



Appeal Decision

Hearing Held on 10 and 11 July 2019

Site visit made on 11 July 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2019

Appeal Ref: APP/X5990/W/19/3219936

Widley Road Garage, Widley Road, London W9 2LD

- 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 Widley Limited against the decision of City of Westminster Council.
 - The application Ref: 17/04106/FULL, dated 11 May 2017, was refused by notice dated 9 August 2018.
 - The development proposed is demolition of existing building; excavation to create additional basement storey; erection of a residential (Class C3) building arranged over basement, lower ground, ground and five upper storeys to provide up to 23no. residential dwellings; provision of external amenity space, associated on-site car parking and cycle parking facilities, landscaping works and other associated works.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application form describes the proposal as 'Demolition of existing building; excavation to create additional basement storey; erection of a residential (Class C3) building arranged over basement, lower ground, ground and five upper storeys to provide up to 23no. residential dwellings; provision of external amenity space, associated on-site car parking and cycle parking facilities, landscaping works including the removal and replacement of trees and other associated works'. At the hearing it was confirmed that during the consideration of the planning application the scheme was amended and the trees that were initially proposed to be removed and replaced were to be retained. It was agreed that the description used in the heading above, which is taken from the decision notice issued by the Council, is the correct description of the proposal for the purposes of the appeal.
3. The planning application was submitted in the name of Widley Limited. The appeal form which was submitted with the appeal gave the appellant's name as Ms Aysu Ozlem Gokce and a company name of Ant Yapi (UK) Ltd. Subsequent correspondence requested that the appellant's name be changed to Chengizan Karaduman, a director of Widley Limited. It was confirmed at the hearing that this latter was both the original applicant and the appellant and that the appeal was proceeding in the name of Widley Limited.

4. At the hearing a draft planning obligation (Section 106 Agreement) was submitted, which had been agreed between the parties, covering the provision of affordable housing and highways works associated with the development and, in addition, providing car club membership to all occupiers, setting out how the on-site car parking provision and how the integrated car lift would be managed. A finalised version signed by both parties was submitted shortly after the hearing closed. I am satisfied that the Section 106 Agreement meets the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have had regard to this in determining the appeal.

Main Issues

5. The Council refused planning permission for five reasons. The first reason for refusal relates to the effect on the Maida Vale Conservation Area. It is common ground that the appeal site is also within the setting of the Grade II Listed Essendine Road School. Although it is not part of the reason for refusal there is a statutory duty to consider the effect of proposed development on the setting of a listed building, and consequently I have included this within the first main issue. The second and third reasons for refusal relate to the effect of the proposed development on the occupiers of Cleveland Mansions. However, a considerable number of representations were made residents of other properties in respect of the effect of the proposed development on their homes and so I have broadened the second main issue that I have identified to include these. Whilst the Council refer to the density of the proposed development in a separate reason for refusal, the fifth reason for refusal sets out that the proposed density results in the failure of the proposed development to meet relevant townscape and design, residential amenity and standard of living accommodation policies in the development plan. As these matters are dealt with respectively under the first and third main issues that I have identified, I have included matters relating to the density of the development within these.
6. The main issues in this appeal are therefore:
 - The effect of the proposed development on the character and appearance of the Maida Vale Conservation Area and the setting of the nearby Listed Building;
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to daylight, sunlight, and outlook; and
 - Whether the proposed development would provide suitable living conditions for the future occupiers of the basement and lower ground floor flats, with particular regard to outlook, light and private amenity space.

Reasons

Character and appearance the conservation area and setting of the Listed Building

7. The appeal site is currently occupied by a two storey building with a basement that was originally built as a vehicle garage and at the time of my site visit was being used to store building materials. The appeal proposal is for a four storey building with a basement level of accommodation and a sub-basement accommodating car parking and elements of duplex flats that also partly occupy the floor above. Two further floors of accommodation would be located within a mansard roof structure. The building would contain 23 flats and in

plan form would have a main block and a slightly narrower, projecting, rear wing or addition that would rise to the same height as the first level of accommodation within the roof space of the main block. The second level of accommodation within the roof space would extend over this rear addition in a continuation of the second slope of the mansard roof.

8. The appeal site is located within the Maida Vale Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act requires that, in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. Paragraph 193 of the National Planning Policy Framework (the Framework) also requires that great weight should be given to the conservation of heritage assets.
9. Although covered by one designation, the conservation area has two distinctive areas within it. The area which contains the appeal site, lying to the west of Randolph Avenue and north of Sutherland Avenue, is characterised by containing large numbers of terraced blocks of red brick mansion flats, although there is a small enclave of Arts and Crafts style, two storey, houses around Ashworth Road and Biddulph Road. Elsewhere in the conservation area, terraced houses predominate, although there are also large numbers of semi-detached houses and a few substantial mansion flat blocks fronting the A5 (Maida Vale). South of Sutherland Avenue the buildings have a different architectural character with more classical and Italianate influences, particularly in the area around the canal. Nonetheless, despite these differences in architectural style, within individual streets in the conservation area there is a strong uniformity in external appearance and roof form. Widley Road is no different in this respect with each side, with the exception of the building on the appeal site, made up of blocks of mansion flats following the same design.
10. Neither party has submitted substantive evidence in respect of the significance of the conservation area. There is no conservation area character appraisal, however, a Council information leaflet dated 1997 identifies the key features of the conservation area as including the Grand Union and Regent's Canals, the use of architecturally significant avenues and crescents with secondary streets infilling between them. The leaflet does identify that the parts of the conservation area developed after the 1860's include early examples of mansion blocks of flats around Elgin Avenue although it also states that the stucco crescents of Warrington Crescent and Formosa Street are the most notable features of the area. The former Welford Dairy at the junction of Shirland Road and Elgin Avenue is identified as an important townscape feature and focal point and it is stated that the area's tree lined streets, vistas and private amenity spaces give the area a leafy character and enhance the character of the buildings and layout of the roads.
11. Taken in isolation, the design of the building would not be inherently objectionable. However, the design must be considered in its context, particularly that of the conservation area.
12. The Council's primary concern, as set out in the reason for refusal, is in respect of the design of the roof of the building. From the site visit and subsequently walking more widely around the conservation area it was clear that a defining characteristic of buildings in the area is that, whilst terraced forms predominate

and there are a range of roof shapes, where buildings have projecting rear additions, these have lower roof levels and are subordinate to the main terraced block. It was also clear that the part of the conservation area where the appeal site is located is characterised by larger numbers of blocks of mansion flats. Whilst these vary in design from street to street, within individual streets there is a strong uniformity in external appearance and roof form.

13. The appeal site is located at the end of the existing terrace of mansion blocks and adjacent to the rear gardens of the terraced houses on Essendine Road and as a result, the side elevation and profile of the building would be very apparent in views from the north end of Widley Road. From this position, it would be seen in conjunction with the gable end of Southwold Mansions opposite, which mirrors the profile of Cleveland Mansions, and the increased height and massing of the rear wing to the new building, resulting from the mansard being carried across it, and the lack of prominent chimney stacks would be very obvious. The roof form of the proposed building would be visible from the upper floors of Cleveland Mansions opposite and from rear of dwellings on Shirland Road to the rear from where it would be seen adjacent to the lower, subordinate, rear additions to the older mansion blocks. There are additional views from Essendine Road through a gap at the end of the terrace where the gardens of properties on Shirland Road adjoin the gable of 1 Essendine Road.
14. The proposed building would have large dormer windows within both the front and rear elevations of the building, with the front dormers located above projecting full height bays on the front of the building and the rear dormers located above the projecting rear wing. This would result in considerably more building mass at a high level than is evident on the adjacent mansion flats or on other mansion flat blocks in the wider conservation area. During my site visit within the wider conservation area, I saw only one example of a mansard roof with two levels of accommodation within it, and one example of a mansard extension over a projecting rear addition. No other examples were brought to my attention. These isolated examples are atypical of the prevailing built form within the conservation area. Due to the location of the appeal site at the end of a terrace, adjacent to an opening in the built form of the perimeter block arising from the gardens of the houses on Essendine Road, the bulkier roof form of the proposed building, which would also be atypical of the roofs in the surrounding area, would be particularly prominent.
15. The appeal proposal is described as contemporary interpretation of the mansion flats, but due to its external appearance, it would alter the uniform appearance of terrace to which it is attached and appear as an incongruous addition that would break the regular rhythm of architectural features present on the earlier buildings in the form of stone windows surrounds, projecting stairwells over the entrances, relatively small dormer windows, and prominent chimney stacks. This would significantly diminish the uniformity of the street and be harmful to the character and appearance of the conservation area, and to its significance insofar as it relates to a concentration of early examples of mansion flats. Although I accept that the existing building on the site may not make a positive contribution to the character and appearance of the conservation area, its lower height and simple façade make it a relatively unobtrusive feature in the street scene.

16. The proposed development exceeds the suggested density in both Saved Policy H11 of the Westminster Unitary Development Plan 2007 (the UDP) and Table 3.2 attached to Policy 3.4 of the London Plan 2016 (the London Plan). I accept that these should not be applied mechanistically, that the Framework and London Plan seek to optimise the use of land, and that density should be in part be the result of a design-led approach to determine the capacity of the site. Nonetheless, this has to be within the context of the design policies in the Development Plan and the Framework which expect new development to have regard to the character scale and hierarchy of existing buildings, prevailing storey heights and massing of adjacent buildings, average dwelling size and net residential densities of the areas, and to add to the overall quality of the area.
17. At 845 habitable room per hectare, the proposed development significantly exceeds the 700 habitable rooms per hectare for an urban area with a Public Transport Accessibility Level of 4-6 that is set out in London Plan Policy 3.4 and the 200-350 habitable rooms per hectare specified in Saved Policy H11 of the UDP. It would also be substantially higher than the density of the surrounding development. The submitted Design and Access Statement and subsequent amendments to it are silent in respect of how the capacity of the site was arrived at or how this has been resulted in the proposed design of the replacement building. At the hearing it was suggested that to align the density of the development more closely with the surrounding area would result in fewer floors in the replacement building. However, as proposed, the appeal proposal has an additional floor of accommodation within the roof space and two basement levels, one of which contains single aspect dwellings. Neither of these features is characteristic of the surrounding area.
18. Additionally, the proposed density of the development would result in the provision of below ground accommodation and the need for large lightwells on the site frontage. The existing mansion flat blocks on Widley Road have small landscaped garden areas on the site frontage. Although the appeal scheme proposes narrow planting areas behind the front boundary wall this would not create a similar effect on the frontage as the adjoining gardens and the overall visual appearance would be inconsistent with the remainder of the street. This would not preserve the character and appearance of the Conservation Area.
19. Notwithstanding the expectation of the Framework to make efficient use of land, to my mind, the desired density has informed the design of the building rather than the resulting density being a product of the design process. Nor is it argued to justify a higher density that the Council cannot demonstrate a deliverable five years housing land supply. At the hearing, it was confirmed by the Council, and not challenged by the appellants, that the delivery of housing within the Borough is meeting the Council's current housing targets. The density of the development would be physically manifested through elements of the building which would be inconsistent with the prevailing built form in the area, and that are not warranted on housing supply grounds, which adds to my concerns regarding the design of the proposed building.
20. The appeal site is located close to the Grade II Listed Essendine School which closes the view when looking to the north west from Widley Road. Whilst the effect on the setting of the school did not form part of the Council's reasons for refusal, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for

development which affects a listed building or its setting, special regard must be given to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

21. It is common ground between the main parties that the appeal proposal would not cause harm to the setting of the Listed building. Although there is some intervisibility between the appeal site and Essendine School, the primary setting of the school building is Essendine Road and the three storey brick terraces opposite and adjacent to the school building. The appeal proposal would appear in peripheral views toward the school from Widley Road and from the school looking down Widley Road, however, it would not appear as a dominant feature in these views and due to the degree of separation would not compete visually with the school. Consequently, I find that the proposed development would have a neutral effect on the setting of the Listed Building.
22. However, for the reasons set out above, I find that the proposed development would cause harm to the character and appearance of the conservation area. Due to the position of the appeal site at the edge of the conservation area and the overall size of the conservation area, this harm would be mainly limited to Widley Road itself and parts of Essendine Road and would, therefore, be less than substantial.
23. Paragraph 196 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
24. The appellant has identified several suggested benefits of the scheme. The creation of accessible dwellings compliant with applicable legislation is not, in or of itself, a benefit, nor is compliance with the nationally prescribed or local residential standards, as these are requirements the scheme must meet regardless. I have found that the appeal proposal would cause harm to the character and appearance of the conservation area, and consequently cannot give any weight to the suggestion that the scheme would result in the delivery of a scheme of high architectural quality consistent with the prevailing context and representing a significant enhancement on the existing position. Although the existing use may be an underutilisation of the appeal site, there is no evidence that would indicate that the existing, established, use is not compatible with the surroundings or that there is an overriding need to intensify the use of the site. Whilst the proposal would formalise parking in association with the use, the reinstatement the existing access points to provide on-street parking is included in the calculation of the parking requirements for the development proposed and I do not consider that this is a benefit of the scheme.
25. The provision of 23 additional dwellings would assist in meeting the Council's housing targets. However, there is no evidence before me, and it was not contested at the hearing, that the Council is not currently meeting its housing targets. I can, therefore, only give little weight to this. The introduction of new residents would generate some extra spending in the local economy on goods and services. Nonetheless, there is no evidence that the area is in decline, or that there are shops or services threatened with closure, and again only little weight can be ascribed to this. The proposal gives rise to the possibility of jobs being created in the local area during the construction phase

of the development, although there is no indication of how many jobs would be created, their duration, or permanence. I can therefore give little weight to this.

26. The proposal would result in the delivery of six affordable intermediate dwellings. This is less than required by the Council's planning policies but is, nevertheless, a benefit to which moderate weight can be attached.
27. The Framework requires that great weight should be given to the conservation of heritage assets. Whilst there would be some benefits associated with the scheme, none of these, either singly or collectively, would overcome the harm that I have found or the great weight that is required to be given to the conservation of heritage assets.
28. I therefore conclude that the proposed development would cause harm to the character and appearance of the Maida Vale Conservation Area. It would be contrary to the relevant requirements of Policy 3.4 of the London Plan; Policies S25 and S28 of the Westminster City Plan 2016 (the City Plan); and Saved Policies H11, DES 1, DES 4, DES 9 of the UDP. When taken together, these policies expect new development to achieve a high standard of design that has regard to its context, whilst conserving or enhancing heritage assets and optimising the housing output for different locations taking into account public transport capacity.

Living conditions of neighbouring occupiers

29. London Plan Policy 7.6, Policy S29 of the City Plan and Saved Policy ENV13 of the UDP seek to ensure, amongst other matters, that new development does not affect the living conditions of the occupiers of existing neighbouring properties particularly with regard to daylight, sunlight, overlooking and sense of enclosure. A Daylight and Sunlight Assessment (DSA) was submitted with the planning application. It is not in dispute between the main parties that the submitted DSA is in accordance with the guidance issued by the Building Research Establishment¹ (BRE) and that it appropriately assesses the existing and proposed daylight and sunlight levels. The main parties disagree over the interpretation of the results.
30. The BRE guidance assesses daylight received by rooms comparing the Vertical Sky Component (VSC) and the No Sky-Line Contour (NSC) before and after the proposed development. For buildings that neighbour a new development, the guidance suggests that daylight will be adversely affected by the development, if either; its windows achieve a VSC below 27% and have their levels reduced to less than 0.8 times their former value, or the levels of NSC within rooms are reduced to less than 0.8 times their former values.
31. The submitted DSA shows that the proposed development will affect all but 6 of the 17 windows relevant for assessment in flats 52, 54, 56, 58 and 60 Cleveland Mansions. Whilst 6 windows would not experience notable change, 5 of these are on the rear elevation of the rear addition to the building facing Shirland Road opposite. The remaining window is a bedroom window at basement level and due to the height and proximity of the existing building on the appeal site receives low levels of daylight at present. The 11 other windows would have resulting VSC levels of between 0.2 and 0.7 times their

¹ Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011 edition)

former value, with the retained VSC values with the development in place ranging between 2.3% and 18.5% of the former level. Of these, four would additionally have their NSC reduced to below 0.8 of the previous level. Using the criteria in the BRE guidance, this indicates an adverse effect on the adjoining properties.

32. The appellant accepts that the proposed development will inevitably have an effect on the flats in Cleveland Mansions although it is suggested that these existing flats can be considered a "bad neighbour" in that they receive more than their fair share of daylight due to the lesser level of development on the adjoining site. It is suggested that based on a "mirror image" assessment, replicating the height and massing of the existing flats, the overall effect would be similar to other dwellings within the blocks to the south of the appeal site and elsewhere in the street. During the site visit I had the opportunity to inspect the interior of three flats within the adjoining block of Cleveland Mansions, two of which faced the appeal site and the third of which faced into the area between two projecting rear additions on the terrace, and which was on the same level as one of the other flats visited. Within the rooms to the rear of this flat, the levels of ambient light were noticeably lower than those facing the appeal site which are currently unobstructed or less obstructed by the current building. The distance between the projecting rear additions of the mansion flats at Cleveland Mansions is similar, although not identical, to the distance that would result between Cleveland Mansions and the proposed development. From what I saw during the site visit the resulting reduction in daylight to the affected flats would be both very noticeable and harmful.
33. Whilst the use of alternative targets derived from a mirror image assessment is a potential approach, historically, development on the appeal site has been either lower, or further away from the windows of the flats in Cleveland Mansions facing it or adjacent to the boundary. On similar mansion flat blocks in the area, there are windows within the rear additions at the end of the terraces which are not in proximity to other built elements and, consequently, receive higher levels of daylight. On this basis I do not consider that there are compelling grounds to consider that the existing flats in Cleveland Mansions are a bad neighbour for the purposes of assessing the effect on daylight or that the transgressions against the BRE guidance can be considered minor on this basis.
34. The BRE guidance should not be treated as planning policy and I accept that it should be interpreted flexibly. However, the supporting text to Saved UDP Policy ENV13, which sets out how the Council will implement the policy, makes specific reference to the BRE guidance as an assessment tool. In this context, I find that the proposed development would have an adverse effect on the daylight received by existing windows in numbers 52-60 Cleveland Mansions which would be harmful to the living conditions of the occupants.
35. My attention has been drawn to a number of other planning permissions granted by the Council and an appeal decision within the London Borough of Tower Hamlets, which include the effect on daylight to neighbouring properties, as examples of a flexible approach being taken. I do not have the full details of these cases and so cannot be certain that the circumstances are similar to the case before me. I have noted the Council's comments that the examples within Westminster are in parts of the inner urban area where the built form is very different from the surroundings of the appeal site. I also note that the appeal decision is in relation to a much larger scale development to that of the

appeal proposal. Each planning application and appeal must be considered on its own merits and although I am mindful that the BRE guidance can be applied flexibly, these other cases do not lead me to a different conclusion on the effect of the appeal proposal on the flats in Cleveland Mansions.

36. The appeal proposal would result in a five storey rear wing being constructed adjacent to the existing rear addition to Cleveland Mansions and projecting to just beyond the rear wall of this addition. At ground level this would be located 1.92m from the windows in the side elevation of the rear addition to Cleveland Mansions. This would be essentially similar to the position which currently exists with the flank wall of the existing building. At first floor level, due to the presence of a proposed privacy screen, a similar separation would result. At the second, third and fourth floors the separation distance would increase to approximately 3.42m. There would be some opaque glazed, secondary, windows in the side elevation of the projecting rear wing of the proposed building, nevertheless, the rear wing would otherwise appear as an unrelieved expanse of brickwork close to the windows in the side elevation of the existing flats. It would also introduce a large feature that would be clearly visible from the bedroom windows of the flats that are located on the rear wall of the main block. This would severely constrain the outlook to the rear of the three upper floors of the flats in Cleveland Gardens compared to the present situation.
37. I accept that this would not be dissimilar to the situation that prevails elsewhere in the existing terrace of mansion flats where windows look out into the spaces between the projecting rear additions. However, these flats were constructed at a time when different standards were applied and, in any event the flats at the ends of this block and others were not so constrained. I do not consider that the configuration of the existing mansion blocks necessarily creates a precedent for creating a similar arrangement next to the end flats which have historically had a more open aspect.
38. I therefore find that the proposed development would result in a loss of outlook to the occupiers of numbers 56, 58 and 60 Cleveland Mansions.
39. During the course of the site visit, I also had the opportunity to visit properties on Essendine Road and Shirland Road. From the rear of properties on Essendine Road the current building on the site presents as a tall two storey structure at the rear of the garden areas. The Design and Access Statement sets out that the proposed new building would be situated approximately 13 metres from the ground level rear extensions that have been added to the properties on Essendine Road, approximately 18.5 metres from the original rear additions to these properties, and approximately 21.4 metres to the main rear facades. These distances are not in dispute. The proposed new building would be taller, but not dissimilar to the relationship between the end building of Southwold Mansions and the properties at 11-15 Essendine Road. The submitted Daylight and Sunlight assessment concludes that proposal would not have a significant effect on these properties in terms of light.
40. During the consideration of the proposal by the Council, the scheme was amended so that proposed windows in the gable wall of the main block were removed. At the hearing it was discussed that although there would be windows in the flank wall of the rear wing of the proposed building, these are secondary windows or in one case a window to a bathroom and could be opaque glazed. This could be secured by a planning condition. It was also

agreed that the proposed external terraces on the new building could be fitted with privacy screens to prevent overlooking from these. Whilst the new building would alter the aspect and outlook from numbers 3 to 9 Essendine Road and be perceived as a larger structure on the boundary, the effect of the proposed development on these properties would not be so significant as to warrant refusing planning permission, if taken in isolation.

41. In respect of the properties in Shirland Road, the windows in the rear elevation of the proposed new building would be approximately 28.5 metres from the rear additions to these properties and approximately 32.5 metres from the main rear façade. These distances are not in dispute and are essentially the same as those between the existing mansion flats on Widley Road and properties in Shirland Road. Although there are currently no windows in the rear of the existing building, during the site visit I was able to see the relationship between Cleveland Mansions and properties in Shirland Road from upper floor windows in both directions. From this I am satisfied that whilst there would be intervisibility between the new building and existing properties on Shirland Road, the degree of separation is such that there would be no loss of privacy to residents in Shirland Road.
42. Due to changes in ground levels between the front and rear of the appeal site, the existing building is perceived as, effectively, a three storey building immediately adjacent to the boundaries several properties on Shirland Road and I saw that it appears as a dominant feature from within the garden areas. Although the appeal proposal would be taller than the existing building, the above ground elements would also be further away from the common boundary and, as a result, would not appear unduly dominant when viewed from within the rear gardens of properties on Shirland Road. I find that the proposed development would not cause harm to the living conditions of the occupiers of these properties.
43. Notwithstanding that the proposed development would not cause harm to the occupiers of properties on Essendine Road and Shirland Road, the effect of the proposed development on the occupiers of the flats in Cleveland Mansions would be significant and is not outweighed by the lack of harm elsewhere.
44. I conclude that the proposed development would cause harm to the living conditions of the occupiers of neighbouring residential properties, with particular regard to daylight, sunlight, and outlook. It would not comply with the relevant requirements of London Plan Policy 7.6, Policy S29 of the City Plan or Saved Policy ENV13 of the UDP.

Living conditions of the future occupiers

45. It is not in dispute that all the proposed flats meet the internal space requirements set out in the London Plan and the Technical Housing Standards - Nationally Described Space Standard. It is also common ground that all of the occupiers of the flats would have access to the proposed communal garden area to the rear of the building. Whilst not all of the flats have private amenity space, those on the lower ground floor have access to a terraced area at the rear in addition to the communal gardens. The lower ground floor flats at the front of the building have access to the lightwells that would be formed at the front of the site. Whilst these are small, all of the external areas could be accessed solely from the proposed flats and all would exceed the 5m² minimum sought by the Mayor of London's Housing Supplementary Planning Guidance

2016. In this respect the proposed units would have suitable access to amenity space.
46. The Council's concerns in respect of daylight and outlook are limited to the proposed units on the lower ground and basement levels. Three of the flats on the lower ground floor are single aspect flats that would face out into new lightwells at the front of the building with the windows of these flats wholly below ground level. Three maisonettes situated at lower ground floor level would also have bedrooms on the basement level below, lit by lightwells.
47. The submitted DSA calculated predicted daylight levels within these areas. Although it was stated at the hearing that the DSA assessed the scheme that was subsequently determined by the Council, the drawings that are included within it are not those which it was agreed at the hearing were the plans that were finally considered. This notwithstanding, the windows which were assessed are in largely the same locations in both sets of drawings and it consequently provides information in most cases on how much light would be received by the room beyond.
48. With regard to the three flats on the lower ground level these comprise a three bedroom flat, a studio flat and a one bedroom flat. All of these are single aspect dwellings. From the data in the DSA, the living room/kitchen/dining areas of both the three bedroom flat and the one bedroom flat would receive levels of daylight that are below those recommended in the BRE guidance with average daylight factors of 1 and 0.3 respectively. Due to the depth of plan of these rooms the rear areas of these rooms would appear particularly dark. In addition to being single aspect, these units are entirely below ground level, and would all look out onto lightwells that are a minimum of 3m deep and approximately 4m across. This would, in my view, result in a restricted and constrained outlook from these units. The lightwell that would be shared by both the studio flat and the one bedroom flat, which would be approximately 4.7m wide and 4m across, would be subdivided by a privacy screen to prevent mutual overlooking between the properties which both have access to this space. Although there are no details of this, it is indicated on the drawings that this would be located immediately adjacent to the living room window of the one bedroom flat and approximately 1.5m from the windows serving the bedroom. As a result of this and the depth of the lightwell, the outlook from this flat would be particularly constrained. The combination of low levels of daylight within the principal living rooms and the limited outlook into the lightwells would result in these flats not being pleasant places to live.
49. In terms of the three maisonettes, whilst one bedroom within one of these units would not receive the recommended minimum amount of daylight in the BRE guidance, as all the other rooms would, and the principal living accommodation is on the floor above, facing over the proposed rear terrace and communal gardens. When taken as a whole these units would receive acceptable levels of daylight and sunlight. The bedroom accommodation located in the lowest, basement, level would look out onto lightwells measuring approximately 4.79m by 2.4m and in excess of 3 metres deep. One of these two lightwells would be solely within one maisonette, whilst the other would accommodate windows belonging to two different units. It is stated that a privacy screen would be provided within the lightwell to prevent mutual overlooking but no details of this have been submitted. Notwithstanding this, any privacy screen would effectively half the area of the lightwell that available

to each maisonette to approximately 2.4m by 2.38m. This would not, in my view, provide an attractive or appealing outlook from the basement level bedrooms of these two units.

50. The existing mansion blocks on Widley Road, Cleveland Mansions and Southwold Mansions, have the lowest level of accommodation in a semi-basement format with the windows at the front partially above ground level and the due to ground level changes the windows at the rear of the flats are above ground level looking out into the communal garden area and spaces between the rear additions. I saw in the wider surrounding area that basement accommodation is treated in several ways with some basements being entirely below ground level at the front of the properties. What is less certain is whether these particular basement flats are single aspect. During the site visit I had the opportunity to visit basement or lower ground floor properties in both Essendine Road and Shirland Road which were dual aspect flats with the rear windows facing gardens at ground level. This appears to be the typical approach and there is no evidence before me that single aspect flats entirely below ground level are an accepted or common form of accommodation in the area.
51. I accept that the flats on the upper levels of the building would receive good levels of daylighting and that in urban areas it is not always possible to achieve good levels of daylighting to all parts of a building. However, this does not outweigh the fact that the principal living areas of two of the proposed flats on the lower ground level would receive levels of daylight substantially below the recommended levels and that the three single aspect flats would have a poor outlook.
52. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers of the basement and lower ground floor flats, with particular regard to outlook and light. It would not comply with the relevant requirements of Policy 3.5 of the London Plan, Policy S29 of Westminster's City Plan or Saved UDP Policy ENV13 which seek to ensure that new residential development is of a high quality that receives adequate daylight and sunlight and is fit for purpose. The reason for refusal in respect of this matter also refers to Saved UDP Policy ENV6. This policy relates to noise pollution. The reason for refusal does not refer to noise or disturbance and no evidence in respect of noise was submitted by the Council. I therefore do not consider that this policy is relevant to the decision.

Other matters

53. I note that it is common ground between the main parties that the principle of redeveloping the appeal site to provide residential accommodation is acceptable and that the proposed mix of units; quantum and tenure of provision of affordable housing proposed; and the proposed parking arrangements are also acceptable. In addition, I am satisfied that the Section 106 Agreement that has been submitted would secure the delivery of the proposed affordable housing, the highways works associated with the development and car club membership for the future residents to offset parking demand.

Conclusion

54. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
55. I have found that the appeal proposal would cause harm to the character and appearance of the Maida Vale Conservation Area; cause harm to the living conditions of the occupiers of the flats within Cleveland Mansions; and would not provide suitable living conditions for the occupiers of the flats located within the lower ground floor and basement level of the proposed new building. As such it is contrary to Policies 3.4, 3.5 and 7.6 of the London Plan; Policies S25, S28 and S29 the City Plan; and Saved Policies H11, DES 1, DES 4, DES 9 and ENV13 of the UDP. To my mind, these are important matters to which substantial weight must be given, notwithstanding that the proposal may comply with other policies in the development plan.
56. The Framework seeks to significantly boost the supply of housing and the London Plan seeks to optimise housing density. However, these are not objectives to be pursued at any cost and there is no evidence before me that the Council is not meeting its current housing targets.
57. The proposal would provide some benefits in terms of the provision of affordable housing, investment and potential employment in the construction of the building and some additional spending in the local economy. Due to the relatively small scale of the proposal these benefits would be modest and can, at best, only be given moderate weight.
58. Neither of the above, either singly or collectively, would amount to material considerations that would indicate a decision should be made other than in accordance with the development plan or overcome the conflict with its policies. The adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits arising from the proposal.
59. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Morag Ellis QC	Gerald Eve
Nick Brindley	Gerald Eve
Samantha Wells	Starc Architects
Ralph Nicholls	JMR Surveyors
David Reynolds	Ashhurst LLP
Joanna Fox	Ashhurst LLP
Trevor Goode	Ant Yapi UK
Oziem Gokce	Ant Yapi UK
Zeynep Inanc	Wainbridge Limited
Maria Kalachnikova	

FOR THE LOCAL PLANNING AUTHORITY:

Rupert Handley	Westminster City Council Planning
Alistair Taylor	Westminster City Council Planning
Kirsten Chohan	Westminster City Council Legal Services

INTERESTED PERSONS:

Councillor Geoffrey Barraclough	Westminster City Council
Alice Beech	Local resident
Sarah Morris	Local resident
Noah Leach	Local resident
Sally Norris	Local resident
Melanie Haywood	Local resident
Rory Brown	Local resident
Hiroko Beech	Local resident
Heike Trischmann	Local resident
Claire McConway	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Agreed Statement of Common Ground
Draft Section 106 Agreement
Photographs and extracts from drawings
Letter agreeing to the pre-commencement conditions

DOCUMENTS SUBMITTED AFTER THE HEARING

Signed Section 106 Agreement