The Planning Inspectorate

# Appeal Decision

Site visit made on 17 January 2017

**by Alastair Phillips BA(Hons) DipTP MTP MRTPI**

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

**Decision date: 24 February 2017**

**Appeal Ref: APP/X5990/W/16/3155242**
**1 Chesham Place, City of Westminster, London SW1X 8HN**

- 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 Mr Erwin Wendland of the German Embassy London against the decision of City of Westminster Council.
- The application Ref 15/06988/FULL, dated 31 July 2015, was refused by notice dated 27 January 2016.
- The development proposed is the installation of folding security bollards in Chesham Mews and material change of use to Embassy land.

## Decision

1. The appeal is dismissed insofar as it relates to a change of use to Embassy land. The appeal is allowed insofar as it relates to the installation of folding security bollards and planning permission is granted for the installation of folding security bollards at 1 Chesham Place, City of Westminster, London SW1X 8HN in accordance with the terms of the application, Ref 15/06988/FULL, dated 31 July 2015, the plans numbered 1405e P0001, P0005 and P0006 so far as relevant to that part of the development hereby permitted and the following condition:

    i. The bollards hereby approved shall be retained in black and shall be kept that colour at all times.

## Procedural Matters

2. I note from the planning application and my observations on site that the application is retrospective and the bollards have been installed. I also observed on site that, although six bollards were originally installed, the one closest to Belgrave Mews West has been removed as it had been placed on land under the ownership of Grosvenor Estates. The fact that the development has been implemented without planning permission is not a reason in itself to dismiss the appeal and the proposal should be judged against material planning considerations.

3. Local residents and interested parties have advised that the development is on land outside the ownership of the appellant, that owners of Chesham Mews have acquired rights over parts of the land and therefore the incorrect land ownership certificates have been submitted. It has also been suggested that the site is within the ownership of Grosvenor Estates.

4. However, the appellant has provided detailed information in support of his position. At the time of the submission of the planning application the local

planning authority accepted signed Certificate of Ownership C (which indicates that some, but not all of the land owners were known). However, following further analysis, the appellant asserts that the freehold land comprising the appeal site belongs to the appellant. Subsequently Certificate of Ownership D has been signed for the purposes of the current appeal (which indicates that no other owners of the land are known).

5. Overall, having considered the information submitted by all parties, I do not consider that the evidence before me demonstrates that the wrong certificates have been submitted.

6. Since the date of the refusal to grant planning permission the local planning authority has adopted Westminster's City Plan Consolidated with all changes since 2013 – November 2016 (the Consolidated LP). Policies S29 and S32, which are referred to in the decision notice, are unaltered in the Consolidated LP.

7. The appellant suggests [1]that no change of use has, in fact, occurred and that it and the bollards can be considered as separate matters. In my view they are distinct and severable items and I have therefore considered their merits individually below. In these circumstances it is open to me to issue a 'split' decision in the event that I find one element of the scheme to be acceptable and one unacceptable.

## Main Issue

8. The main issue is the effect of the development on the living conditions of the occupants of neighbouring properties, with particular reference to an increase in activity, noise and general disturbance associated with vehicle movements.

## Reasons

*Change of use*

9. The proposal is vague regarding the precise nature and purpose of the change of use to Embassy land. I have considered all of the information before me, but I can find little to further explain what the appellant has in mind. On the contrary, the appellant suggests that no change of use is intended. It appears that the local planning authority took the view that the effect of the bollards has been to create a private vehicle servicing facility within the quiet residential mews; a view which is shared by local residents and other interested parties.

10. However, the appellant's appeal documents make it very clear that the purpose of the development is to provide protection against terrorist attacks and to improve security for Embassy staff and buildings. Indeed, I understand that staff and contractors are no longer permitted to park on the appeal site. Furthermore, as further evidence of not requiring the site for parking and servicing the appellant has suggested that in the event of allowing the appeal, a condition could be imposed requiring that the appeal site should not be used for parking.

11. In these circumstances, it is simply not clear how the land might be used. Accordingly, if the change of use were permitted, I cannot be satisfied that this element of the development would comply with the provisions of Policies S29

[1] Section 3.5 of Appeal Statement

and S32 of the Consolidated LP and Policy ENV6 of the City of Westminster Unitary Development Plan (January 2010) (the UDP). For this reason alone I conclude that the appeal should be dismissed insofar as it relates to the change of use to Embassy land.

*Installation of folding bollards*

12. The appeal relates to an area of land along the northern side of Chesham Mews immediately to the rear of the German Embassy. The site is situated in the Belgravia Conservation Area.

13. The appellant states that following the terrorist threat level being raised by the Government to severe in August 2014, the security bollards were installed to prevent a terrorist attack from inconspicuously parked vehicles containing a bomb adjacent to the rear wall of the German Embassy building. The bollards can be folded into a recessed box set flush with the surrounding cobblestones and concealed with a steel lid when not in use.

14. At the time of my site visit the bollards were in their recessed position. I also observed that two work/service vehicles connected with other properties in the street were parked on the appeal site, causing an obstruction to the street and a significant hindrance to the visibility of drivers, pedestrians and other highway users near to the bend in Chesham Mews adjacent to No 28.

15. Prior to the installation of the bollards vehicular access was restricted because staff at the German Embassy and local residents used the appeal site for parking vehicles. It appears to me that when the bollards are recessed the area could be used for parking vehicles. The appellant admits that during recent renovation works the volume of vehicles and parking on the site had increased, contractors using the land to park their vehicles and skips.

16. I can understand that any increase in activity, noise and general disturbance associated with servicing in the immediate vicinity of residential properties could cause harm to the living conditions of occupants. Similarly, the unhindered use of the site for car parking would result in additional traffic movements, and consequent noise and disturbance to the detriment of the living conditions of local residents. However, neither of these outcomes would arise from this element of the proposal.

17. Rather than resulting in harmful effects, I consider that as well as improving security the bollards would prevent on street vehicle parking and servicing by both the Embassy staff and local residents, thus reducing the levels of noise, disturbance and general activity that would harm living conditions.

18. The bollards are positioned only about a metre into the mews, allowing vehicles, including emergency vehicles and local residents' vehicles, to manoeuvre relatively easily compared to when vehicles are parked on the street. Consequently, rather than causing an obstruction to the free flow of traffic, the bollards are more likely to increase the amount of the carriageway available, thus improving the conditions for residents. In the unlikely event that a vehicle parked on the opposite side of Chesham Mews the bollards could be collapsed to free the obstruction.

19. For these reasons, I conclude that the installation of the bollards has not had a harmful effect on the living conditions of the occupants of neighbouring properties due to any increase in activity, noise or general disturbance

associated with vehicle movements. Therefore, I find no conflict with the amenity requirements of Policies S29 and S32 of the Consolidated LP and Policy ENV6 of the UDP.

20. In concluding on this issue I have also taken account of other policies to which my attention has been drawn, including Policies 7.1 and 7.4 of the London Plan, Policy S25 of the Consolidated LP and DES1 and DES9 of the UDP which together relate to design, character, heritage, the legibility of neighbourhoods and the pattern and grain of spaces and streets. I find that the proposal is in accordance with the requirements of these policies.

**Other Matters**

21. I understand that a nearby land owner has recently secured their right of way over the appeal site. In response to the concerns of interested parties with regard to land ownership, the grant of planning permission for the bollards would not negate or supersede any private legal rights relating to land ownership. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of the planning issues in this appeal.

22. The site is within the Belgravia Conservation Area and in considering this issue it is therefore necessary in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework (the Framework) to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

23. Chesham Mews is surfaced in cobbles which contribute to the attractive and historic setting of the nearby buildings, including residential properties. Some of the cobbles have been removed to facilitate the bollards and interested parties have expressed concern that the works have had a negative effect on the character and appearance of the Conservation Area and the setting of the nearby Grade 2 Listed archway located over the entrance to Belgrave Mews West.

24. However, I do not consider that the removal of some cobbles in the manner already implemented is harmful to the character and appearance of the area. The bollards are in a relatively discreet location within the wider Conservation Area and are of a sensitive and simple design in black metal. Although they are clearly visible from their immediate surroundings they have the appearance of street furniture that could be expected to be found in such a location in a Conservation Area. I do not consider them to be unsightly, incongruous or out of place in this historic setting. Consequently, the development preserves the character and appearance of the Belgravia Conservation Area and the setting of the nearby Grade 2 Listed archway.

25. The issue of the impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property.

26. I am also aware of local residents' concerns with respect to their human rights with particular reference to the right to peaceful enjoyment of their home and property and respect for private and family life. Given my conclusions on the main issue and dismissal of the change of use to Embassy land I do not consider the proposal would lead to any infringement of these rights.

27. Concern has been raised by interested parties that the bollards provide inadequate security. The appellant has clarified that the overall purpose of the security bollards is to provide protection by preventing unauthorised people parking easily and obtrusively immediately adjacent to the outside wall of the Embassy. They are intended as a deterrent to those who may wish to carry out a terrorist attack on the Embassy. It has also been put to me that there are alternative means of improving security at the German Embassy, including strengthening the facades of the building, improving security measures at the front of the building and properly maintaining and operating existing security measures along Belgrave Mews West. However, I am required to determine the current appeal on the basis of the proposal before me. I do not find the proposed means of improving security to be harmful.

28. It has been expressed that there have been no crime problems in the area and that they could lead to ant-social behaviour. I have no evidence that would indicate that the proposal would in any way lead to crime or anti-social behaviour in the vicinity of the site.

29. It has also been put to me that misleading and incorrect information has been submitted in support of the planning application. I have no evidence that this is the case and I have therefore based this decision on the information before me.

30. Finally, the issue of precedent has been raised. However, I have no evidence that the circumstances of the current appeal, including with respect to the location and nature of the proposal, is likely to be duplicated elsewhere. In any case other applications would be determined on their own merits.

**Conditions**

31. The appellant has suggested a condition that the appeal site should not be used for parking purposes. However, since the change of use element of the proposal is dismissed I find no justification for such a condition. The Council has suggested a condition requiring the bollards to be retained as black, which I have imposed in the interests of the character and appearance of the area.

**Conclusion**

32. For the above reasons and taking account of all other matters raised I conclude that the appeal should be dismissed insofar as it relates to a change of use to Embassy land and allowed insofar as it relates to the installation of folding security bollards.

*Alastair Phillips*

INSPECTOR