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## Appeal Decision

Site visit made on 28 November 2016

**by Susan Ashworth BA (Hons) BPL MRTPI**

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

**Decision date: 3<sup>rd</sup> February 2017**

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**Appeal Ref: APP/K5600/W/16/3156927**

**4, 5 and 6 Dilke Street, London SW3 4JE**

- 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 The Zamek Group against the decision of The Council of The Royal Borough of Kensington & Chelsea.
  - The application Ref PP/15/06440, dated 9 October 2015, was refused by notice dated 6 April 2016.
  - The development proposed is the demolition of existing residential buildings (nos 4, 5 and 6 Dilke Street) comprising four units and their replacement with new residential buildings to provide the same number of residential units.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing residential buildings comprising four units and their replacement with new residential buildings to provide the same number of residential units at 4, 5 and 6 Dilke Street, London SW3 4JE, in accordance with the terms of application Ref: PP/15/06440, dated 9 October 2015 and subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The site abuts Nos 5 and 6 Chelsea Embankment which are Grade II Listed Buildings. Listed Building Consent for the works was granted under application ref: LB/15/06441 on 6 April 2016.
3. During the course of the appeal, the appellant submitted updated versions of the originally submitted Flood Risk Assessment; Structural Engineer's Report for Planning; and Construction Management Traffic Plan proforma and drawings. An Environmental Management Plan was also submitted for consideration. These documents relate to technical issues and, whilst the Council is aware of them, I cannot be certain that the Council's relevant technical advisors have had an opportunity comment on them. On that basis, I have considered the appeal on the basis of the evidence originally submitted.
4. A completed planning obligation in the form of a Unilateral Undertaking relating to the provision of parking permits has been provided during the course of the appeal and the Council has been given specific opportunity to comment on it. Consequently the Council are not prejudiced by my consideration of it. I have therefore taken the planning obligation into consideration in my determination of the appeal.

## **Main Issues**

5. The main issues in this case are:

1. Whether the proposal would preserve or enhance the character or appearance of the Royal Hospital Conservation Area and, linked to that, the effect of the development on the setting of the Grade II listed buildings, 5 and 6 Chelsea Embankment.
2. The impact of the development on highway and pedestrian safety and on parking provision within the area.

## **Reasons**

*Whether the proposal would preserve or enhance the character or appearance of the Royal Hospital Conservation Area.*

6. The appeal site is located on the southern side of Dilke Street, close to its junction with Tite Street. It comprises four residential units: No 4, a single storey, self-contained two-bedroomed unit located at the rear of No 5 with no frontage to the highway; No 5, a three storey building which accommodates two one-bedroomed flats and two garages and No 6, an end-of-terrace four-bedroomed house.
7. It is proposed to demolish the existing buildings on site and to replace them with a three storey development with basement accommodating four residential units in two flat roofed buildings. The residential units would comprise one, four-bedroomed house; one, two-bedroomed flat and two one-bedroomed flats.
8. The site lies within the Royal Hospital Conservation Area which contains properties of a variety of ages and styles. The south side of Dilke Street, on which the site lies, is characterised by two/three-storey mews style terraced properties dating from the mid-late 19<sup>th</sup> century. Each property has a different design and a number have garages at ground level. External materials are a mixed palette of exposed brickwork, painted brickwork and painted render. Plot widths and the rhythm of the fenestration provide a degree of unity in the street scape. The small scale and simple appearance of the properties along this side of Dilke Street contrast with the grander scale and appearance of the 5/6 storey buildings at the rear, fronting Chelsea Embankment.
9. The appeal buildings have no intrinsic architectural merit, although, as a result of their scale and the rhythm, Nos 5 and 6 make a positive contribution to the character and appearance of the area. The proposed development would have a similar massing and scale to the buildings it would replace and the proposed external materials of the development - brickwork with Portland stone dressings - would reflect those on the neighbouring buildings. Fenestration patterns would align with neighbouring buildings and because of its height, the proposed development would remain subservient to the taller buildings around it. The Council considers the overall design of the development to be favourable and I have no reason to disagree.
10. However the Council is concerned about the visual impact of proposed glazed screens which would be positioned between the buildings at first floor level. The proposed screens would be an unusual feature at first floor level but

would be of a visually lightweight appearance that would help maintain the separate massing of the two blocks. Moreover, the screens, which would assist in obscuring views of the external staircase, would be set back from the frontage of the building such that they would only be readily visible from immediately in front of the building. Given the scale of the development as a whole, the screens would not be a dominant feature.

11. Consequently I am satisfied that the development would preserve the character and appearance of the conservation area and the setting of the neighbouring listed buildings. As such the proposal complies with Policies CL1, CL2, CL3 and CL11 of the Council's Consolidated Local Plan (the Local Plan) which seek amongst other things and in various ways to protect heritage assets and ensure that development contributes positively to the character and quality of the townscape.

*The effect of the proposal on parking provision in the area*

12. Whilst the proposed number of units on the site would remain as existing, the proposal would result in the loss of the two garage spaces. One new on-street parking bay is proposed leading to a net loss of one space. Consequently there would be an increase in demand for spaces on-street. In accordance with Policy CT1 of the Local Plan one of the proposed residential units should therefore be 'permit-free' thereby negating any increase in demand for parking space locally.
13. The completed planning obligation would ensure that the future occupiers of Unit 4b would be permit-free. The obligation meets the tests set out in the Planning Practice Guidance and Regulation 122 of the CIL Regulations and would effectively prevent an increase in demand for on-street parking space locally. Consequently, on the basis of the planning obligation the proposal would not conflict with the requirements of Local Plan Policy CT1.

**Other Matters**

14. The Council, in its decision notice, sets out a range of detailed matters relating to the originally submitted Construction Method Statement, Construction Traffic Management Plan and Sustainable Drainage Strategy. These matters are typically dealt with by way of a planning condition. I note that a subsequent application for a similar development on the site has been recommended for approval<sup>1</sup>. Consequently there is no convincing reason why such matters could not be resolved by condition in this case.
15. I have taken into consideration, the concerns of local residents regarding flooding. The site lies within a designated Flood Zone 3, where risk of flooding is high. However, the Flood Risk Assessment submitted with the planning application indicates that as a result of existing flood defences, actual risk is low. Accordingly the scheme incorporates appropriate measures in the design of the development to mitigate against flooding. The report also concludes that water run-off from the site would not be increased, hence there would be no increase in flood risk from surface water on or off site. The Council considers that a Sustainable Urban Drainage System should be introduced to improve the existing surface water drainage and this is a matter which can be dealt with by

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<sup>1</sup> Application ref: PP/16/05131

condition. Consequently, in the absence of any technical evidence to the contrary, I am satisfied that the proposal would not suffer from nor increase the risk of flooding elsewhere.

16. Neighbouring residents are also concerned about the provision of a basement within the development. However there is no reason in policy terms why a basement should not be included in the proposal. Indeed there is already a smaller basement area at the appeal site. I recognise that there can be complex construction issues associated with such developments. However, proper construction management, required by condition, can mitigate against any adverse effects of such works, including prevention of damage to property, highway danger from construction traffic and noise and inconvenience to residents.
17. There are currently opportunities for overlooking between the rear of the existing buildings and the rear of properties on Chelsea Embankment including from balconies and raised patio areas. However, I am satisfied that the proposal would not significantly increase overlooking or affect the privacy of the adjoining residents. Given that the height of the development would be similar to the existing, there would be no substantial change to conditions of sunlight and daylight.

### **Conditions and Conclusion**

18. The Council has suggested several conditions in the event of the appeal being allowed and I have considered these conditions in the light of advice in the Planning Practice Guidance. Where necessary and to make them clear, I have amended the Council's suggested wording.
19. In the interests of proper planning and to provide certainty I have imposed the standard time limit condition and have specified the approved plans.
20. In order to preserve the character and appearance of the Conservation Area it is necessary for samples and details of the proposed external materials, and details of the proposed windows, to be submitted to the Council and agreed.
21. In order to ensure a satisfactory standard of development conditions relating to the submission and agreement of a sustainable drainage strategy, the method of dealing with unexpected contamination on the site and provision of refuse storage, are necessary. In order to ensure that the development meets acceptable levels of sustainability conditions relating to energy performance and water efficiency are also reasonable and necessary. In order that the development is satisfactorily managed conditions relating to the supervision of works and requiring a considerate constructor's scheme are necessary.
22. In order to protect the living conditions of neighbouring residents and highway safety during the construction period, a condition requiring the submission and agreement of an updated Construction Traffic Management Plan is necessary. To promote the sustainable movement of traffic, a condition requiring the provision of cycle facilities is necessary. In the interests of highway and pedestrian safety a condition requiring the modification of the crossover and parking bay is necessary.

23. In addition to those conditions suggested by the Council, in order to protect the living conditions and stability of neighbouring properties conditions requiring the submission and approval of a Construction Environmental Management Plan and amended Structural Engineer's Report are necessary.
24. For the reasons set out above, and taking into account all other matters raised, subject to the conditions outlined above the appeal is allowed and planning permission is granted.

*S Ashworth*

INSPECTOR

#### SCHEDULE

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall not be carried out except in complete accordance with the details shown on submitted plans.
3. No development shall commence until full particulars of the materials and finishes to be used on the external faces of the building, including the roof and details of windows/doors including sections, have been submitted to and approved in writing by the local planning authority. The development shall not be completed otherwise than in accordance with the details so approved.
4. Development shall not commence until a Sustainable Urban Drainage (SUDS) Strategy, which demonstrates how surface water run-off will be appropriately managed and reduced is submitted to and approved in writing by the local planning authority. The development thereafter shall accord with the approved SUD's strategy.
5. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The statement should include:
  - a) routeing of demolition, excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
  - b) access arrangements to the site;
  - c) the estimated number and type of vehicles per day/week;
  - d) details of any vehicle holding area;
  - e) details of the vehicle call up procedure;
  - f) estimates for the number and type of parking suspensions that will be required;
  - g) details of any diversion or other disruption to the public highway during preparation, demolition, excavation and construction work associated with the development;

- h) work programme and/or timescale for each phase of preparation, demolition, excavation and construction work associated with the development;
- i) details of measures to protect pedestrians and other highway users from construction activities on the highway;
- j) a strategy for coordinating the connection of services on site with any programmed work to utilities upon adjacent land; and
- k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Construction Traffic Management Plan.

6. The dwellings hereby approved shall not be occupied until the crossover has been removed, the footway in front of the site has been reinstated in materials matching those of the existing footway, a replacement pedestrian dropped kerb installed to the east of the position of the existing crossover and the process to modify the Traffic Management Order to extend the on street parking bay has been initiated.
7. No development shall take place until an amended Structural Engineer's report (Construction Method Statement) detailing how the proposed excavation is to be undertaken, and basement constructed, has been submitted to and approved in writing by the local planning authority. The development shall take place only in accordance with the approved Statement.
8. No development shall commence until a suitably qualified person, a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise the construction works throughout their duration and their appointment confirmed in writing to the Local Planning Authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed, those works will cease until a replacement chartered engineer of the afore-described qualification has been appointed to supervise their completion and their appointment confirmed in writing to the Local Planning Authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to this Authority in accordance with this condition.
9. No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission.

10. The building shall achieve Level 4 of the Code for Sustainable Homes equivalent in relation to energy performance only and none shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 or equivalent for this criterion has been achieved.
11. The dwellings shall achieve compliance with optional requirement G2 (2) (b) and none shall be occupied until Building Regulations approval has been issued for it certifying that these criteria have been achieved.
12. The development shall not be occupied until the refuse storage facilities shown on the approved plans have been fully implemented and made available for immediate use. The refuse storage facilities shall thereafter be retained for use at all times.
13. The development shall not be occupied until the cycle storage facilities indicated on the approved plans have been fully implemented and made available for immediate use. The cycle facilities shall thereafter be retained for use at all times.
14. If during development, contamination not previously identified is found to be present at the site, development work shall cease and not be recommenced until a report indicating the nature of the contamination and how it is to be dealt with has been submitted to, and approved in writing by, the local planning authority. The approved measures shall be implemented in full.
15. No development shall take place until a site specific Construction Environmental Management Plan (incorporating measures to minimise dust and emissions, construction and demolition methodology, and measures to mitigate construction noise and vibration affecting adjacent and adjoining occupied residential premises) has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved plan.