



Appeal Decision

Site visit made on 21 August 2017

by **P W Clark MA MRTPI MCMi**

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

Decision date: 13 September 2017

Appeal Ref: APP/X5210/W/17/3170405

42 Phoenix Road, London NW1 1TA

- 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 Findlay Estate Company Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/6383/P, dated 11 November 2015, was refused by notice dated 31 August 2016.
 - The development proposed is redevelopment of the site involving demolition of the existing building and erection of a new ground plus five storey over basement building, to provide community use (D1) at ground and basement and student accommodation (8 x 6 bed apartments and 7 studios, 55 beds) on the upper floors; widening of Clarendon Grove alleyway.
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Procedural matters

1. The application was amended during the course of its consideration by the Council. I have taken my decision with reference to the amended plans which reduce the composition of the accommodation from 8 x 6 bed apartments to 7 x 6 bed apartments and 1 x 4 bed apartment and so from 55 beds to 53.
2. During the course of the appeal a planning obligation was agreed providing for a construction apprentice programme and employment, highway contributions, a public open space contribution, a travel plan and its monitoring, the denial of parking permits to occupants, a construction management plan, an energy efficiency and renewable energy plan, a sustainability plan and controls on rent levels. I comment later on its compliance with the CIL regulations.

Decision

3. The appeal is allowed and planning permission is granted for redevelopment of the site involving demolition of the existing building and erection of a new ground plus five storey over basement building, to provide community use (D1) at ground and basement and student accommodation (7 x 6 bed apartments, 1x 4 bed apartment and 7 studios, 53 beds) on the upper floors; widening of Clarendon Grove alleyway at 42 Phoenix Road, London NW1 1TA in accordance with the terms of the application, Ref 2015/6383/P, dated 11 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
988_07_050 Rev P1; 988_07_100 Rev P2; 988_07_101 Rev P2;
988_07_101_A Rev P2; 988_07_200 Rev P2; 988_07_201 Rev P2;
988_07_202 Rev P2; 988_07_203 Rev P2; 988_07_204 Rev P2;
988_07_205 Rev P2 or, in the event that Maria Fidelis School is first demolished, 988_07_205_A Rev P1; 988_07_300 Rev P2; 988_07_301 Rev P2; 988_07_400 Rev P2; 988_07_401 Rev P2; 988_07_500 Rev P2; 988_07_501 Rev P2; 988_07_502 Rev P2 or, in the event that Maria Fidelis School is first demolished, 988_07_502_A Rev P2; Arboricultural Impact Assessment by Barrell Tree Consultancy; Energy and Sustainability Statement by Skelly and Couch; BREEAM pre-assessment by Eight Associates; Noise Impact Assessment by Ramboll Acoustics and Student Management Plan by The Findlay Estate Co. Ltd.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Prior to first occupation of the building, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the local planning authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the local planning authority prior to the first occupation of the building and permanently retained and maintained thereafter.
- 5) Noise levels emanating from the development at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).
- 6) No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the buildings, without the prior approval in writing of the local planning authority.
- 7) Before any part of the development is first occupied, the covered cycle storage area for 30 cycles shall be made available for use and permanently retained thereafter.

Main Issues

4. The Council accepts that the submitted s106 agreement satisfies all but two of its reasons for refusal. In consequence, there remains only one matter at issue, which is the effect of the proposal on the character and appearance of the area. It is an issue with two components, namely the effect on character

arising from the demolition of the existing building on site and secondly, the effect on character arising from the building proposed.

Reasons

Existing building

5. The existing building is not listed, nor is it within a Conservation Area. But there is common agreement that it is a heritage asset, albeit not one that is designated.
6. It has two street frontages, one to Phoenix Road, the other to Chalton Street. They are built in grey brick. Both are symmetrical in their composition. The centrepiece of the Phoenix Road frontage is a triplet of two-storey canted bays of metal windows formed into oriels, each carried on a cornice lintel supported on classically moulded stone corbels. Each bay or oriel is capped by a concave roof form giving a slightly oriental appearance. On either side are pairs of large round arched windows at ground floor level, rectangular above. Flanking these are three storey entrance pylons, trimmed with stone (or possibly faience), capped with small concave-shaped pitched roofs of green pantiles, again somewhat oriental in appearance, each with a third floor attic pavilion above.
7. Above the second floor a string course runs between the two pylons supporting a plain second storey façade with square openings, containing now altered windows. In the centre is a third storey suntrap pavilion with a ribbon of metal framed windows. The overall elevation has a playful and frivolous character.
8. The side elevation to Chalton Street is also largely symmetrical; doubly so since it was apparently extended southwards in 1938 by a duplicate copy of an already symmetrical façade but with an additional third floor. Each half of the facade centres on a two-storey oriel, this time triangular in plan but again topped by a concave capping. Each is flanked by the same pattern of round arched and square windows found on the Phoenix Road façade.
9. As the Design South East Panel comments in its report on the proposal, the existing building is a one-off. It is quirky. But the variety and hierarchy in its façade detail make this building a local landmark. The appellants themselves, in their grounds of appeal note that the existing building is quite unlike anything surrounding it. That is indeed its architectural value.
10. In Phoenix Road, it aligns with its neighbours. But in Chalton Street it projects well forward of its neighbour to the south so that part of its rear façade is presented along the street. Although this part of the façade uses the same grey brick, its composition is dull. The furthestmost part of the rear façade, facing in to the courtyard of Chalton House, is utilitarian and unattractive, built of a different, reddish brick.
11. The existing building was constructed in 1931 as a children's nursery and day centre, extended in 1938. Its historic and social interest is that it forms part of the reconstruction of the Somers Town slums, including the neighbouring Chamberlain House of 1927-9 and the Ossulston Estate of 1929-30, now described as the most important inner-city estate of the inter-war period. The fact that the original building was opened by Mrs Stanley Baldwin, wife of the former prime minister and the extension by Princess Alice, Countess of Athlone is an indication of the significance attached to it at the time. Although not

listed, its historic significance should not be underestimated but it is now diminished because that original use has not continued.

Proposed building

12. Although some of the neighbouring buildings are listed, their appearance contrasts severely with that of the existing building on site. Chamberlain House is rendered in cream stucco and has varied height, bay windows and chimneys which give it considerable articulation and liveliness but Chalton House to the south is a severe and unrelieved brick façade of regimented windows as is the Chalton Street façade of Walker House to the north. Facing that the inverted red brick zigurat of Oakshott Court hangs over the street.
13. I concur with the view of the Design South East Panel that, in attempting to respond to context, the design of the proposed development seems to have taken its cues from the repetitive qualities of the nearby housing. A very strict repetition is proposed for the street facades. The result is a formal and uniform grid. The design lacks the articulation of detail of the facades of the existing building and so would have a modest, unprepossessing appearance. Nevertheless, the massing and overall scale proposed would reflect that of Chalton House and Walker House and so would be appropriate. Moreover, it would be a building composed on all its facades, including that potentially exposed by the forthcoming demolition of the adjacent Maria Fidelis School.
14. It is a pity that the designers of the present proposal do not appear to have taken full cognisance of the advice of the Design South East Panel to reflect more clearly the proposed ground floor uses in the design of the building, perhaps by a change of material or a break-forward so as to signal a distinctive and unusual local landmark. Likewise, it may be thought to be a pity that the Council was unable to find or make acceptable an earlier proposal which sought to add height to the existing building. But I can only consider what is in front of me.
15. I conclude that the demolition of the existing building would cause harm to the character and appearance of the local street scene by the loss of lively street facades of variety and wit which have lightened the mood of the area over the past 85 years. On the other hand, the new proposal would present a much improved appearance to the courtyard of Chalton House and to the exposed gable end facing west, once Maria Fidelis School is demolished. The overall effect is disappointing but not unacceptable. Although the proposal would fail to comply with policy D1(b) or D2 of the newly adopted Camden Local Plan 2017 in that it would not preserve a heritage asset, it would certainly respect local character established by other buildings in the area and so comply with other parts of Local Plan policy D1.
16. Local Plan policy D2, reflecting government policy in paragraph 135 of the National Planning Policy framework requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The appellant claims benefits would result from the scheme. I now turn to consider these.

A balanced judgement.

17. In addition to the architectural quality of the building and consequent townscape improvements, which I have already considered, the public benefits claimed by the appellant include
 - Full accessibility.
 - Improvements to Clarendon Grove.
 - Energy efficiency and sustainability.
 - Discrete and secure cycle and bin storage.
 - The provision of student accommodation.
18. The Council decries these as being attributes which would have to be met by any development. That may be true but the choice before me is not a beauty parade of competing new development but whether to allow the development proposed or not. So, the fact that any new development would bring benefits should not blind us to the fact that they would nonetheless be benefits when compared with the retention of the existing situation.
19. The importance of providing accessibility is explained in paragraph 7.14 of the justification to policy D1(g) in the newly adopted Local Plan. Good access benefits all.
20. Clarendon Grove is an alleyway which tunnels under the existing building for a distance of approximately 4.3m. It is presently 1.8m wide and approximately 3.9m high. It is identified as a focus for anti-social behaviour. The proposal would increase the length of the tunnel to approximately 13.7m but would increase its width to 2.6m and its height to 5.89m. Its east side would become overlooked by windows from within the ground floor unit. The west boundary of the alleyway would be constructed as a colonnade which would be opened up to view by the forthcoming demolition of the adjoining Maria Fidelis School.
21. The importance of public safety is explained in paragraph 7.18 of the justification to policy D1(i) of the newly adopted Local Plan. Notwithstanding the greater length of the covered alleyway, the increased supervision which the proposed arrangements would enable would result in far greater public safety than at present.
22. The extent to which the proposal would achieve energy efficiencies and minimise carbon emissions is described in the appellant's preliminary BREEAM analysis and Energy and Sustainability Statement. This can be secured by conditions 2 and 4. The importance of securing energy efficiency and carbon emission reduction is explained in paragraphs 7.7 and 7.8 of the justification to policy D1(c) of the Local Plan and in greater detail in paragraphs 8.2, 8.3 and 8.15 justifying policies CC1 and CC2.
23. The Council's appeal statement asserts that student accommodation is not considered a public benefit because the priority land use is permanent residential accommodation. Although the second part of that assertion is stated in the Council's Local Plan, the first part sits oddly with Local Plan policy H9 and its justification.

24. The policy states the Council's support for student housing. In its justification the Council considers that the provision of additional designated student housing can help to limit additional pressure on the wider private rented market. It considers the minimum requirement for additional student housing over the Plan period to be 160 places per year, or 2,400 places in total. This minimum requirement forms an annual target in Policy H9. The Local Plan recognises that the growth in student numbers and student housing demand may be higher, and Policy H9 therefore supports development to meet or exceed the target, notwithstanding the fact that the existing pipeline is already sufficient to meet the plan's targets.
25. Because the provision of student housing can relieve pressure on the wider housing market, which is a priority land use, the significance of any increase in student housing provision can be readily recognised. For that reason, the provision of additional student housing, increased from 9 to 53 bedspaces should be regarded as a significant benefit of the development.
26. The planning balance therefore is
- The loss of a building constructed in pursuit of mid-twentieth century social engineering of significance to its time but no longer in use for that purpose.
 - The loss of lively street facades of variety and wit which have lightened the mood of the area over the past 85 years.
 - The construction of a modest, unprepossessing building of appropriate massing and scale responding to the repetitive qualities of the nearby housing context by a very strict repetition of a formal and uniform grid on all its facades.
 - The provision of full accessibility.
 - Improved safety and security in Clarendon Grove.
 - Improved energy efficiency and reduced carbon emissions
 - Improved cycle parking and refuse storage facilities.
 - A significant contribution of additional student housing providing much-needed relief to the hard-pressed private rented housing sector in Camden.

This is a positive balance in favour of the appeal, which I therefore allow.

Conditions and obligations

27. Some of the benefits of the proposal would be secured by the submitted s106 agreement. Others would need to be secured by conditions. The Council has suggested fourteen conditions which I have considered with reference to advice in national Guidance.
28. In addition to the statutory condition requiring development to be commenced within three years, a condition is necessary to secure not just compliance with the submitted drawings but also those of the supporting documents which make recommendations for such matters as tree protection, noise protection, energy provision and carbon emission reduction. Conditions would be necessary to secure the submission and approval of the details recommended in those supporting documents. As these include limitations on noise levels emanating from the building, the suggested condition limiting the playing of music would be unnecessary.

29. The suggested condition to control the addition of services to the exterior of the building is necessary in the interests of securing its appearance as shown on the drawings. Because the proposal is not a listed building, nor would be sited in a conservation area, a condition requiring details of joinery cross sections seems unnecessary; the submitted drawings give adequate detail of doors and windows. All that is necessary are details of the materials to be used.
30. There is no scope for landscaping the proposal within the site, so the suggested landscaping condition is inappropriate and unnecessary. No information is provided to justify a condition requiring the installation of bird and bat boxes. Adequate details of cycle storage are shown on the drawings, so a condition to require the submission of further details is unnecessarily burdensome; all that is required is for the provision to be made and kept available subsequently.
31. The agreed planning obligation provides for the submission and approval of a Construction Management Plan, so the suggested conditions seeking to control the noise and emissions of machinery used in demolition and construction are unnecessary.
32. The requirements of the planning obligation providing for a construction apprentice programme and employment are necessary to comply with Local Plan policy E1(c). Its highway contributions are necessary to accord with policy T1 as is a travel plan and its monitoring. A public open space contribution is necessary to comply with Local Plan policy A2(l). The denial of parking permits to occupants is necessary to comply with Local Plan policy T2. A construction management plan is necessary to comply with Local Plan policy A1(i). An energy efficiency and renewable energy plan and a sustainability plan are necessary to comply with Local Plan policies D1(c) and (d) and CC2 and controls on rent levels to ensure affordability for students are necessary to comply with Local Plan policy H9(g). All are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind so I find that they meet the tests for compliance with the CIL regulations.

P. W. Clark

Inspector