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11 REGENT SQUARE, LONDON, WC1H 8HZ

Final Comments

November 2021

PINS refs: APP/X5210/W/21/3274863 & APP/X5210/Y/21/3274864

Council Statement

1. This Final Comments submission is made in response to the Council's Statement and third party submissions. It is noted that the Council's submissions only replied in detail to the statement on heritage matters by Spurstone Heritage and so a detailed Final Comments response is enclosed by Spurstone Heritage.
2. However, there are a number of additional broader points contained in the Council's Statement that require a comment and are related to the appearance of the building and area, the correct interpretation of planning policy, and the correct application of public benefits. These matters are therefore addressed in brief below.

Exterior of building and conservation area

3. At paragraphs 5.13 the Council consider the upper parts of the rear elevation to be visible from St George's Gardens and so the top of the lift shaft would be visible. The rear of the terrace is predominately screened from the Gardens due to the intervening new Express Dairy redevelopment scheme that lies to the south.
4. This leaves only a small area of the Gardens where the very top of terrace can be seen over a considerable distance. In that view, it is only the top floor of No. 11 that can be seen. As the lift shaft does not extend to that level then it will barely be seen, if at all. And, of course, that is in the context of a rear elevation to the terrace that has been variously altered, rebuilt and has roof extensions.
5. Whilst this will be something the Inspector can judge at the site visit, to assist this is shown on the photographs overleaf:



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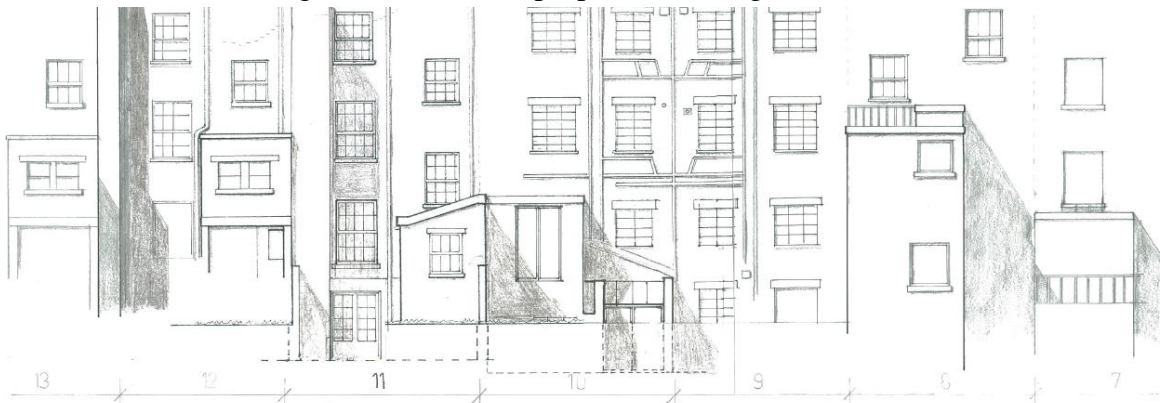
No. 11



6. The above photo is taken from the far side of St George's Gardens, which is the only place where the top of the terrace is visible. The Dairy redevelopment is in front. Below is an extract from the proposed rear elevation:



7. It can be seen that the highest point of the proposed lift shaft is just at the height of the second floor window (marked with blue arrow); a window that is not visible in the photo of the rear elevation.
8. The Council also say at paragraphs 5.13 and 5.24 that the rear lift shaft would be visible in many private views. This is disputed due to the flat rear back elevation of the terrace meaning there are no side views towards the rear elevation of No. 11, and due to the existing rear projections to a number of properties that will restrict views from gardens to No. 11, as the following extract from the proposed drawing illustrates:



9. In addition, it should be noted that the outlook from the Regent Square properties to the rear is predominately to the redevelopment of the Express Dairy. The works to No. 11 will therefore be seen in this context of a recent development with use of contemporary materials and form:



10. These matters will, as mentioned, be apparent to the Inspector at the site visit. But this is relevant with regards to the Council's comment at paragraph 5.24 of their Statement with regard to the impact of the scheme on the Conservation Area. The Council have not carried out the correct test under s72 of the Act. It was confirmed in *South Oxfordshire DC v SSE & J Donaldson* that the duty requires attention to be directed to the effect of a proposed development on the conservation area as a whole rather than on particular parts of it.
11. However, the Council at 5.24 point only to an effect on the local part of the Area (which, of course, we dispute in any event). The Council in their Delegated Report and their Appeal Statement have not identified the character and appearance of the whole Area, and then appraised the proposal against that finding. That would have been the correct approach and was undertaken at paragraphs 30 & 51 of the original Planning Statement (October 2020) and paragraph 15 of the Appeal Statement (May 2021) with reference to the Bloomsbury Conservation Area Appraisal and Management Strategy. It therefore remains our submission that the proposals would preserve the character and appearance of the Area, and so satisfy the requirements of s72.

Public benefits

12. The Council's discussion on public benefits in their Appeal Statement continues to place no weight on improving accessibility of the housing stock, as was also the case in their Delegated Report. Such a position is incompatible with the development plan. Paragraphs

17-19 of the Planning Statement (Oct 2020) explained how Policy D1 of development plan contains a policy objective to increase access. Paragraphs 20-23 examined Policy H6 and the policy aspiration to improve access. Paragraphs 26-28 considered works to listed buildings, with the supporting text to Policy D2 specifically looking to improve access.

13. None of those policy references in the development plan state that such policy aspirations should not apply to private dwellings which is, of course, understandable: the Council have stated in the Plan that it is their policy intention to improve the quality of the housing stock for all. Paragraphs 31-32 of the Planning Statement also explained that the Council's SPD contains such aspirations for listed buildings, and of course Historic England has similar guidance (see paragraphs 33-35).
14. These matters were discussed further in paragraphs 19-26 of our Appeal Statement (May 2021). It was explained that the policy guidance must apply to all housing – proposed and existing – as otherwise it would be an illogical position that the objectives of the planning system at both national and local level only applies to new private housing schemes (see paragraph 23). The support for this position set out in the PPG was also given (see paragraphs 24-25) and it was pointed out that the Council's position that such matters were purely private affairs was an error (see paragraph 26).
15. As noted earlier, the Council's Appeal Statement has not commented or disputed the submissions in the Appeal Statement (May 2021). We therefore stand by these submissions as being the correct interpretation of public benefits.
16. The Inspector will also be aware that we have drawn attention to a very similar case in the Borough at 10 Park Villas West for a lift, where the benefits of improving accessibility were stated as a positive matter in favour of the proposal. The Council have not disputed our submissions on this matter and so, again, we consider this similar case to have significant weight in this appeal and to reinforce our position on the matter of public benefits.

Personal circumstances

17. Paragraphs 28-29 of our Appeal Statement (May 2021) highlighted the need for the proposed works due to the medical condition of the appellants, the statement from the NHS Trust, and the duty under the Equality Act. The Council have again not commented on these matters. It remains our submission that these are matters of significant weight, for the reasons given. We further maintain our submission that these matters help illustrate that the works would improve accessibility to the dwelling, so improving the accessibility of the housing stock and, logically, therefore represents a public benefit consistent with national and local policy.

Conditions

18. The suggested conditions are acceptable.

Third party comments

19. My clients and I are pleased to see the unsolicited letter of support from a neighbour, who also confirms that the lift would barely be visible.

Site visit

20. My clients will be in attendance at the Inspector's site visit on Monday to show around the house.