

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>24/06/2019</b>
		N/A		<b>Consultation Expiry Date:</b>	<b>06/05/2019</b>
<b>Officer</b>			<b>Application Number(s)</b>		
David Peres Da Costa			2019/1625/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
Maria Fidelis Convent School 34 Phoenix Road and 1-39 Drummond Crescent London NW1 1TA			Refer to draft decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Variation of condition 2 (approved plans) of planning permission 2016/3476/P dated 01/12/2016 (as amended by 2018/2405/P dated 21/09/2018) (for demolition of existing school buildings and erection of a new part two, part three, part four-storey secondary school with associated landscaping and flood-lit multi-use games area), namely retention of part of 3 storey building abutting 42 Phoenix Road and Clarendon Grove.					
<b>Recommendation(s):</b>		Refuse planning permission and warning of enforcement action			
<b>Application Type:</b>		Variation of condition			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
<b>Consultations</b>						
Adjoining Occupiers:			No. of responses	<b>02</b>	No. of objections	<b>02</b>
Summary of consultation responses:	<p>Two site notices were displayed from 12/04/2019 to 06/05/2019 and the application was advertised in the local paper on 11/04/2019 (expiring 05/05/2019).</p> <p>Two objections were received. One was from the occupier of 73 Chamberlain House, Phoenix Road and the other was on behalf of 'The Findlay Estate Co Ltd' which owns 42 Phoenix Road.</p> <p><i>Leaving a section of the old school building on Phoenix Road, sealed and filled with concrete blocks, is completely unacceptable.</i></p> <p><i>Even when in use, this building added nothing to the Phoenix Road streetscape. The original planning applications' own Heritage Statement confirmed this:</i></p> <p><i>"In-fill building (Nos. 38-40 Phoenix Road) This building is extremely plain without attempting any meaningful architectural expression. It does not contribute positively to the townscape along Phoenix Road. It is of communal value only so far as it is useful to the school. It is not included on the Local List and has no apparent historic, architectural or artistic interest."</i></p> <p><i>To leave a section of this building up is to blight the streetscape and should not be allowed.</i></p> <p><i>The area where this bit of building has been left was to be a planted border/habitat garden – one of the few green areas in the school. It was to have had an educational function as well as improving local biodiversity and helping to take run-off water from the site. I cannot see any replacement for these functions in the application.</i></p> <p><i>Having followed closely the correspondence between 42 Phoenix, the applicant and the Council throughout the construction, including the demolition of most of 38-40 Phoenix Road without a party wall agreement and causing enormous distress to residents in 42 Phoenix Road, I have no doubt that this application is an effort to save time and money and has nothing whatsoever to do with the relationship with 42 Phoenix Road. It should be rejected.</i></p> <p>The Findlay Estate Co Ltd - objection</p> <p><i>I sincerely hope that you and your colleagues won't be persuaded to approve this application based upon Mike Ibbott's provably unreliable claims; which would revoke all the improvements offered by the consented scheme to the historic crime and anti-social behaviour endured in Clarendon Grove, blight Phoenix Road with a bricked up derelict folly and fall short of every aspiration within the Euston Area plan.</i></p>					

	<i>Perhaps one idea might be to include the derelict slice of No:44 into the demolition contract of No:42, as it wouldn't then be required for support, and, unlike Kier and the school, we'd be happy to take financial responsibility for the provision and maintenance of the full height green wall proposed by Elizabeth Beaumont, which we've been championing in recent discussions with your colleagues?</i>
<b>CAAC/Local groups comments:</b>	No responses received

## Site Description

The application site is occupied by a part two, part three, part four-storey secondary school located alongside Drummond Crescent and multi-use games area adjacent to Phoenix Road. The buildings on site were granted permission on 01/12/2016 (planning ref: 2016/3476/P) and were completed in 2019. On Phoenix Road there is also a 3 storey section of the former 38-40 Phoenix Road which forms the subject of this application. Adjacent to the site is 42 Phoenix Road which is locally listed. This property oversails Clarendon Grove, a public footpath that runs along the eastern boundary of the school between Phoenix Road and Drummond Crescent. The site does not fall within a conservation area.

The site falls within the area covered by the Euston Area Plan.

## Relevant History

### Application site

**2016/3476/P:** Demolition of existing school buildings and erection of a new part two, part three, part four-storey 5 form entry secondary school (1,050 pupils including 300 16+) with associated landscaping, flood-lit multi-use games area (MUGA), cycle parking and servicing. Granted Subject to a Section 106 Legal Agreement 01/12/2016

**2018/2405/P:** Alteration to boundary wall (removal of railing and replacement with brick with vertical slots) at junction of Phoenix Road and Clarendon Grove and grey render finish to exposed gable wall of 44 Phoenix Road to 'erection of a new part two, part three, part four-storey secondary school with associated landscaping, flood-lit multi-use games area (MUGA), cycle parking and servicing' approved under 2016/3476/P dated 01/12/2016. Non-Material Amendment Granted 21/09/2018

### 42 Phoenix Road

**2015/6383/P:** Redevelopment of the site involving demolition of the existing building and erection of a new six storey building with basement comprising community use (Class D1) at ground and basement level and student accommodation (7 x 6 bedroom units, 1 x 4-bedroom unit, 7 studio units and 53 bedrooms) on the upper floors; part widening of Clarendon Grove alleyway and the provision of 30 cycle spaces at basement level. Refused 31/08/2016 Appeal Allowed 13/09/2017

## Relevant policies

### **NPPF 2019**

### **The London Plan March 2016, consolidated with alterations since 2011**

Publication London Plan December 2020

### **Camden Local Plan 2017**

Policy A1 Managing the impact of development

Policy D1 Design

Policy C5 Safety and security

### **Camden Planning Guidance**

Design (January 2021)

Amenity (January 2021)

## Assessment

### 1. Proposal

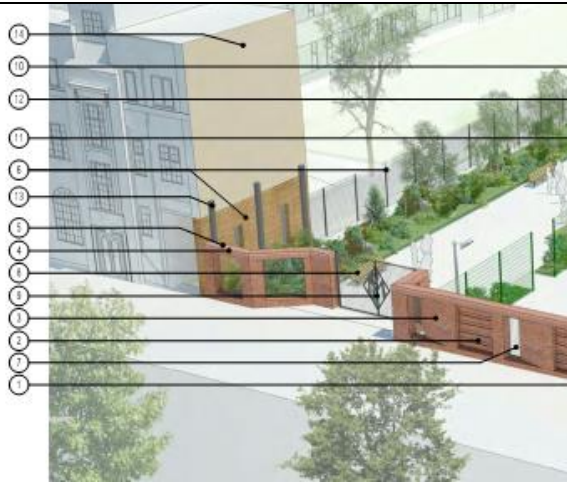
1.1. The application seeks retrospective approval for a variation to the approved scheme to retain a section of the original building (a 3 storey building abutting 42 Phoenix Road and Clarendon Grove) in place of the approved scheme comprising a continuation of the brick wall with railings allowing views into the playground and through to Clarendon Grove. A section of the original building was not demolished, instead the windows in this building have been bricked up and the side wall facing the school has been rendered with a green wall at ground floor level. The section of the 3 storey building being retained is the stair core to the former 38-40 Phoenix Road and is part of Maria Fidelis school which was previously approved for demolition under planning reference 2016/3476/P. This part of the site should have been landscaped with a continuation of boundary wall to Phoenix Road and Clarendon Grove.

### 1.2. Background

1.3. Planning permission was granted 01/12/2016 for a part two, part three, part four-storey secondary school located alongside Drummond Crescent and a multi-use games area adjacent to Phoenix Road (planning ref: 2016/3476/P) following the demolition of a locally listed building. This included a 2.5m high brick boundary to Phoenix Road with detailing to central panels and chamfered brick to slender openings with grey metal railings. The inset panels of metal railings allowed controlled glimpses into the site, providing visual interest to the street. The eastern section of the boundary included larger open sections of metal railings to allow a degree of inter-visibility between Phoenix Road and Clarendon Grove. The boundary treatment to Phoenix Road (approved under 2016/3476/P) is shown below.



1.4. A non-material amendment was granted 21/09/18 for an alteration to the Phoenix Road boundary wall which involved the replacement of the railings in the boundary wall adjacent to 'Clarendon Grove' with two vertical slots within the wall (2018/2405/P). The slots were negotiated during the course of the application as the original drawings submitted with the application did not include any openings in the wall to Clarendon Grove. The Council would have preferred wider openings but was advised that larger openings would affect the structural integrity of the wall. In this context, the slots in the Clarendon Grove wall were considered to continue to provide a degree of visual permeability to the users of the passage. The boundary treatment to Phoenix Road / Clarendon Grove (approved under 2018/2405/P) is shown below.



- 1.5. In order to implement the scheme in accordance with the approved scheme, works were required to be undertaken to the Party Wall between Maria Fidelis School and 42 Phoenix Road. This included structural works which, officers were advised, required express consent from the owner of 42 Phoenix Road (installation of helical ties into the floor slab and installation of new steel support columns). We understand that this matter was not resolved and instead the applicant investigated alterations to the extent of the demolition, which would negate the need to undertake structural works requiring express consent. To avoid such structural works, the applicant proposed to retain the existing stair core to the former 38-40 Phoenix Road which forms part of the party wall with the adjacent 42 Phoenix Road and provides structural support to the cantilever structure over the local authority owned passageway (Clarendon Grove).
  
- 1.6. Officers advised the applicant of the concerns with the impact of amending the approved scheme and that consent would be required. The current application attempts to mitigate the resulting harm from amending the approved scheme.

## 2. Assessment

- 2.1. The main issues to be assessed are planning balance, design, amenity and safety / security.
  
- 2.2. **Planning balance**
  
- 2.3. The approved scheme, which this application seeks to amend involved the demolition of locally listed buildings on the Phoenix Road frontage (Nos. 34 and 36 Phoenix Road). The image below shows the pre-existing condition along Phoenix Road.



2.4. In order to justify the loss of these non-designated heritage assets the replacement scheme had to be of an appropriate quality and provide public benefits to outweigh the loss of the buildings. In coming to a balanced judgement on the original scheme (2016/3476/P), the public benefits of the scheme were a key factor in balancing the resulting harm from the loss of the locally listed buildings.

2.5. One of the material consideration in the planning balance made at the time to allow the demolition of a local listed building was achieving a degree of inter-visibility between Phoenix Road and Clarendon Grove. These benefits are highlighted in the officer's committee report which includes the following paragraphs:

*The proposed 2.5m high brick wall represents a compromise of the Council's urban design aspirations for Phoenix Road. The preferred solution would be the retention and re-use of the existing locally listed building. .... However the proposed boundary treatment that would replace the buildings does offer some benefit to the public realm. It features similar brick detailing to the Drummond Crescent elevation of the school building which should serve to give the whole expanded site a coherent and legible identity (paragraph 9.26).*

*A particular challenge of the design of the Clarendon Grove boundary to the site is the need to balance the security concerns of the school with improved passive surveillance of the public realm. It is a welcome feature of the eastern section of the Phoenix Road boundary that the gates and open sections of metal railings in the brick wall should allow a degree of inter-visibility between Phoenix Road and Clarendon Grove (paragraph 9.27)*

2.6. The officer's report then goes on to confirm that *"the improved inter-visibility between Phoenix Road, Clarendon Grove and the external spaces of the school" "are examples of the opportunities that the proposed comprehensive redevelopment of the site allows to make a positive contribution to the public realm."*

2.7. The proposal to leave in place part of the existing school building abutting the boundary ensure that these benefits are not achieved. The current proposal would replace the inset panels of metal railings in the Phoenix Road frontage (adjacent to Clarendon Grove) with a blank frontage. These two inset panels of railings were the largest openings in the boundary wall after the boundary wall to Clarendon Grove was amended under planning ref: 2018/2405/P. The original scheme was welcomed for allowing "controlled glimpses into the site providing visual interest to the street" (paragraph 9.26 of the officer's committee report for 2016/3476/P). This benefit would be lost and the proposed blank frontage erodes the

quality of the original scheme and reduces opportunities for passive surveillance.

- 2.8. One of the public benefits identified in the committee report was that “the Phoenix Road frontage would be addressed with an appropriate boundary treatment that prevents it being seen as a ‘gap site’ and allows the location of the school to be appreciated”. The current application would see this benefit eroded. The loss of two large panels of metal railings in the Phoenix Road frontage would significantly reduce opportunities for the location of the school to be appreciated.



- 2.9. The proposed blank frontage in place of the approved panels of metal railings would also lessen the visual interest to the street. Moreover, the inter-visibility between Phoenix Road and Clarendon Grove, which the original scheme would have delivered, would no longer be provided. The altered boundary treatment would be less generous to the public realm and in the absence of the large panels of metal railings would appear less welcoming. The proposal result in a number of key benefits not being achieved.
- 2.10. Furthermore consideration of how crime, disorder and fear of crime can be addressed is an important element in good design. The Council requires all developments to incorporate appropriate design, layout and access measures to help reduce opportunities for crime, the fear of crime and to create a more safe and secure environment. The approved scheme provided key improvements to security. The amended scheme, involving the retention of part of the 3 storey structure and alterations to the eastern end of the boundary wall obscure public views to and from Clarendon Grove and has the potential to increase the fear of crime in comparison to either of the approved schemes (planning refs: 2016/3476/P or 2018/2405/P).
- 2.11. The Council requires development to integrate well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contribute positively to the street frontage (Policy D1). The structure is not considered to accord with policy D1 as it would fail to positively contribute to the street frontage. The retained structure with blank windows would appear anomalous in the street scene and would not preserve and enhance the adjacent locally listed building (42 Phoenix Road). The wide expanse of flank wall, without any detailing to break up the massing, would be prominent from Phoenix Road. The light coloured brickwork is out of keeping with the colour of the brick boundary wall and the neighbouring building. Given this, the structure would appear incongruous in this location.
- 2.12. The proposed structure and boundary treatment adjacent to Phoenix Road / Clarendon Grove is shown below.





### 2.13. **Amenity**

2.14. Given the location and surrounding context, the proposed amendment to the approved scheme have minimal impact on neighbouring amenity in terms of loss of privacy, daylight / sunlight or harm to outlook.

### 2.15. **S106**

2.16. Planning permission was approved subject to a S106 Legal Agreement securing a number of heads of terms, whilst some have been discharged or are no longer relevant there are a number that remain for the lifetime of the development. These include securing the development as car free, a school travel plan, programme for local procurement and sustainability plan to comply with planning policies. If the current application had been recommended for approval a deed of variation would be required to ensure that these heads of terms are secured. The absence of a S106 Leal Agreement therefore forms a further reason for refusal.

### 2.17. **Conclusion**

2.18. Refuse planning permission and warning of enforcement action

### 2.19. Enforcement recommendation

2.20. That the Head of Legal Services be instructed to issue a **Breach of Condition Notice** under Section 187A of the Town and Country Planning Act 1990 as amended with regard to condition 2 of planning permission 2016/3476/P dated 01/12/2016 (as amended by 2018/2405/P dated 21/09/2018) and that officers be authorised in the event of non-compliance to prosecute under that section.

### 2.21. **The breach of condition:**

2.22. The following condition has not been complied with:

2.23. **Condition 2** of planning permission 2016/3476/P dated 01/12/2016 (as amended by 2018/2405/P dated 21/09/2018)

The development hereby permitted shall be carried out in accordance with the following approved plans:

Existing site location plan 2698-JW-100 Rev P01; Existing site plan 2698-JW-101 Rev P01; Existing elevations 2698-JW-110 Rev P01; Proposed site plan 2698JW200 Rev P01; Proposed GA plan ground floor 2698-JW-201 Rev P01; Proposed GA plan 1st floor 2698-JW-202 Rev P02; Proposed GA plan 2nd floor 2698-JW203 Rev P02; Proposed GA plan 3rd floor 2698-JW-204 Rev P02; Proposed GA plan roof level 2698-JW-205 Rev P02; Proposed GA sections 2698JW-210 Rev P01; Proposed GA elevations - south elevations 2698-JW-215 Rev P01; Proposed GA elevations - north elevations 2698-JW-216 Rev P01; Proposed GA elevations - east/west elevations 2698-JW-217 Rev P02; Proposed GA elevations - entrance bay study 2698-JW-220 Rev P01; Proposed GA elevations - library bay study 2698-JW-221 Rev P01; Proposed GA elevations - bay study sports hall & dance 2698-JW-222 Rev P01; Proposed 3D view - Drummond Crescent 1 2698-JW-225 Rev P02; Proposed 3D view - Drummond Crescent 2 2698-JW-226 Rev P01; Proposed 3D view - Drummond Crescent 3 2698-JW-227 Rev P01; Proposed 3D view - Student Entrance 1 2698-JW-228 Rev P04; Proposed 3D view - student Entrance 2 2698JW-230 Rev P04; Proposed 3D view - Aerial 2698-JW-231 Rev P01; Muga Pitch Lighting Layout 5112-EL-303 Rev A; Landscape Masterplan WWA\_1566\_LL\_101 Rev T06; Boundary Plan WWA\_1566\_Sk\_002 Rev T06; Access & Circulation WWA\_1566\_Sk\_003 Rev T04; and Levels Plan WWA\_1566\_Sk\_009 Rev T01.

#### Supporting Documents:

Design and Access Statement by Jestico + Whiles; Planning Statement by tp Bennett; Heritage Statement by Built Heritage Consultancy; Historic Environment Assessment by MOLA; Detailed Daylight and Sunlight Report by Bilfinger GVA; BREEAM Pre-Assessment by Scott White and Hookins; Energy Statement by Low Energy Consultancy Ltd; Sustainability Statement by Low Energy Consultancy Ltd; Air Quality Assessment by Resources and Environmental Consultants Ltd; Environmental Noise Survey by Pace Consult; Ground-borne Vibration Assessment Report by Pace Consult; Phase 1 Preliminary Unexploded Ordnance Risk Assessment by Ordtek; Geo-Environmental Assessment by Geosphere Environmental Ltd; Phase 1 Desk Study and Preliminary Risk Assessment; Phase 2 Ground Investigation Report; Ecological Assessment by JFA; Tree Constraints by JFA; Internal Bat Building Assessment (Clear) (for MFS); Bat Scoping Survey by Wold Ecology Ltd (for Drummond Crescent); Transport Assessment by MLM; School Development Travel Plan by Maria Fidelis Catholic School FCJ; Flood Risk Assessment by Parmarbrook; Statement of Community Involvement by tp Bennett; and Construction Method Statement by Kier Construction.

2.24. What you are required to do:

2.25. Within six months of the notice taking effect:

1. Make the development comply with condition 2 of planning permission 2016/3476/P dated 01/12/2016 (as amended by 2018/2405/P dated 21/09/2018) and in particular drawing no: 2698-JW-200 P01; 2698-JW-228 P04; 2698-JW-230 P04
2. Make good any damage as a result of the above works

2.26. Compliance period for requirement : Six months

2.27. **REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

2.28. The retention of part of a 3 storey building abutting 42 Phoenix Road and Clarendon Grove,

and boundary alterations, by reason of its size, bulk, materials and design, is incongruous to the streetscape, harms the appearance of the school and the street frontage, obscures public views to and from Clarendon Grove, reduces passive surveillance from the site and has the potential to increase the fear of crime contrary to Policy D1 (Design) and Policy C5 (Safety and security) of the London Borough of Camden Local Plan 2017.