



Appeal Decision

Site visit made on 16 November 2017

by **R C Kirby BA(Hons) DipTP MRTPI**

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

Decision date: 8 March 2018

Appeal Ref: APP/X5210/W/17/3173819

51 Tottenham Court Road, London W1T 2EH

- 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 Dome Assets Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/2027/P, dated 8 April 2016, was refused by notice dated 18 October 2016.
 - The development proposed is extension and refurbishment of 51 & 52 Tottenham Court Road to provide a mixed use retail, office and residential development. This includes demolition and rebuilding of extensions to the rear of both buildings, and creation of one additional storey to both buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address has been taken from the application form. It is however clear from the submitted drawings and appeal form that the appeal site comprises Nos 51 and 52 Tottenham Court Road. It is on this basis that I have considered the appeal.
3. The appellant has requested that I consider revised drawings and a number of reports relating to the new basement, cycle parking, heritage and architecture that were not before the Council when it determined the planning application. The Council has had the opportunity to comment on this information and I am satisfied that my consideration of it would not prejudice those who should have been consulted on the change the opportunity of such consultation. There would be no conflict with the principles established by the Courts in *Wheatcroft*¹. Accordingly, I have considered the revised information in my assessment of the appeal proposal.
4. During the course of the appeal the Council adopted the Camden Local Plan (CLP). The CLP has superseded the Core Strategy and Camden Development Policies which are referred to in the Council's decision notice.
5. Two Section 106 Agreements were submitted during the course of the appeal dated 26 January 2018 which would make provision for the implementation of a construction management plan, a highways contribution for works within the vicinity of the appeal site, a basement construction plan, a basement approval

¹ Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

in principle and contribution, and affordable housing. One Agreement (Option A) would make provision for car free housing, whereby no occupier (unless they were a holder of a disabled person badge) could apply for a residents or contract parking permit. The other Agreement (Option B) would allow the occupier of flat 5 and any occupier with a disabled person badge to be granted a parking permit.

6. The Council has indicated that these Agreements and the revised drawing showing cycle parking in the basement address its fourth, fifth, seventh and eighth reasons for refusal. I have therefore not considered these matters further.

Main Issues

7. In light of the above, the main issues in this case are the effect of the proposal on:
 - the character and appearance of the area and the Charlotte Street Conservation Area, having particular regard to the design of the new extensions;
 - the living conditions and amenity of nearby occupiers, having particular regard to outlook; and
 - whether or not the proposal would encourage car free lifestyles and its effect upon the demand for on-street parking in the area.

Reasons

Character and Appearance

8. The appeal site is located on the eastern edge of the Charlotte Street Conservation Area. The Charlotte Street Conservation Area Appraisal and Management Plan (CSCAAMP) identifies Tottenham Court Road as having a variety of heights, building styles and materials along the frontage. It states that the prevailing height is three and four storeys with a general pattern of vertically proportioned buildings on narrow plots with a well-defined parapet at roof level.
9. Although the host properties have been altered over time they have retained the essential elements of their original form and design, with No 51 sitting noticeably lower than the buildings either side, and No 52 being lower than but having the same parapet height as No 53. The CSCAAMP identifies the appeal site as making a positive contribution to the character and appearance of the area, alongside various other buildings in the street, and this concurs with my observations.
10. The proposal to increase the height of the buildings to 5 storeys would significantly detract from the composition of them and their relationship to the block as a whole. The extended buildings would appear as prominent, dominant features in the street scene, out of keeping with the established character and appearance of the area.
11. Whilst not visible from the road, the rear of the buildings is visible from a number of nearby properties. The proposed extensions would be large and whilst they would be stepped in from the rear elevation at third and fourth floor level, they would not be subservient to the host properties. I find that their

- design would be overly deep and bulky, which would not reflect the character and appearance of nearby development or reflect its historic grain. This would be harmful to the character and appearance of the host properties. The contribution that they make to the character and appearance of the area would be diminished and it follows that harm would be caused as a result.
12. I note the appellant's submissions that the proposal would in part obscure the building to the rear of the site. This is a modern building that is significantly taller than the host properties. However, I saw that this building was not visible from Tottenham Court Road, and as such the proposal would have no discernible effect of views of it from the street.
 13. In light of the foregoing, I conclude that the appeal proposal would result in significant harm to the character and appearance of the host properties and the area in general. The character and appearance of the Charlotte Street Conservation Area would not be preserved or enhanced. This would be in conflict with CLP Policy D1 which, amongst other matters, requires development to respect local context and character, and preserve or enhance the historic environment and heritage assets. There would also be conflict with CLP Policy D2 which requires development to preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, and the design and heritage aims of London Plan Policies 7.4 and 7.8. There would also be conflict with the heritage and extension guidance within Camden Planning Guidance 1. I note the appellant's concerns in respect of this guidance, however it is clear from the text within it that it does not only relate to residential properties, but all development.
 14. I consider that the harm to the significance of the conservation area as a heritage asset would be less than substantial. In accordance with paragraph 134 of the National Planning Policy Framework (the Framework) this harm needs to be weighed against the public benefits of the proposal.
 15. There is no dispute that the proposal would make a contribution to affordable housing within the Borough. It would also result in an additional residential unit which would be suitable for a family, in a highly accessible location. Such matters carry moderate weight in the proposal's favour.
 16. New office space would be created in this central location as well as a larger single retail area. This would be likely to support the economic objectives of the CLP. The proposal would also be likely to result in the creation of new jobs, both during and after construction. Although I have no specific details of the proposed users of the premises, I acknowledge that the proposal would be likely to improve the choice of retail and commercial activities in Tottenham Court Road. This would support the area's role as a retail destination and the local economy in general. Having regard to the scale of development proposed, I attach moderate weight to such matters in my consideration of the proposal.
 17. The appellant considers that the income that the Council would receive through Council Tax payments, CIL and the New Homes Bonus amount to public economic benefits in favour of the scheme. Whilst noting this matter, the Planning Practice Guidance makes it clear that a local financial consideration should only be considered material to a particular decision if it could help make the development acceptable in planning terms. It also states that it would not be appropriate to make a decision based on the potential for the development

to raise money for a local authority or other government body. I am not aware of any evidence to demonstrate that the financial payment which would be likely to arise from such matters would help to make the proposal acceptable in planning terms. As such I give this matter no weight in my consideration of the scheme.

18. I have no reason to doubt that energy efficient measures would be incorporated into the design of the buildings. Such measures are however likely to be a necessary part of the design of the extensions and accordingly this matter does not weigh in favour of the proposal.
19. Given my findings above, I do not share the appellant's view that the proposals would improve the facade of the building. The appellant also submits that new signage would improve the appearance of the buildings. However, I have no detailed drawings before me at this stage and this matter does not therefore weigh in the proposal's favour.
20. The harm that the proposal would cause to the significance of the Charlotte Street Conservation Area as a heritage asset would be significant and permanent. Whilst there are a number of public benefits which weigh in favour of the proposal, they attract moderate weight at most. I am not therefore satisfied that taken either individually or as a whole that the benefits of the scheme amount to public benefits of sufficient weight to outweigh the harm that I have identified. The scheme therefore conflicts with paragraph 131 of the Framework in that the proposal would not sustain and enhance the significance of this heritage asset.
21. Whilst not included within its reasons for refusing the planning application, the Council has raised concern about the design of the new shopfronts. The application drawings indicate that 2 entrances would be provided to the new retail unit and a separate entrance would be provided to the offices and residential units from Tottenham Court Road. Such an arrangement respects the character of the host properties. Although the fascia on No 52 is shown to be deeper and higher than that at No 51, I observed that this would be no different to the existing situation. Glazing bars would be introduced within the shop fronts and whilst this would result in narrower panes than nearby premises, I am not convinced that harm to the character and appearance of the area or the conservation area would occur as a result. The new shop front would, in my mind, preserve the character and appearance of the conservation area.

Living Conditions/Amenity of Nearby Occupiers

22. There is dispute over whether or not No 53 Tottenham Court Road has residential use on its upper floors. The Council submit that the rear elevation of this property, close to the party boundary with No 52 contains a rear facing habitable window. On my site visit I was unable to view the proposal from this window. Although the new rear extension would project significantly beyond the rear wall of No 53, I was unable to assess whether or not harm would be caused as a result.
23. To the rear of the appeal site adjoining the rear and side boundary is office development, with windows facing towards it. The rear extensions would be built close to the rear and side boundaries of the site, and to nearby offices. Whilst I acknowledge that commercial properties are less sensitive in amenity

terms than residential development, I find that the proposal would be so close to nearby office windows that it would be significantly overbearing on the outlook from the windows and would be likely to make the office space less pleasant to work in. This relationship would conflict with CLP Policy A1 which seeks to ensure that the amenity of communities, occupiers and neighbours is protected. There would also be conflict with the core planning principle of the Framework which requires that a good standard of amenity is secured for all existing and future occupants of land and buildings.

Car Free Lifestyles

24. The appeal site is located within a highly accessible location with good links to public transport. It has a PTAL rating of 6b. Goodge Street underground station is a short walk from the site. It is also located within a controlled parking zone. The Council has indicated that there is a nearby car club that future occupiers of the scheme could use. Observations made during my site visit confirmed that limited on-street car parking is available close to the appeal site. It is appreciated that these observations provide only a snapshot at a particular time. However, there is no substantial evidence to suggest that this is not representative of the regular parking situation.
25. CLP Policy T2 seeks to limit the availability of parking and requires all new developments in the borough to be car free. The appellants submitted Section 106 Agreement Option B would, in the absence of information to justify essential operational or servicing needs, conflict with CLP Policy T2 and would be likely to result in demand for on-street parking within the controlled parking zone.
26. However, the obligation contained in the Option A Section 106 Agreement would comply with CLP Policy T2. I am therefore satisfied that were the development otherwise acceptable, that this Agreement would make sure that pressure for on-street parking places within the area would not increase as a result of the development. The proposal would be unlikely to have a discernible effect upon traffic in the area as a result.

Conclusion

27. I acknowledge that the appellant has addressed a number of the Council's reasons for refusing the planning application through the submission of additional information. However, for the reasons given and taking account of all other matters raised, I conclude that the appeal would not be in accordance with the development plan and it should therefore be dismissed.

R C Kirby

INSPECTOR