
Appeal Decisions

Inquiry Opened on 12 March 2019

Site visit made on 26 April 2019

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2019

Appeal A Ref: APP/H5390/W/18/3201043

Charles Ivey (Specialist Cars) Ltd, 160 Hurlingham Road, London, SW6 3NG

- 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 Sandown Properties Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref: 2017/02950/FUL, dated 26 July 2017, was refused by notice dated 26 October 2017.
 - The development proposed is described as “demolition of existing buildings on site, with the exception of the facade to 160 Hurlingham Road, and provision of part 5, part 4 and part 2 storey building to provide office (Use Class B1) and flexible retail/cafe (Use Class A1/A3) floorspace together with cycle parking, refuse storage and landscaping”.
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Appeal B Ref: APP/H5390/W/18/3216185

Charles Ivey (Specialist Cars) Ltd, 160 Hurlingham Road, London, SW6 3NG

- 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 Sandown Properties Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref: 2018/01638/FUL, dated 15 May 2018, was refused by notice dated 11 September 2018.
 - The development proposed is described as “demolition of existing buildings on site, with the exception of the facade to 160 Hurlingham Road, and provision of part 5, part 4 and part 2 storey building to provide office (Use Class B1) floorspace together with cycle parking, refuse storage and landscaping”.
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Decisions

1. **Appeal A** is allowed and planning permission granted for the demolition of the existing buildings on site, with the exception of the facade to 160 Hurlingham Road, and the provision of a part 5, part 4 and part 2 storey building to provide office (Use Class B1) and flexible retail/cafe (Use Class A1/A3) floorspace together with cycle parking, refuse storage and landscaping at 160-164 Hurlingham Road, London, SW6 3NG, in accordance with the terms of the application, Ref: 2017/02950/FUL, dated 26 July 2017, subject to the conditions in the attached schedule.
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2. **Appeal B** is allowed and planning permission granted for the demolition of the existing buildings on site, with the exception of the facade to 160 Hurlingham Road, and the provision of a part 5, part 4 and part 2 storey building to provide office (Use Class B1) floorspace together with cycle parking, refuse storage and landscaping at 160-164 Hurlingham Road, London, SW6 3NG, in accordance with the terms of the application, Ref: 2018/1638/FUL, dated 15 May 2018, subject to the conditions in the attached schedule.

Preliminary Matters

3. The Inquiry opened on 12 March 2019, but was adjourned because of the absence of a planning witness to represent the Council. The Inquiry resumed 23-25 April and 30 April 2019. My accompanied site visit took place on 26 April 2019. I also made unaccompanied visits to the site before and after the Inquiry.
4. There are two appeal proposals before me. Appeal A relates to a scheme refused in October 2017, and proposes a building of up to five storeys with offices and includes a retail / restaurant element ground floor level. Appeal B relates to a scheme refused in May 2018, and proposes a building of up to five storeys with offices, but omitting the A1/A3 retail/restaurant element.
5. Both schemes were recommended for approval by Council officers, but refused by the relevant Council Committee¹. The Appeal A scheme was refused for three reasons² relating to: (i) the design in respect of bulk and height of the building, and its failure to preserve the character or appearance of the Hurlingham Conservation Area; (ii) the impact on living conditions at neighbouring properties, specifically in terms of noise and disturbance arising from the proposed roof terraces; and (iii) the impact of the proposal on vehicular and pedestrian safety. The Appeal B scheme was refused for two reasons³ relating to: (i) the bulk and height of the building and its effect on the Conservation Area; and (ii) the effect on vehicular and pedestrian safety.
6. Following further discussions and the submission of additional information, the Council has dropped its objections relating to living conditions, and highway and pedestrian safety. The only outstanding matter for the Council in both appeals is the effect of the proposals on the character and appearance of the Hurlingham Conservation Area. However, local residents still raise serious concerns about those other issues.
7. Two planning obligations have been submitted for each appeal, both dated 3 May 2019. I deal with these in the body of my decision.
8. Since the Inquiry closed, there have been changes to the Planning Practice Guidance (PPG). The views of the parties were sought on these changes and the comments received have been taken into account in my decision⁴.
9. An application for an award of costs has been made by the appellant against the Council. This is subject of a separate decision.

¹ Council's Closing Submissions, Paragraph 2

² CD82

³ CD84

⁴ ID25

Main Issues

10. The main issue in both cases is the whether the proposals would comply with adopted development plan and national policy, having specific regard to the effect on: (i) the character and appearance of the area, including heritage assets; (ii) living conditions at neighbouring properties; and (iii) highway and pedestrian safety.

Reasons

Planning Policy Context

11. The relevant legislation⁵ requires that the appeals be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory plan comprises the London Plan (2016), and the Council's Local Plan (2018). The latter replaces the Council's Core Strategy (2011) and Development Management Local Plan (2013). The Appeal A scheme was determined by the Council before the adoption of the latest Local Plan, so the decision notice refers to policies of the earlier superseded plans. The National Planning Policy Framework ('the Framework') sets out the Government's planning policies and is a material consideration in planning decisions.
12. London Plan policies relevant to these appeals include: Policy 7.4 (Local Character) which states that development should have regard to the form, function and structure of an area, and provide a high quality design response; Policy 7.6 (Architecture) which states that architecture should make a positive contribution to the public realm, streetscape and wider cityscape, and requires buildings not to cause unacceptable harm to the amenity of surrounding land and buildings; and Policy 7.8 (Heritage Assets and Archaeology) which states that development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
13. Also relevant are: Policy 4.1 (Developing London's Economy) which promotes the continued development of a strong, sustainable and increasingly diverse economy across London, ensuring the availability of sufficient and suitable workspaces in terms of type, size and cost; and Policy 4.2 (Offices) which supports the management and mixed use development and redevelopment of office provision to improve London's competitiveness, and enhancing its varied attractions for businesses of different types and sizes, including small and medium sized enterprises.
14. Other policies of relevance include: Policy 6.1 (Strategic Approach) which encourages patterns of development that reduce the need to travel, especially by car, and supports development at locations with high levels of public transport accessibility; Policy 6.3 (Assessing the effects of development on transport capacity) which requires that impacts on transport capacity and the transport network are fully assessed so as not to adversely affect safety; Policy 6.10 (Walking) which seeks to bring about a significant increase in walking, and Policy 6.13 (Parking) which seeks to prevent excessive parking provision that can undermine public transport use.

⁵ Section 38(6) of the 2004 Act

15. Local Plan policies relevant to these appeals include: Policy DC1 (Built Environment) which requires new development to be of high quality that respects and enhances townscape context and heritage assets; Policy DC2 (Design of New Build) which requires new development to be of a high standard of design and compatible with the scale and character of existing development; and Policy DC8 (Heritage and Conservation) which states that the Council will conserve the significance of the borough's historic environment by protecting, restoring and enhancing its heritage assets.
16. Other relevant Local Plan policies include: Policy E1 (Providing for a Range of Employment Uses) and Policy E2 (Land and Premises for Employment Uses). Together these state that the Council will support proposals for mixed use schemes for new employment uses, and require the retention of land capable of providing continued accommodation for employment uses. Also relevant are Policy T1 (Transport), Policy T2 (Transport Assessment and Travel Plans), Policy T3 (Increasing and Promoting Opportunities for Cycling and Walking) and T4 (Vehicle Parking Standards). Together, these seek to promote a shift away from private vehicles to more sustainable means of transport, so as to improve congestion and air quality.
17. Of relevance also is the Council's Supplementary Planning Document (2018) (SPD) and specifically: CAG 1 (Land Use in Conservation Areas), CAG 2 (Urban Design in Conservation Areas) and CAG 3 (New Development in Conservation Areas). Together these require, amongst other things, new development to contribute positively to the townscape, and achieve a harmonious relationship with its neighbours.

Character and Appearance – Effect on Heritage Assets

18. The appeal site comprises a roughly triangular shaped site on the northern side of Hurlingham Road. It is located within the Hurlingham Conservation Area, a designated heritage asset⁶. The site is currently occupied by an expansive, low rise Victorian building, constructed in the 1880s, with a facade to Hurlingham Road, comprising stock bricks, feature redbrick window arches, decorative cornices and finials. A section of the facade facing towards Edenhurst Avenue has been painted white and various other alterations, including the insertion of new openings, have taken place over time.
19. The appeal building was originally constructed as a London General Omnibus Depot⁷, but has been used for a variety of uses over the years, including for workshops, storage, a bakery, and a car dealership. Only part of the building (No 160) is designated as a 'Building of Merit'⁸. Such buildings are of local interest because of their townscape or historic interest, but do not merit statutory listing⁹. The Framework requires that the significance¹⁰ of heritage assets affected by proposals to be identified and assessed¹¹. The significance of this non-designated heritage asset derives more from its historical purpose and use rather than its intrinsic architectural quality.

⁶ See the Framework's Glossary – Page 66

⁷ Originally used for the stabling of horses for horse-drawn omnibuses

⁸ Nos 162 & 164 have similar street elevations but are not so designated

⁹ Local Plan Glossary – Page 247

¹⁰ The value of a heritage asset to this and future generations because of its heritage interest; the interest may be archaeological, architectural, artistic or historic – Framework's Glossary – Page 71

¹¹ Paragraph 190

20. The appeal site was included within the Conservation Area in 2002¹² and falls within sub-area 'C' labelled 'Western Housing Development' in the 1997 Conservation Area Profile¹³. This sub-area which includes Hurlingham Road, Edenhurst Road, Ranelagh Avenue, Napier Avenue and Hurlingham Gardens mainly comprises two or three storey terraces and semi-detached properties, the majority dating from the late 19th century. Indeed, immediately to the east of the site are attractive residential properties, from the Victorian era, mainly faced with red brick, but some with painted facades. Although of generally uniform design, the detailing of the terraces differs, providing interest and variety. Many properties have timber sash windows and gables, and some have ornate wrought iron balconies. Properties further eastwards have mansard style roofs. The density of residential properties set on a rectilinear street pattern gives this part of the Conservation Area a compact grain and cohesive feel.
21. The significance of this part of the Conservation Area derives largely from this attractive and cohesive form of development. However, the appeal site itself does not reflect the described characteristics of this sub-area¹⁴. Rather the existing building provides a contrast with the residential dwellings. It reflects an 'area of transition' between a cohesive residential area to the east and a more varied industrial and commercial area bookended by the railway viaduct and bridge to the west. So whilst the residential properties of Hurlingham Road to the east create a unified and homogenous feel, the appeal site's immediately surrounding area is far more eclectic, with a varied and somewhat disparate character.
22. In fact, there is a range of buildings of different ages, sizes, designs and uses, including both residential and commercial. For example, opposite the site to the south is a utilitarian industrial-type 'barn-style' unit occupied by 'Magnet' with an associated car park. Although the 'Magnet' building is not within the Conservation Area, it inevitably has an influence on it. Immediately to the rear of existing building, but separated by a rear access road is the District Line railway viaduct, which describes a gentle curve, as it heads southwards towards Putney Bridge Station. To the north east of the site, outside the Conservation Area, and accessed via an undercroft, is Melbray Mews, which comprises a group of more modern residential and business units, which again are different in style.
23. To the west, travelling under the railway bridge, the character changes once again with a mix of development along New King's Road, from various eras, including larger and higher office buildings, such as Kiln House, constructed in the 1980s. However, the railway bridge and viaduct creates an 'experiential barrier', a visual impediment to the west, terminating views and divorcing the site from the New Kings Road and the Fulham Park Gardens Conservation Area, including various listed buildings within it, such as the Bottle Kiln, 190-192 New Kings Road and 38 Burlington Road¹⁵.
24. Overall, I consider that this diversity creates scope for a building of a different design, scale and form: there is no compelling reason why new development

¹² The Conservation Area was originally designated in 1971 & extended in 1981 & 2002

¹³ CD101

¹⁴ It is notable that the appeal site was included within the Conservation Area after the Area Profile was written

¹⁵ See Figure 2 – Mr Handforth's Proof

should necessarily mimic what is currently on the site. However, there is no doubt that because of site's location within the Conservation Area, and the close proximity of residential dwellings, this is a sensitive site.

25. In my judgement, the appellant has sought to achieve two schemes of high quality. Appeal A proposes a building of three distinct elements: a five storey section adjacent to the railway viaduct, with a recessed top floor; a four storey central section, again with a recessed top floor; and a two storey element set behind the retained facade of the 'Building of Merit', with the rear part demolished. It also proposes a central atrium and A1/A3 floorspace located in the middle section of the Hurlingham Road frontage. Appeal B uses a very similar design approach, also comprising a scheme of three elements: a five storey section adjacent to the viaduct, with recessed top floor; a four storey central section, with a recessed upper floor; and a two/three storey element, with recessed and stepped back upper floors behind the retained facade of the of 'Building of Merit'. Although the overall floorspace of Appeal B scheme is higher, the overall height of the building is marginally lower¹⁶. This has been achieved by, amongst other things, lower floor to ceiling heights.
26. Both appeal schemes would have a strongly articulated fenestration pattern with groups of windows deeply recessed within the brick facades. This would provide visual punctuation to the frontages. The buildings have been carefully designed so as to be perceived from Hurlingham Road as comprising a series of three individual and clearly defined blocks, reducing in size with increasing distance from the railway viaduct. Such an approach would break up the bulk of the building and mediate between the domestic scale of the residential properties of Hurlingham Road, and the more substantial commercial structures to the west. Each individual block would employ a varied palette of materials, including red and grey coloured brickwork, aluminium panels, reconstructed stone tiles and other finishes that would create diversity and articulation, so as to avoid a bland appearance. It would also enliven the elevations, avoiding a monolithic look. The restored facade of the 'Building of Merit' would add visual interest and contrast.
27. Of relevance to both these appeals is an extant planning permission on the site, granted in June 2018, for an office scheme of up to three storeys¹⁷. This approved scheme utilises a similar design concept to the appeal proposals but is lower in overall height¹⁸. It excludes the A1/A3 floorspace. This permission is a material consideration of significant importance. Crucially, it has established the acceptability of the site's redevelopment within the Conservation Area, including the demolition of most of the 'Building of Merit' apart from its facade, and the principle of a modern, relatively substantial, office development, of greater scale, mass and height than the existing low rise building.
28. Both proposed appeal schemes would be significantly higher than the existing building, as well as the approved scheme. They would rise well above the viaduct and be markedly higher than other buildings in this part of the Conservation Area. However, the recessed upper storeys would diminish the

¹⁶ See Statement of Common Ground – Table on Page 4

¹⁷ Ref: 2017/04609

¹⁸ CD86

impression of height and bulk. The overall increased height, as compared with the approved scheme, would not, in my judgement, have a harmful effect on the Conservation Area. Indeed, I consider that the visual effect of the proposals on the Conservation Area would not be dissimilar to the scheme already approved. The Council's Design Review Panel¹⁹, an advisory body, which saw an earlier version of the Appeal A scheme, noted that 'a lot of care' had been taken in the design and 'the intervention is good for the context in both use and landscape terms'²⁰. Furthermore, the Council's own Conservation Officer responsible for assessing the schemes also considered that both were acceptable²¹.

29. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation²². The varied character of the locality means that both appeal schemes would be appropriately assimilated within the Conservation Area without causing harm. There is no reason to suppose either proposal would appear incongruous or out of place. Rather they would improve the somewhat run-down appearance of this vacant site. Whilst a substantial part of the 'Building of Merit' would be lost, with only its facade retained, the rear parts 'are plain and not of special interest', and 'not considered of significant visual townscape relevance'²³. Thus, the element of most significance would be retained and restored, with inappropriate signage and paint over the brickwork removed, and some of the lost features re-instated.
30. As the site falls within the Hurlingham Conservation Area, the relevant legislation²⁴ requires that special attention must be paid to the desirability of preserving or enhancing its character or appearance. Against this background, I consider that both the appeal proposals would enhance the character or appearance of this part of the Hurlingham Conservation Area. They would sustain and enhance the significance of this heritage asset, as required by the Framework and local policy.

Effect on Living Conditions

31. Local residents have expressed serious concerns in terms of the effect of the scheme on living conditions at neighbouring properties, although the Council considers there would be no harmful effect. Both proposed new schemes would create buildings of larger scale and greater bulk, as compared with the existing situation, which would significantly alter the outlook and views from various properties in the vicinity.
32. The properties most affected include those closest to the site in Hurlingham Road, in Melbray Mews, and the northernmost properties of Edenhurst Avenue. Properties in New Kings Road, on the opposite side of the railway viaduct, facing the site, would also be affected to an extent, as both schemes would rise above the viaduct, and be visible from those properties. It was obvious from

¹⁹ The Panel has no formal decision making powers but provides advice to Council officers and applicants. For terms of reference - see ID15

²⁰ ID8 - Meeting 17 May 2017

²¹ Council's Closing Submissions, Paragraph 13

²² Paragraph 193

²³ CD 85 - Council's Committee Report

²⁴ Section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

- my accompanied site visit that the appeal schemes would inevitably reduce to an extent the sense of openness, and result in a more urbanised and enclosed feeling at certain properties in the vicinity. On the other hand, both schemes have been carefully designed to step away from the closest properties so as to avoid an unacceptable impact, and the submitted daylight and sunlight reports²⁵ have found that the effect of the schemes would be acceptable, in compliance with the relevant BRE²⁶ targets.
33. There is a roof terrace to the rear of 158 Hurlingham Road from which there is currently an open aspect, with view across the roofs of the appeal building. Both schemes would raise the height of the boundary wall adjacent to No 158. This would undoubtedly result in the loss of outlook at that property, but importantly, the height of the boundary walls in both appeal schemes would be lower than in the scheme already granted permission²⁷, so the sense of enclosure should be less.
34. Concerns have been raised about privacy and overlooking by residents. Whilst new higher facades with windows would be created, the schemes have been carefully designed to avoid any direct or unacceptable overlooking of residential properties. Similarly, the proposed terraces in Appeal A are either partially enclosed, or at sufficient distance from residential properties not to cause unacceptable harm. The Council Officer's report for both schemes concluded that the proposals 'would not result in a loss of privacy or overlooking'²⁸. I see no reason to dissent from that view
35. Residents have also raised concerns about the potential noise impact from the terraces. However, the Council is satisfied that the use of these areas can be controlled by condition, including provisions to prevent the playing of music, both acoustic and amplified. I see no reason to disagree. Although residents stated that such a condition may be breached, it would be incumbent on the Council to ensure that it was properly adhered to, and to take the necessary steps, including appropriate enforcement action if it is not. As the appellant also notes, the existing building's use class is at present unrestricted, which could theoretically lawfully permit a more intrusive and noisy future use in close proximity to residential properties. The appeals schemes would prevent this.
36. Another concern of residents is light pollution. The proposed office use would create a more continuous form of lighting than currently exists at the site. However, given that this is a densely built-up and urbanised area, the level of illumination is unlikely to be excessive or out of character with the location. A condition requiring a lighting management strategy to ensure internal lights are turned off when not required could limit unnecessary illumination.
37. To sum up, I acknowledge that residents would undoubtedly experience a significant change in the local environment, but it must be remembered that the Council has already approved a larger building on the site. Overall, I find that there are no reasonable grounds that to conclude the effect on living conditions at properties in the vicinity would be unacceptable.

²⁵ CD25 & CD53 - Daylight and Sunlight Reports, dated May 2018 & November 2017

²⁶ Building Research Establishment – Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice

²⁷ Appellant's Closing Submissions, Paragraph 35

²⁸ CD85 & CD87

Effect on highway safety

38. The Council no longer objects to the proposals on highway grounds, but local residents remain concerned about traffic congestion and parking arising from the scheme, including from workers and deliveries. Residents appeared at the Inquiry, expressed concern at the Council's changed stance, and disputed the reliability of the appellant's highway evidence. They pointed to existing serious traffic congestion, and highlighted that the proposed schemes would exacerbate an already problematic situation. Hurlingham Road is a two-way street, subject to a 20 mph speed limit, with parking restrictions including yellow lines and parking bays for residents. The road is often heavily parked on both sides, reducing its useable overall width. This can cause difficulties for vehicles passing each other. During my accompanied site visit, I saw first hand that Hurlingham Road can become congested very quickly, especially when larger vehicles attempt to pass one another, resulting in 'gridlock'.
39. That said, and importantly, the matter of highways must be viewed against the baseline of the 'fall-back' position of the approved scheme. The appellant explained that the difference in highway terms between the approved scheme and the two appeal proposals was very little, and was not a reason for refusing these schemes. No car parking is proposed within the schemes on the basis that they are in a highly accessible location. The site enjoys excellent accessibility to public transport, with a PTAL²⁹ of 6A, and a wide range of bus services³⁰ with Putney Bridge District Line Station very close-by. Planning policy generally is geared towards persuading people to switch from private cars to public transport so as to reduce traffic. One effective way to achieve that end is to either limit or omit car parking provision. In this case, no car parking is provided, but there is ample cycle parking. I accept the main thrust of the appellant's evidence that most workers would be unlikely to drive to the proposed offices.
40. Residents have also raised concerns about deliveries, including office workers' own deliveries from on-line companies such as Amazon. The updated evidence from the appellant is that the appeal proposals would generate either 8 to 20 trips per day (Appeal A), or 9 to 22 trips per day (Appeal B). The proposals would increase the depth of the footway and provide a 35m loading bay which should be more than adequate. A condition could also be imposed requiring a 'delivery and servicing plan' to minimise disturbance to local residents.
41. To sum up, the Framework is clear development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be severe³¹. The evidence from the appellant is that, in accordance with the Framework, there would be no severe impact on the local transport network. The Council did not dispute that assessment, and I see no reason to take a different view.

Planning Obligations

42. Two planning obligations have been completed, both dated 3 May 2019. In respect of Appeal A, the obligation would secure a 'carbon offset' contribution

²⁹ Public Transport Accessibility Level

³⁰ Mr Burbage's Proof – Paragraph 2.15

³¹ Paragraph 109

(£7,240); an 'office travel plan' to promote sustainable modes of transport and discourage the use of the private motor vehicle, including a travel plan monitoring fee (£2,500); an employment and skills contribution (£17,500) to promote employment, training and business opportunities for local residents arising from the construction of the development; a 'Jobs, Employment and Training Strategy' to maximise the employment and training opportunities arising from the construction of the development; a 'local procurement contribution' (£6,375) to facilitate opportunities for local businesses to bid/tender for goods and services during the construction period; provisions to secure a highways contributions and various highway works, including improvements to surface treatments in the vicinity of the site, repaving the footway, removing redundant crossovers, and amendments to parking bays; and provisions to ensure that no occupier (other than a blue badge holder) will be entitled to apply for or hold a parking permit.

43. In respect of Appeal B, the obligation would secure an 'office travel plan' including a monitoring fee (£2,500), an employment and skills contribution (£38,500); a 'Jobs, Employment and Training Strategy'; a 'local procurement contribution' (£6,375); an 'operational phase contribution' (£49,000) to be applied by the Council towards skills development of local unemployed people; provisions to secure highway contributions and highway works; and provisions to ensure that no occupier (other than a blue badge holder) will be entitled to apply for or hold a parking permit.
44. I have no reason to believe that the formula and charges used by the Council to calculate the various contributions and provisions are other than soundly based. The Council has produced a compliance statement³² which demonstrates how the obligations meet various Local Plan policies, and other planning guidance. I am satisfied that the provisions of the obligations are necessary to make the developments acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework³³ and the Community Infrastructure Levy Regulations³⁴. I have taken the obligations into account in my deliberations.

Planning Balance and Overall Conclusions

45. As noted, the relevant legislation requires that the appeals be determined in accordance with the statutory development plan, unless material considerations indicate otherwise. The Framework also requires that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social and environmental dimensions and the interrelated roles they perform.
46. Both schemes would secure the provision of high quality, modern, operationally flexible office floorspace in a highly sustainable location, for which there is a clear need³⁵. The London Plan establishes that the borough has one of the highest projected rates of employment growth in London³⁶. Appeal A would

³² ID14

³³ Paragraph 56

³⁴ Regulation 122

³⁵ Mr Richards's Proof – Paragraphs 5.97-5.111

³⁶ London Plan, Page 20, Table 1.1 – Employment Projections 2011-36 by Borough

also secure retail/restaurant floorspace on the ground floor, creating an active frontage, and bringing added vitality to the area. The proposals would assist in building a strong and competitive economy in accordance with the Framework³⁷. The schemes would deliver environmental benefits by utilising a previously developed site. The Framework states that substantial weight should be given to the value of using brownfield land, as well as promoting the development of under-utilised land and buildings³⁸.

47. Both schemes would generate significant economic and social benefits. Jobs would be created during the construction phase, albeit for a temporary period, but on-site employment would result over the lifetime of the schemes³⁹. The scheme would create investment in the locality and increase spending in shops and services by future occupiers of the schemes. The site is conveniently located close to the District Line and bus services, as well as other facilities. The Framework states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes⁴⁰.
48. Both schemes are architecturally of high quality and would use a varied and attractive palette of materials. They would both retain the most significant part of the 'Building of Merit', namely its facade, and fully restore it. The schemes would incorporate various sustainable building techniques including a 'green roof'⁴¹ and 'blue roof'⁴². I am satisfied that both proposals would enhance the character or appearance of Conservation Area in accordance with the relevant legislation. I have carefully considered local residents serious concerns regarding the effect on living conditions at nearby properties and the impact on the local highway network. However, I do not consider that the objections on these matters are sufficiently well founded to cause the appeals to fail.
49. The Framework states that proposals which accord with an up to date development plan should be approved without delay⁴³. I am satisfied that the proposals would accord with Policies DC1, DC2, DC8, E1, E2, T1, T2, T3 and T4 of the recently adopted Local Plan, as well as Key Principles CAG1, CAG2 and CAG3 of the SPD; and Policies 4.1, 4.2, 6.1, 6.3, 6.10, 6.13, 7.4, 7.6 and 7.8 of the London Plan. There are no material considerations to indicate that permission should be withheld in either appeal. Therefore, I conclude that both appeals should be allowed, subject to the conditions set out below.

Conditions

50. I have reviewed the agreed list of suggested conditions for both schemes in the light of the discussion at the Inquiry and the advice in the PPG. The Framework is clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other

³⁷ Part 6

³⁸ Paragraph 118

³⁹ The Statement of Common Ground states that, based on employee density numbers, the schemes would result in 451 and 477 employment opportunities, for Appeal A and B respectively – Table at Paragraph 1.1

⁴⁰ Paragraph 103

⁴¹ To encourage enhanced biodiversity

⁴² To enable sustainable drainage

⁴³ Paragraph 11(c)

respects⁴⁴. Where necessary, I have reworded the conditions for simplicity, and have amalgamated some of them to avoid duplication.

51. Commencement conditions are necessary to comply with the relevant legislation. Conditions requiring compliance with the approved plans are necessary for certainty. Conditions in respect of: materials, scaled elevation drawings, details for the retention and restoration of the facade of the 'Building of Merit', restrictions on the erection of aerials and other telecommunications equipment, a requirement for clear glass at ground floor level on the Hurlingham Road frontage are all necessary to ensure high quality schemes in this sensitive Conservation Area location. Conditions requiring a building contract to be entered into before demolition works begin are necessary to ensure an unsightly gap is not created in the street scene. Conditions requiring a local heritage plaque and a photographic survey are necessary because of the 'Building of Merit' designation, and to ensure its features are properly recorded.
52. Conditions requiring measures to achieve 'Secure by Design' status are necessary to minimise crime. Conditions relating to green infrastructure, cycle parking, refuse storage, flood risk mitigation, drainage, and land contamination are required to ensure that these matters are appropriately addressed. Conditions relating to energy efficiency, low emissions, and ventilation are required to ensure a sustainable and energy efficient form of development. Conditions are necessary to ensure that London Underground infrastructure is not damaged during construction.
53. Conditions requiring a Demolition and Construction Management Plan are necessary to minimise disturbance to local residents during the construction phase. Conditions requiring an Air Quality Dust Management Plan are necessary to mitigate air pollution. Conditions requiring details of sound insulation within the buildings are necessary to ensure that nearby residents are not adversely affected by noise.
54. Conditions relating to: deliveries to / collections from the building, external and internal lighting, the hours of operation of the A1/A3 floorspace (Appeal A), and controls over the times of use of the roof terraces including the requirement that no music be played (Appeal A) are necessary to protect the living conditions of nearby residents. A number of the conditions relate to pre-commencement activities. In each of these cases, the requirement of the condition is fundamental to make the schemes acceptable in planning terms. Subject to the imposition of these conditions, I conclude that both appeals should be allowed.

Matthew C J Nunn

INSPECTOR

⁴⁴ Paragraph 55

APPEARANCES

FOR THE COUNCIL:

Annabel Graham Paul of Counsel, Instructed by the Council of the London Borough of Hammersmith and Fulham

She called

Steven Davies Principal Planning Officer, Urban Design and Conservation Team

Keith Hargest* Consultant, Fuller Long Ltd

FOR THE APPELLANT:

Sasha White QC and

Anjoli Foster of Counsel, Instructed by Savills

They called

Marek Wojciechowski Wojciechowski Architects

Steven Handforth Bidwells LLP

Clive Burbridge Icen

Matthew Richards Savills UK

*Keith Hargest produced a proof to supplement that prepared by Neil Egerton who did not appear

INTERESTED PERSONS

Jonathan Ingram Local resident

Charles Miskin Local Resident

Dean Lundell Local Resident

Dorothy Lundell Local Resident

Brad Bauman Local Resident

Jacqui Graham Local Resident

Richard Newman Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening submissions of the Appellant
2. Opening submissions of the Council
3. Photographs (Mr Miskin)
4. Views from rear terrace of 158 Hurlingham Road
5. Third party site visit list
6. Comparative building heights / floorspace / other specifications of Appeal A and Appeal B; and the pending & permitted schemes
7. Photographs (Mr Miskin)
8. Bundle of documents including Council's pre-application responses for various schemes and the Design Review Panel Notes (May 2017)
9. Pre-Planning document by Wojciechowski Architects dated 10 October 2015
10. Planning and Development Control Committee Minutes dated 10 October 2017 and 11 September 2018
11. Plan showing location of Hurlingham Court Mansions
12. Bundle of various documents, including amongst other things: photographs of traffic in Hurlingham Road; traffic statistics; graphs showing Amazon's and Uber's revenue; newspaper article regarding workplace online deliveries
13. Draft legal agreement
14. Council's Community Infrastructure Compliance Note
15. Design Review Panel: Terms of Reference
16. Design Review Panel: Composition of Members
17. Public Inquiry: timetable of adjournment
18. Residents' Submissions
19. Signed list of suggested planning conditions
20. Closing submissions on behalf of the Council
21. Closing submissions on behalf of the Appellant
22. Appellant's application for costs
23. Council's response to costs application

DOCUMENTS SUBMITTED AFTER THE INQUIRY

24. Two certified copies of completed legal agreements dated 3 May 2019
25. Appellant's response to changes to the Planning Practice Guidance (July 2019)

Schedule of Conditions*

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P_01A, P_02, P_03A, P_04A, P_05A, P_06A, P_07, P_13, P_14A, P_15, P_16, P_21A, P_22A, P_23, P_24A, P_25, P_26, P_31, P_32, P_33A, P_41A, P_42, P_43A, P_44A, P_45A, P_46A, P_46, P_47, P_53, P_54A, P_55, P_56. **(Appeal A only)**
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: P_01, P_02, P_03, P_04, P_05, P_06, P_07, P_13, P_14, P_15, P_16, P_21, P_22, P_23, P_24, P_25, P_26, P_31, P_32, P_33, P_41, P_42, P_43, P_44, P_46, P_47, P_53, P_54, P_55, P_56, P_60. **(Appeal B only)**

- 4) The development hereby permitted shall not begin (except for demolition and clearance) until the following details have been submitted to and approved in writing by the local planning authority; (i) detailed drawings in plan, section and elevation at a scale of not less than 1:20 of a typical bay of each elevation; (ii) details of materials to be used in the external surfaces of the building (with samples where appropriate) including, bricks, curtain walling, cladding, windows/doors and roof materials. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place (except for demolition and clearance) until details of green infrastructure (including planting species) have been submitted to and approved in writing by the local planning authority. The green infrastructure shall be implemented in accordance with the programme agreed with the local planning authority and permanently retained thereafter. Any trees or plants which within a period of 5 years from the date of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No demolition shall take place until: (i) a building contract for the redevelopment of the site has been entered into, and a copy provided to the local planning authority; and (ii) a method statement for the retained facade of the 'Building of Merit' including protective measures (to secure against accidental loss or damage) and restoration works (including paint removal) has been submitted to and agreed by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a Demolition & Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include: control measures for dust, noise, vibration, and lighting; the numbers, size and routes of demolition / construction vehicles; other matters relating to traffic management so as to minimise the impact of demolition / construction traffic on the highway; details of parking of vehicles of site personnel, operatives and visitors; details for deliveries, loading and unloading of plant and materials; measures to ensure vehicles are properly washed to prevent the deposit of mud or other substances on the highway; provisions to ensure demolition or construction works shall only take place between 0800hrs and 1800hrs Mondays to Fridays, and between 0800hrs and 1300hrs Saturdays, and not at any time on Sundays, or on Bank or Public Holidays; advance notification to neighbours of proposed works, and public display of points of contact, including site manager/ supervisor /persons responsible for the site works. The approved Plan shall be adhered to throughout the demolition and construction period.
- 8) Before each demolition and construction phase begins, an Air Quality Dust Management Plan (AQDMP) to mitigate air pollution shall be submitted to and approved in writing by the local planning authority. The AQDMP must include an Air Quality Dust Risk Assessment (AQDRA) that considers sensitive receptors off-site. The AQDMP must comply with the Mayor of London's SPG: 'The Control of Dust and Emissions during

Construction and Demolition'. The approved AQDMP shall be adhered to throughout the demolition and construction period.

- 9) No development shall take place (except for demolition and clearance works) until the following have been submitted to and agreed in writing by the local planning authority: (i) sound insulation of the floor/ceiling/walls separating the office building from the neighbouring dwellings; details to demonstrate that the sound insulation value $D_{nT,w}$ and $L_{nT,w}$ is enhanced by at least 15dB above the Building Regulations value; and where necessary, additional mitigation measures to be implemented to contain noise within the office building to achieve the criteria of British Standard BS 8233:2014 within the neighbouring dwellings / noise sensitive premises; (ii) measures to ensure that the external sound level emitted from plant, machinery, equipment shall be lower than the lowest existing background sound level by at least 10dBA to prevent any adverse impact; the assessment shall be in accordance with British Standard BS 4142:2014 at the nearest/most affected noise sensitive premises, with all machinery operating together at maximum capacity; a post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria (with additional steps to mitigate noise, if necessary); (iii) details of anti-vibration measures to ensure that machinery, plant, equipment, extract/ventilation systems are adequately silenced. The development shall be carried out as approved.
- 10) No demolition works should take place until an external photographic survey of the existing buildings has been carried out to the satisfaction of the local planning authority and submitted for the Local Archives.
- 11) The development shall not be occupied until details of a 'Local Heritage Plaque' (including its design and location) have been submitted to and approved in writing by the local planning authority. The Plaque shall be installed in accordance with the approved details and be permanently retained thereafter.
- 12) No development shall take place (except for demolition and clearance) until details to ensure the scheme achieves 'Secure by Design' status have been submitted to and approved in writing by the local planning authority. The details shall be implemented as agreed and permanently retained thereafter.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no aerials, antennae, satellite dishes or related telecommunications equipment shall be erected on any external part of the building hereby permitted.
- 14) No flat roof areas within the development shall be used as terraces or accessible amenity space (except where explicitly shown on the approved drawings). No walls, fences, railings or other means of enclosure other than those shown on the approved plans shall be erected around the roofs, and no alterations shall be carried out to the building to form access on to these roofs.

- 15) The glass installed in the windows of the ground floor frontage facing Hurlingham Road shall be clear and not obscured, and shall be permanently retained as such.
- 16) The development hereby approved shall not be occupied until cycle storage facilities and refuse storage enclosures have been provided as indicated on the approved drawings, and shall be permanently retained on site thereafter.
- 17) The development shall be implemented in accordance with the recommended flood mitigation measures in the submitted Flood Risk Assessment and the Construction Methodology and Management Statement. In line with advice from Thames Water, a non-return valve or other suitable device (which may need to be a pumped device) shall be installed to avoid the risk of the sewerage network surcharging wastewater to the basement / ground level during storm conditions. The recommended mitigation measures shall be permanently retained thereafter.
- 18) No development shall take place until a revised drainage strategy, based on sustainable principles, has been submitted to and approved in writing by the local planning authority. The strategy shall include: details of the design, location and infiltration capabilities of sustainable drainage measures such as permeable surfaces, including green and blue roofs (including integration of photovoltaics and living roofs), along with confirmation of the levels of attenuation achieved; and details of the proposed flow controls and flow rates for any discharge of surface water to the combined sewer system. The strategy shall be implemented in accordance with the approved details and permanently retained and maintained thereafter.
- 19) The development hereby permitted shall not be occupied until the details outlined within the submitted 'Energy and Sustainability Statement' concerning energy efficiency, low carbon / renewable energy, sustainable design and construction measures have been implemented. The approved details shall be permanently retained on site thereafter.
- 20) The development hereby permitted shall not be occupied until a 'Low Emission Strategy' for the operational phase of the building has been submitted to and approved in writing by the local planning authority. The Strategy should detail the remedial action and mitigation measures that will be taken to protect receptors. The Strategy should make a commitment to reduce the exposure of poor air quality and help to mitigate the development's air pollution impacts. The measures within the strategy shall be permanently adhered to thereafter.
- 21) Before the above ground works begin, a 'Ventilation Strategy' for the building to mitigate/minimise air pollution shall be submitted to and approved in writing by the local planning authority. It shall include details of air intake locations, air extract locations, and openable windows. It shall be designed to prevent summer overheating and to minimise energy usage. The approved details within the strategy shall be maintained permanently thereafter on site.

- 22) No development (including clearance and demolition) shall take place until detailed design and method statements (in consultation with London Underground) for all the foundations, basement and ground floor structures, or any other structures below ground level, including piling have been submitted to and approved in writing by the local planning authority. The design and method statements must ensure that the development does not adversely affect or damage existing London Underground transport infrastructure in any way. The development shall be carried out in accordance with the approved statements.
- 23) The development shall not be occupied until a 'Delivery and Servicing Plan' has been submitted to and approved in writing by the local planning authority. The Plan shall include the times and frequency of deliveries and collections, vehicle movements, silent reversing methods, the location of the loading area, and quiet loading/unloading measures so as to minimise disturbance to local residents. The approved Plan shall be permanently adhered to thereafter for the duration of the use of the building.
- 24) The development shall not be occupied until details of external lighting, including security lights, have been submitted to and approved in writing by the local planning authority. The details shall include the number, location, height, design and appearance of lights, together with data concerning levels of illumination and light spillage. The lighting details shall be implemented as approved in accordance with a programme agreed by the local planning authority and shall be permanently retained thereafter.
- 25) The development shall not be occupied until a scheme for the control and operation of the internal office lighting during periods of limited or non-occupation has been submitted to and approved in writing by the local planning authority. The internal lighting shall be operated in accordance with the approved scheme for the duration of the use of the building.
- 26) The Class A1/A3 floorspace shall not be occupied until details of the operational hours have been submitted to and agreed in writing by the local planning authority. The uses within the A1/A3 floorspace shall not operate outside the agreed operational hours (**Appeal A only**).
- 27) All the roof terraces within the building shall only be used between 0800hrs and 2100hrs Monday to Friday, and shall not be used at any other time. No music (either acoustic or amplified) shall be played at any time on any of the terraces. (**Appeal A only**)
- 28) No development shall begin until a preliminary risk assessment of the risks posed by contamination has been submitted to and approved in writing by the local planning authority. The assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include (i) a survey of the extent, scale and nature of contamination: (ii) the potential risks to human health, property (existing or proposed) including buildings, service lines and pipes, adjoining land, ground waters and surface waters, and ecological systems.

No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation strategy shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that on completion the site will not qualify as contaminated under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out (and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority) before the development (or relevant phase of the development) is occupied.

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. The approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

- 29) Unless otherwise agreed, no development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and the reports produced as a result shall be submitted to the local planning authority. If any of the reports identify any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority for approval. Thereafter, any necessary remediation shall be carried out in accordance with the approved protocol.

****Conditions apply to both appeal schemes unless otherwise indicated***