater flexibility as to the nature and size of the housing provided in that it would allow for the provision of social rented or shared ownership housing as alternatives to intermediate rented housing. It would therefore be likely to maximize the overall delivery of affordable housing in accordance with policy CS6.
20. The proposal comes within the circumstances where a payment in lieu of on-site provision of affordable housing would comply with policy DP3 and paragraph 50 of the Framework. I therefore conclude that the proposal would make satisfactory provision for affordable housing and would comply with LDF policies CS6, DP3 and the guidance within the Framework.

Character and Appearance

21. The appeal site is situated close to the junction with Pakenham Street and opposite Mount Pleasant Sorting Office. It comes within the Bloomsbury Conservation Area and comprises a two storey building with a basement. To the east, the site is adjoined by an eleven storey high, red brick hotel building dating from the 1990's, whilst to the west it is adjoined by a terrace of three Grade II listed houses. The rear elevation of the building forms the boundary with the playground to the nursery/playcentre within Cubitt Street.
22. The Bloomsbury Conservation Area extends from Euston Road in the north, to Lincoln's Inn Fields and High Holborn in the south. Much of it is characterised by a formal pattern of streets and squares. The buildings within it vary in scale, with those adjacent to major arterial routes generally larger in scale. The *Bloomsbury Conservation Area Appraisal and Management Strategy* (adopted 2011), divides the conservation area into a number of sub-areas. The appeal site comes within Sub Area14: Calthorpe Street/Frederick Street. It is identified as an area of mainly terraced housing with considerable uniformity in appearance. The terraced dwellings have consistent plot widths with horizontal parapets emphasising the rooflines. The appeal property is situated on the periphery of the conservation area.

23. The building is currently used for offices and storage. It is two storeys high with a rendered parapet. The symmetrical front elevation comprises three central bays stepping forward of the remainder of the elevation. The flank and rear elevations are much plainer in appearance, with the gable end wall to the rear addition reflecting the roofline of the main building.
24. The building is not typical of the conservation area. It is of historical interest due to its role as a former school, built towards the middle of the nineteenth century for the British and Foreign School Society which provided cheap education for the children of the poor. It was also used as a drill hall during the late nineteenth century. Its significance to the conservation area derives from both its architectural and historic interest. As acknowledged by the appellant's Heritage Statement it makes a positive contribution to the character and appearance of the conservation area.
25. The appeal proposal would provide two additional storeys at the front of the building including a mansard style roof extension. The proposed second floor would be similar in appearance to the lower floors of the building and would align with the parapet of the neighbouring listed terrace at 45- 49 Calthorpe Street. The central bays of the proposed roof extension would be set back from the front elevation by about 4 metres, whilst the side bays would be set back to a much lesser extent. It would be clad with dark grey metal panels.
26. At the rear, the existing gable end would be squared off and a flat-roofed, extension would be formed above. It would be finished in materials to match the roof extension and would include dark grey metal framed windows. The elevation facing towards Pakenham Street would include enclosed terraces to the second and third floors. Angled fins would be used to maintain the privacy of the occupants of the proposed dwellings and those in Pakenham Street. The existing solid rear elevation would be punctuated with windows. It is also proposed to lower the level of the courtyard garden and the adjacent boundary wall.
27. Although dwarfed by the neighbouring hotel, the appeal property is an elegant, well proportioned building. The addition of the second floor at the front would dilute the historic significance of the building in so far as the original building would not be readily identifiable. Together with the mansard roof, it would substantially increase the height of the existing building.
28. The use of different materials and a different form to the existing building at the rear aims to ensure that the original building remains distinct from the proposed extension. However, the proposed extension would be unrelated to the original building in terms of materials, form and pattern of fenestration. The simple symmetry that characterises the existing rear elevation and the manner in which the rear addition reflects the roofline of the main part of the building would be lost. The enclosed terraces and fins to the elevation facing towards Pakenham Street would introduce visual clutter and would appear particularly incongruous. Whilst there is no objection in principle to a design approach that would involve a visually distinct extension, due to its scale and proposed materials, the appeal scheme would overwhelm the existing building.
29. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the case of development that affects a listed building or its setting, special regard should be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest

- which it possesses. Paragraph 132 of the Framework requires great weight to be given to the conservation of designated heritage assets. It states that the significance of such assets can be harmed or lost through the alteration or destruction of the heritage asset, or through development within its setting.
30. The listed buildings at 45-49 Calthorpe Street date from about 1840. They are typical of residential buildings of this period and the wider conservation area. They are attractive three storey properties with a basement. The ground floor is rusticated with balconies above and a stucco detail to the parapet. They are an attractive, well preserved example of residential properties of their period and differ from the more institutional character of the appeal property which reflects its original purpose.
 31. The appeal property is lower than the adjacent listed terrace and provides a visual break between the hotel building to the east and the listed buildings. This is emphasised by the difference in height between the properties. At the front the appeal building would extend above the height of the listed terrace. The parapet to the proposed second floor would align with that of the adjacent listed terrace. As a consequence, the upper floor would not be in proportion with the lower floors of the existing building which are larger in scale than the neighbouring dwellings. Unlike the adjoining terrace which clearly comprises three individual dwellings, each with a vertical emphasis, the appeal property forms a single building with three central bays and a strong horizontal emphasis due to both the form of the building and the decorative banding and parapet.
 32. The mansard roof would be set back behind the parapet which would limit its prominence in views from Calthorpe Street. Nevertheless, the front elevation of the mansard roof would include a series of six patio doors which would open on to a decked terrace to the Flat 16. The area to either side of the central bay would be used for planting. This terrace would be the main amenity area of the flat. Its use would be likely to include the introduction of garden furniture and other domestic paraphernalia and would add to the visual prominence of the upper floor.
 33. The proposal would diminish the visual prominence of the hotel and the alterations to the frontage would be beneficial to the street scene and thus the setting of the listed terrace. However, these benefits would be considerably outweighed by the harm that would arise from the proposed second floor and roof extension.
 34. At the rear the listed terrace is characterised by butterfly roofs and a regular pattern of fenestration with chimney stacks delineating the party walls. The existing building is of a plain, but not unattractive appearance. Due to its lower height, and the separation between the rear addition and neighbouring dwelling, it is subordinate to the adjacent listed terrace.
 35. The rear extension would be separated from the listed buildings by about 5 metres. It would be taller than the listed buildings and would be a prominent feature, unrelated in scale, form, or materials to either the original building or the listed buildings. Whilst the removal of the single storey structures situated in the yard area adjacent to 49 Calthorpe Street would be beneficial, due to their height they are not unduly obtrusive. Therefore the benefit of their removal would be considerably outweighed by the harm arising from the proposed extension.

36. The views of the existing pitched roof from within the listed building at 49 Calthorpe Street provide a sense of openness. The proposed two storey addition would extend beyond the modest rear garden to this property. Due to its proximity to the boundary it would dominate the outlook from this dwelling and would substantially harm the setting of the listed terrace.
37. The flank elevation of the existing building is visible in views between the rear elevation of the listed terrace and the dwellings in Pakenham Street. From this viewpoint the simple form of the existing building with the hotel beyond is noticeable, but unobtrusive. The two storey extension would be a prominent feature within this view due to its height, form and proposed materials. I acknowledge that it would screen the hotel building to a greater extent than the existing building. Notwithstanding this, it would result in a much taller building than at present and would be considerably closer to the public realm within Pakenham Street.
38. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. The proposal would also be prominent in views from the rear of the dwellings in Pakenham Street and the playground of the nursery/playcentre that adjoins the rear elevation of the building. In these views the various disparate elements of the proposal would be apparent. Due to the scale of the proposal, including the mansard roof, it would dominate views of the listed terrace and would harm their setting.
39. Whilst there are a number of taller buildings within the area overall, with the exception of the adjacent hotel, those closest to the appeal site are generally of a more domestic scale. Within the wider conservation area the extension to the front of the building, including the mansard roof, would be prominent in views from the south-western part of Calthorpe Street. Whilst it would obscure part of the adjacent hotel, from this viewpoint it would also be seen in conjunction with the listed terrace. In addition, it would be conspicuous in views from Phoenix Place. I appreciate that these views may alter when the Mount Pleasant site is developed, nevertheless, such proposals are at an early stage and there is no certainty as to the layout or form of any future development on this site.
40. I therefore conclude that the proposal would be harmful to the architectural and historic interest of the appeal property. It would give rise to substantial harm to the setting of the adjoining listed buildings and the character and appearance of the Bloomsbury Conservation Area. Therefore the proposal would fail to comply with Core Strategy policy CS14 and policy DP25 which seek to preserve and enhance heritage assets within Camden including the character and appearance of the conservation areas and the setting of listed buildings.

Other Matters

41. The appellant has put forward a number of other matters in support of the proposal. It would be an appropriate re-use of the existing building and would also make a significant contribution to the supply of housing in the borough, through the provision of a suitable mix of dwellings. In this respect the proposal would accord with paragraph 47 of the Framework which seeks to significantly boost the supply of housing. In addition, the site occupies a sustainable location in relation to public transport, services and facilities. The

- proposal would also contribute towards the local economy through the provision of local employment opportunities.
42. Miss Mahoupe, the occupant of 49 Calthorpe Street was concerned that the proposal, which includes increasing the depth of the basement accommodation, may have an adverse effect on the stability of her dwelling. The proposal was accompanied by a Basement Impact Assessment. This concluded that the depth and configuration of basements in the adjacent properties needed to be ascertained in order that any potential structural damage arising from differential movement can be assessed. Additional information provided at the Hearing advised that whilst there had been historic movement within the terrace, any building operations would take account of the relationship between the appeal site and the adjacent property. It is proposed that any work will be monitored by a Chartered Engineer. The Party Wall Act will provide additional safeguards for Miss Mahoupe. On the basis of the available evidence I have no reason to conclude that the proposal would have a harmful effect on Miss Mahoupe's property.
 43. The proposed dwellings include windows that face towards the dwellings in Pakenham Street. The submitted plans indicate that some of these windows could be obscure glazed to prevent overlooking, and it is proposed to use angled fins to screen views from the enclosed balconies. Whilst this may maintain privacy between the proposed dwellings and those within Pakenham Street, the proposal would be visually prominent in the outlook from these dwellings.
 44. A number of the flats would directly overlook the playground to the nursery/playcentre. Whilst this is a large area, from my observations at the time of my visit, it would appear that the playground is used in its entirety. Therefore the windows within the rear elevation of the appeal property would directly overlook those using this space. Whilst obscure glazing to some of these windows may overcome any loss of privacy, on the basis of the available information, it seems that this would leave some of the proposed flats with little or no outlook. The daylight/sunlight report submitted in support of the proposal, does not appear to have addressed the extent of any overshadowing that may arise from the appeal scheme. It would seem that the rear extension may overshadow a considerable area of the adjoining playground. Whilst neither of these matters are determinative in my decision, they add to my concerns above.
 45. Paragraph 133 of the Framework advises that where a proposed development will lead to substantial harm to a designated heritage asset, planning permission should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve public benefits that outweigh that harm or loss. I have found above that the proposal would result in substantial harm to the setting of the listed terrace at 45-49 Calthorpe Road, and to the conservation area overall. Whilst there would be public benefits in that the proposal would provide 16 new dwellings and make a contribution towards affordable housing, I do not consider these benefits to be so significant as to outweigh the harm to the setting of the listed buildings, or that to the character and appearance of the conservation area.
 46. The Framework establishes a presumption in favour of sustainable development, and I have noted the sustainability benefits of the proposal in

relation to the accessibility of the site and the economic benefits it would provide. However, the Framework does not adopt a narrow definition of sustainability. Indeed, it makes clear at paragraph 6 that regard must be had to the document as a whole in determining what the concept means in practice. Paragraph 9 states that pursuing sustainable development involves seeking positive improvements to the quality of the built, natural and historic environment. Consequently, in this case, the sustainability benefits of the proposal do not outweigh the harm that I have identified to the character and appearance of the appeal property, the setting of the listed buildings and the character and appearance of the Bloomsbury Conservation Area.

47. Whilst the submitted Unilateral Undertaking may overcome a number of the Council's reasons for refusal, since I intend to dismiss the appeal it is not necessary for me to consider these matters.

Conclusion

48. Whilst I have found that the proposal would make satisfactory provision for affordable housing, the harm to the character and appearance of the existing building, the setting of the adjoining listed buildings and the character and appearance of the conservation area are compelling and over-riding objections to the proposal.
49. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kieran Rafferty	Planning Consultant
Simon Firth	Appellant
Stephanie Brooks	Architect
Lukas Kurik	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Ben Le Mare	Senior Planning Officer
Nick Baxter	Conservation and Design Officer
Haniza Hussain	Affordable Housing Development Co-ordinator

INTERESTED PERSONS:

Umiak Makoupe
Tony Randall

DOCUMENTS

1. Unilateral Undertaking dated 20 May 2014 submitted by the appellant
2. Further comments in relation to Basement Impact Assessment submitted by the appellant

PHOTOGRAPHS

- A. Photographs submitted by Miss Umiak Makoupe