



Appeal Decision

Inquiry Held on 28 to 30 August 2019

Site visits made on 27, 29 and 30 August 2019

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/H5390/W/19/3227992

4-5 Sotheron Place, London SW6 2EJ

- 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 Caerus (Sotheron Place) Limited against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2018/01598/FUL, dated 11 May 2018, was refused by notice dated 6 November 2018.
 - The development proposed is demolition of existing buildings and redevelopment of the site to provide 36 no. residential dwellings and 2,340 sqm commercial floorspace (Use Class A1-3, B1 and D2) in buildings of up to 6 storeys (plus basement level), with associated parking, landscaping and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Inquiry sat for three days between 28 and 30 August 2019. I made an accompanied site visit on 29 August and unaccompanied visits to the area within the vicinity of the appeal site on 27 and 30 August.
3. After hearing the evidence, I adjourned the Inquiry on 30 August to allow for the submission of: a) a list of suggested planning conditions to be agreed between the appellant and the Council, further to the round table discussions at the Inquiry; and b) an executed copy of a Section 106 agreement (S106). The agreed list of suggested conditions, inquiry document (ID) 13, was submitted to the Planning Inspectorate on 4 September, while an executed copy of the S106 (ID16) was submitted on 12 September. The Inquiry was closed in writing on 13 September 2019.
4. The Council refused planning permission for three reasons concerning: the adequacy of the affordable housing provision (R/R1); the development's effect on the living conditions of the occupiers of the neighbouring dwellings in Cambria Street (Nos 2 to 14) and King's Road (Nos 579 to 599), having particular regard to outlook (any sense of overbearing) and the receipt of natural light (R/R2); and the living conditions of the occupiers of Nos 2 to 14, with particular regard to noise associated with the use of the external walkways for 'Block B' (R/R3).
5. However, the Council through: the submission of its statement of case (CDI2); its signing of the overarching statement of common ground (SoCG)

with the appellant; and its Inquiry opening statement (ID4) confirmed that from its perspective R/R3 was one that it no longer wished to 'pursue', ie defend. Notwithstanding that the occupiers of Nos 2 to 14 remain concerned about the use of the walkways and it is something that I heard evidence about.

6. With respect to affordable housing provision (R/R1), the day before the Inquiry the appellant and the Council reached an agreed position, whereby the provision of thirteen shared ownership homes within the development would be the maximum reasonable amount of affordable housing. That agreed position was subsequently confirmed through the submission of a topic specific SoCG (ID1) at the opening of the Inquiry. At the Inquiry affordable housing provision was therefore treated as being an uncontested issue, albeit I heard some evidence concerning it to understand why it was no longer a disputed matter.
7. The London Plan of 2011, with subsequent consolidated modifications up until March 2016 (the London Plan) is to be replaced and the replacement plan was examined earlier this year. The examining panel's report is expected to be submitted to the Mayor this Autumn and thereafter the version of the replacement plan that the Mayor intends to publish cannot become operative until it has been referred to the Secretary State for consideration for a period of six weeks or for such longer period as may be notified by the Secretary of State. The emerging London Plan is therefore still subject to change and the appellant and the Council consider that very little weight should be attached to it by me for the purposes of the determination of this appeal. Having regard to the provisions of paragraph 48 of the National Planning Policy Framework of February 2019 (the Framework) I agree that very little weight should be attached to the emerging London Plan in connection with the determination of this appeal and I make no further reference to it.

Main Issue

8. The main issue is the effect of the development on the living conditions of the occupiers of 2 to 14 Cambria Street (Nos 2 to 14) and 579 to 599 King's Road (Nos 579 to 599), having regard to outlook, daylight, sunlight, overshadowing and noise.

Reasons

Outlook

9. The development would involve the demolition of two essentially single storey, warehouse type buildings and their replacement with two blocks. The easternmost of the blocks, Block B, would be five storeys high. The other block (Block A) would occupy the western side of the site and would be six storeys high. Each block would also have some basement space.
10. The rear elevation of Block B would run parallel with the rear elevations and gardens of the three storey terraced houses at Nos 2 to 14. There being a service road/parking area, part occupied by garages, serving Nos 2 to 14, between the appeal site's boundary and the rear boundaries of Nos 2 to 14. Block B would have a fourth floor parapet level of 17.525 metres above the development's finished ground floor level¹. In comparison the existing

¹ Based upon the dimensions quoted on the application plans

easternmost building has a general parapet level of 4.5 metres and a maximum height of 6.05 metres².

11. Block B's rear elevation would have a stepped profile, with the distance between it and the rear elevations of Nos 2 to 14 ranging between 22.0 and 25.3 metres at first to fourth floor levels³. The distance between Block B and the ends of the gardens of Nos 2 to 14 would be of the order of five metres less than the elevation to elevation separation distances, given the depth of those gardens. The purpose of that stepped profile being intended to mitigate the effect of Block B's siting on the outlook from Nos 2 to 14. The steps in Block B's rear elevation, as shown on drawing D5500 Revision P1, would mean that this building would just avoid infringing a 45 degree angle line rising from the bottom of the outer face of the adjoining garden walls. That being a response to the guidance set out in key principle HS6 of the Council's Planning Guidance Supplementary Planning Document of February 2018 (the SPD).
12. However, the first criterion of key principle HS6, inclusive of Figure 6⁴, only provides 'general rule' of thumb guidance for assessing effects on outlook when neighbouring gardens are less than nine metres long. While key principle HS6 is entitled 'Development, extensions and alterations – scale and massing', the explanatory text for it in paragraphs 3.12 and 3.13 appears to primarily focus on the assessment of effects arising from new domestic extensions. I say that being cognisant of the fact that key principle HS7 is also primarily focused upon providing guidance concerning outlook and new residential extensions. While paragraph 3.14 goes onto state 'This principle is to be used to assess proposals that could include extensions, alterations and new development ...', I consider that this is an instance where simple adherence with the 45 degree rule of thumb does little to address the change of outlook that the occupiers of Nos 2 to 14 would actually experience to varying degrees.
13. In practice Block B would have a fourth floor parapet height around 0.8 metres more than that of the nearby Cooper House⁵. Allowing for Block B's stepped rear elevation, I consider siting a building, similar in height to Cooper House, would mean that it would loom large and have a very significant enclosing effect for the occupiers of Nos 4 to 12. That effect, for all intents and purposes, would deprive the occupiers of Nos 4 to 12 of any meaningful outlook laterally and vertically from the rear facing rooms and gardens of those dwellings. The relative enormity of Block B and the significant enclosing effect it would cause is something that can readily be appreciated when regard is paid to the 3D visualisations included in Appendix 2 of the Daylight, Sunlight and Overshadowing Report of April 2018 (CDA8). Those visualisations⁶ providing the most cogent contextual scene setting for this development when compared with other application documentation, such as the architectural drawings and the design and access statement.

² Based on the dimensions provided by Mr Wilshire in response to a question I put to him

³ As shown in the upper figure on page 24 of the Design and Access Statement (CDA3)

⁴ Allowing for what appears to be a typographic error relating to the cross referencing of criterion 1 and 2 with Figures 5 and 6

⁵ Having regard to the parapet height of 16.7 metres for Cooper House provided by Mr Wilshire in response to a question I raised with him

⁶ Drawings P1161/109/A and P1161/110/A

14. With respect to the outlook from the rooms within Nos 4 to 12, I saw during my accompanied visit to a number of those properties⁷ that in practice some of the first and second floor rooms are being used as studies and not just bedrooms. There would therefore be potential for harmful losses of outlook to be experienced from the first and second floors of Nos 4 to 12 as well as from their ground floor rooms and gardens.
15. I therefore consider that Block B's siting and scale would unacceptably impair the outlook of the occupiers of Nos 4 to 12. In that regard I am not persuaded that the stepped design of Block B's rear elevation would provide adequate mitigation against the harmful losses of outlook that would arise, given Block B's overall mass. There would be little in the way of domestic scale fenestration in Block B's rear elevation. While I appreciate that design approach is intended to safeguard the privacy of the occupiers of Nos 2 to 14, a consequence of that would be an elevation of limited architectural interest for the occupiers of Nos 4 to 12 to look out onto. I consider that characteristic of Block B's design would accentuate its imposing presence for the occupiers of Nos 4 to 12.
16. While I have found that the occupiers of Nos 4 to 12 would experience an unacceptable loss of outlook, I am of the view that the same cannot be said of the occupiers of Nos 2 and 14. That is because the occupiers of Nos 2 and 14 would not experience the same degree of enclosure as they would have an appreciation of the relieving spaces beyond the ends of Block B, namely the gap between Nos 579 to 599 and Block B and along the carriageway in Michael Road.
17. With respect to the outlook for the occupiers of Nos 579 to 599, I consider this would not be adversely affected. That is because Blocks A and B would present their shortest elevations to Nos 579 to 599 and there would be a relieving space between the blocks themselves and spaces between the new buildings and the neighbouring built development in Cambria Street, Michael Road (inclusive of the extant permission for the redevelopment of 5 to 17 Michael Road [the Harley Davidson site]) and Edith Row.
18. In finding that the siting and scale of Block B would unacceptably affect the outlook for the occupiers of Nos 4 to 12, I am mindful that planning permissions for taller buildings have been granted for the redevelopment of the Harley Davidson site (six storeys plus basement) and the gas works site (ranging between one and thirty seven storeys). However, I consider that the juxtaposition of Block B relative to Nos 4 to 12 would not be comparable with the situations arising with the redevelopment of either the Harley Davidson or gas works sites. That is because the appeal development would in effect amount to a finger of taller built development projecting into an area currently characterised by buildings of up to three storeys in height.
19. A distinction can be drawn between the Harley Davidson site and Block B in that the former occupies a corner location and it is in part bounded to the rear by the single storey petrol filling station. There would by comparison with the appeal development also be a greater degree of physical separation between the six storey block on the Harley Davidson site and the properties behind it in King's Road and Cambria Street.

⁷ 2, 4, 10 and 12 Cambria Street

20. I consider the situation with respect to the gas works site is also different, given that it concerns a major regeneration scheme, replacing six gasometers, which for the most part were in excess of 30 metres tall⁸, with a form of development that would be more compatible with an inner urban, mixed use area, such as this. There are existing properties in Imperial Square which, for example, will have an outlook at relatively close quarters onto blocks between seven and nine storeys in height forming part of phase one of the gas works scheme. However, unlike the relationship between Nos 4 to 12 and Block B, the properties in Imperial Square will be separated from the flat blocks within the gas works scheme by a road, Sands End Lane, with there being some new low rise buildings and tree planting in the intervening space between the existing homes and the new flat blocks⁹.

Daylight, sunlight and overshadowing

21. There is no doubt that the occupiers of some of the properties at Nos 2 to 14 will experience some reductions in the receipt of natural light to the interiors of their properties. Those reductions having been assessed by the appellant's and the Council's expert witnesses¹⁰, having regard to the Building Research Establishment (BRE) guidance¹¹. With respect to the effects on the receipt of sunlight within the interiors of Nos 2 to 14 the expert witnesses agree that there would be '... no material impact ...' and that the effects would be '... fully compliant with the BRE criteria'¹².
22. With respect to the effects on the receipt of daylight, some infringements of the BRE guidance would arise in respect of some of the windows at Nos 4 to 12. However, the expert witnesses are agreed that while those infringements might be noticeable for the occupiers of the affected properties, they would be at levels that have routinely been found to be acceptable when comparable developments have been considered in other parts of London. In that regard at paragraph 6 of the Daylight, Sunlight and Overshadowing SoCG it is stated 'We also agree that although the scheme is not fully compliant in respect of daylight, there are no significant shortfalls either in terms of either the percentage alteration or retained quantum of internal daylight amenity'.
23. With respect to the effect on sunlight and daylight to the interiors of the King's Road properties, one infringement of the BRE guidance's vertical sky component test has been identified and that concerns No 597. No 597 is currently in commercial use and benefits from a planning permission for its conversion into residential accommodation. For new build residential properties, as opposed to existing ones, the BRE guidance takes a different approach to the assessment of the receipt of natural light. The expert witnesses are agreed that if that alternate approach is applied then there would be no unacceptable loss of natural light for the occupiers of the residential accommodation at No 597.
24. The expert evidence before me is that there would be no unacceptable effect on the receipt of sunlight or daylight within the interiors of the immediately

⁸ When the proposed finished floor level of 4.00 metres for the appeal development is compared with the AOD heights quoted on the historic massing drawing for the gas works site (ID10)

⁹ Based on the CGI included on page 19 of the Design and Access Statement (CDA3)

¹⁰ Mr Lane for the appellant and Mr Wong for the Council

¹¹ Site Layout Planning for Daylight and Sunlight – A guide to good practice of 2011

¹² Paragraph 7 of the Daylight, Sunlight and Overshadowing SoCG signed on 30 July 2019

neighbouring properties. Given the specialist nature of that evidence I see no reason not to accept it.

25. Turning to overshadowing, there is agreement that the affected properties would be Nos 10 to 14. However, there is disagreement as to how significant the effect would be, given that the infringement of the BRE guidelines concerns the extent of the overshadowing occurring on 21 March (ie the spring equinox). In that regard the BRE guidance in summary states at paragraph 3.3.17:

'It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable ...'

26. Post development increases in overshadowing of more than 20% will amount to an infringement of the BRE guidance. In this instance it is agreed that the increase in the overshadowing of No 10's garden on 21 March would be 84.6%. Additionally, when the redevelopment of the adjoining gas works site is allowed for, there would be increases in overshadowing of 86.7% and 32.4% respectively at Nos 12 and 14¹³. Those increases in overshadowing in the language of the BRE guidance would be 'noticeable' for the occupiers of Nos 10, 12 and 14. However, the appellant's transient overshadowing plots for the existing situation between December and February indicate that the gardens of Nos 10 to 14 are already subject to very high levels of overshadowing¹⁴.
27. Applying the BRE guidance the increases in the overshadowing of the gardens of Nos 10 to 14 would appear to be significant. However, those increases would mainly concern the winter months when the extent of overshadowing is already very high. I therefore consider it is doubtful whether the occupiers of Nos 10 to 14 would notice much change in overshadowing. That is because that change would primarily be at times of the year when the use of the affected gardens could reasonably be expected to be at reduced levels compared with the height of summer. For the period following 21 March the submitted evidence, including the appellant's sun on the ground plots for 21 April and 21 May, recalibrated to take account of the longer day lengths¹⁵, suggests that the gardens of Nos 10 to 14 would generally not experience unreasonable levels of overshadowing. I say generally because for 21 April, with the target minimum for sun on the ground recalibrated to two hours and forty minutes, there would, as Mr Wong highlighted, be an instance at No 10 where a significant increase in the level of overshadowing would arise. That said I consider it likely that for the times of the year when the garden of No 10 could be expected to be put to its greatest use there would be no unacceptable degree of overshadowing.

¹³ The percentage increases stated in the table included within the Daylight, Sunlight and Overshadowing SoCG

¹⁴ Shown in the suite of drawings tabled by Mr Lane at the Inquiry comprising ID7

¹⁵ Ie two hours and forty minutes and three hours and twenty minutes shown on drawings P1161/172 and P1161/173 tabled by Mr Lane at the Inquiry comprising ID8

Noise

28. Residents are concerned that the use of Block B's external walkways would have the potential to generate noise disturbance. However, in response to a question I put to the appellant's noise witness (Mr Gray), it was explained that even if the estimate of six pedestrian movements to and from each of the 15 flats in Block B, per 24 hour period, was on the low side, there would need to be an eight fold increase in the predicted pedestrian movements. So, instead of 90 movements there would need to be of the order of 720 movements for the occupiers of Nos 2 to 14 to experience a 'lowest observed adverse effect level'.
29. The likelihood of the occupiers of 15 flats generating 720 pedestrian movements would be very doubtful. I therefore consider that the use of the walkways would not be a source of noise that would be disturbing for the occupiers of Nos 2 to 14. I further consider that even if the use of the walkways was to generate some observable noise, associated perhaps with the slamming of doors and shouting, that noise would be likely to be disturbing for the occupiers of the appeal development as well as for the occupiers of Nos 2 to 14. Under such a scenario I would expect there to be some self-policing amongst Block B's occupiers to address any unneighbourly noise generation.
30. The obscure glazed balcony screens would also provide some noise mitigation and their installation could be secured through the imposition of one of the suggested planning conditions¹⁶. Having regard to the installation of that screening and the intensity of the walkways use, I am of the view that the walkways' use would generate acceptable noise levels within what is an inner urban area.

Conclusions on living conditions

31. For the reasons given above I have found that the occupiers of the neighbouring properties would experience no unacceptable losses of sunlight or daylight, no unacceptable overshadowing, or any unneighbourly noise disturbance.
32. However, I have found that the size and siting of Block B would cause significant enclosure, unacceptably affecting the outlook from within the rear facing rooms and gardens of Nos 4 to 12. I therefore conclude that the development would have an unacceptable effect on the living conditions of the occupiers of Nos 4 to 12. The development would therefore be contrary to Policies DC2 and HO11 of the Hammersmith and Fulham Local Plan of February 2018 (the Local Plan). That is because the development would not be of a design that would be respectful of 'the good neighbourliness and principles of residential amenity' (criterion e of Policy DC2) and would not adequately take account of the protection of the living conditions of existing residents, having regard to the level of outlook that would be retained (criterion k of Policy HO11). I consider there would be no conflict with Policy 7.6 of the London Plan, most particularly criterion d), because I have found that there would be no unacceptable overshadowing and this policy's wording does not address the safeguarding of outlook.

¹⁶ Suggested condition 20

33. Given the harm to the living conditions of the occupiers of neighbouring properties that I have identified I consider that the development would also fail to accord with paragraph 127f) of the Framework because it would not provide '... a high standard of amenity for existing and future users'.
34. The second reason for refusal cites conflict with Policy DC1 (Built Environment) of the Local Plan and Policy 7.4 (Local Character) of the London Plan. However, it was agreed at the Inquiry that as those policies both address townscape quality, rather than the safeguarding of living conditions, that neither of them are relevant to the consideration of this main issue.

Other Matters

Affordable housing

35. For developments involving the provision of eleven or more self-contained dwellings Policy HO3 of the Local Plan states that the borough wide target for affordable housing provision is 50%, with the tenure mix for such housing expected to include 60% social or affordable rental homes and 40% intermediate homes. In this instance the level of affordable housing provision would be 36%, with those homes being exclusively shared ownership units (the affordable housing offer).
36. The affordable housing offer would therefore not accord with Policy HO3's 50% target level nor would it be of a mixed tenure. However, Policy HO3, in line with the provisions of Policy 3.12 of the London Plan, allows for affordable housing provision to be negotiated at levels below the 50% target, having regard to scheme viability. With respect to viability, it is now agreed that a reasonable blended target profit level would be 15.18%, measured against the scheme's gross development value. It is further agreed that against that target profit level the provision of thirteen shared ownership homes would yield a scheme deficit of around £320,000. It is also agreed that there would be a greater deficit if affordable homes for rent were incorporated into the development.
37. Notwithstanding the fact that the affordable housing offer renders the development technically unviable, the S106 would obligate the appellant to provide thirteen affordable homes on site. Appendix 9 (Viability Protocol) of the Local Plan and the Mayor's Homes for Londoners Affordable Housing and Viability Supplementary Planning Guidance of 2017, however, indicate that post permission viability reviews may be required when the affordable housing offer is below the policy target level. The appellant is, however, resistant to being obligated to undertake any post permission viability review.
38. I was advised that residential values in London are currently subject to market uncertainty caused by various factors. Taking those factors into account it was put to me, on an agreed basis, that it is unlikely that within London residential values will show any real growth for at least a couple of years and perhaps longer.
39. It is expected that the appeal development would be completed within two years of its commencement, preceded by a six month pre-construction period. Given the existing identified deficit and the current market uncertainty, it seems likely that even if a post permission viability review mechanism was in place, that would fail to demonstrate an improvement in viability capable of

yielding additional affordable housing in this instance. I am therefore content that the affordable housing offer constitutes the maximum reasonable amount that this development could withstand and the development would accord with the development plan, most particularly Policy HO3 of the Local Plan.

40. The provision of some affordable housing is a matter weighing for the development. However, I consider this benefit of the development is not as significant as argued by the appellant, given that the appeal site immediately adjoins the gas works site where 646 affordable homes are to be provided¹⁷. This is a location where a significant amount of new affordable housing will become available as the redevelopment of the gas works site progresses, irrespective of whether planning permission was to be granted for the appeal development.

Market housing and commercial floorspace provision

41. Social and economic benefits would arise from the construction and occupation of 23 open market flats and the creation of additional commercial space on site, the latter yielding around 98 new jobs. In the light of the London-wide need for more housing, particularly family housing, I recognise that the social and economic benefits are matters weighing in favour of this development, which would be in a highly accessible location. However, I consider that in this instance there would be nothing particularly exceptional about the development's social and economic benefits, given the proximity of the gas works site. That is because this adjoining regeneration site will include the provision of a total of 1,197 open market dwellings, in excess of 7,500 square metres of commercial floorspace and around 3,400 square metres of community and leisure floorspace¹⁸.

Character and appearance

42. There is no dispute that the existing buildings on site are of no architectural merit. The replacement of those buildings with two blocks, of a generally good external appearance, would represent a streetscene improvement within Michael Road, in the transitional area between the gas works site and the long established built development in King's Road, the latter forming part of the Moore Park Conservation Area (the CA). The streetscene improvement would be of some benefit, however, I consider it to be greatly tempered, given a much more significant improvement within and immediately adjoining Michael Road will arise through the redevelopment of the gas works site. I say that because the gas works site is so much more extensive and the buildings on it will provide considerable visual screening for the appeal site, other than from very immediate vantage points in Michael Road.
43. The parking spaces for the development would be within the extensive, built up, mixed use CA and this aspect of the scheme would amount to a rationalisation of the existing parking arrangements. I therefore consider that the provision of the development's parking would preserve the CA's character, while yielding a modest enhancement in its appearance, with ancillary parking being a complementary activity within this mixed use CA.
44. Although the existing buildings are of no architectural merit and the current parking arrangements are a little chaotic, I am not persuaded, based on my

¹⁷ Planning permission 2018/02100/COMB for the gas works site (CDH.1B)

¹⁸ Planning permission 2018/02100/COMB for the gas works site (CDH.1B)

observations of the site, and its immediate surroundings, that this site's appearance is detracting, to any appreciable degree, from the CA's appearance. I therefore consider that there is currently no particular visual 'imperative' for this site to be redeveloped. While considerable importance is to be attached to the preservation or enhancement of the CA's character or appearance, I do not believe that the townscape benefits associated with this development would, of themselves, be particularly significant.

Planning Obligations

45. I have already commented on the affordable housing offer above and need not say anything further on it. The S106 includes obligations covering a range of matters, relating to the availability of an appropriate access, minimising dependency upon car usage, mitigating pollution effects and providing support for the local economy.
46. Those planning obligations would address development plan policy requirements and I consider that they would be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. While the planning obligations are necessary, of themselves there is nothing particularly exceptional about them.

Conclusions

47. For the reasons given above I have found that the development would unacceptably harm the living conditions of the occupiers of Nos 4 to 12 because of the loss of outlook that would arise from the scale and siting of Block B. That harm, as I have explained above, gives rise to conflict with the development plan and national policy. While there would be social and economic benefits arising from the development, I consider the weight to be attached to those benefits should be viewed as being significantly tempered in this instance. That is because there will be substantial amounts of new housing and commercial development in the area, irrespective of the outcome of this appeal, given the extant planning permission for the redevelopment of the nearby gas works site.
48. I am mindful that there were extensive pre-application discussions with the Council. I am also cognisant of the submission made on the appellant's behalf that "it is this scheme or nothing"¹⁹. While it is reasonable to seek to redevelop an urban site, such as this, in an efficient manner, it is equally important to ensure that the resulting development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties.
49. In this instance I am of the view that loss of outlook that would be suffered by the occupiers of Nos 4 to 12 would be unacceptable and could not be addressed through the imposition of reasonable planning conditions. I have assessed all of the other material considerations in this case, including the benefits identified by the Appellant, but in the overall planning balance these do not outweigh the harm I have identified, or lead me to find that a decision should be made otherwise than in accordance with the development plan,

¹⁹ Mr Banner during the living conditions round table discussion

when it is taken as a whole. I therefore conclude that the appeal should be dismissed.

Grahame Gould
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Charles Banner	Of Queens Counsel instructed by Savills PLC
Marcus Wilshire MRTPI RIBA	London Master Planning Lead at the IBI Group
William Seamer BA (Hons) MSc MRICS	Partner of Montagu Evans LLP
Thomas Mudd BA (Hons) MSc MRICS	Partner of Montagu Evans LLP
Paul Gray BSc (Hons) MIOA	Technical Director of Mayer Brown LLP
Nick Lane BA (Hons)	Point 2 Surveyors
Nick Green BA (Hons) MRTPI	Director of Savills PLC
Lucy Aspden MSc MRTPI	Senior planner with Savills PLC (Planning conditions only)
Tom Elder MRICS	Development executive with the appellant (Section 106 agreement and conditions only)
Andrew Morgan	DAC Beachcroft LLP solicitor for the appellant (Section 106 agreement only)

FOR THE COUNCIL OF THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM:

Meyric Lewis	Of Counsel instructed by the Assistant Director of Legal and Democratic Services
Robert Fourt BSc (Hons) MSc FRICS	Partner with Gerald Eve LLP
Ieuan Bellis BA (Hons) BTP	Team Leader Strategic Applications with the Council
Kaivin Wong BSc (Hons) MRICS	Director and principal of Lumina London Limited
Roy Asagba-Power	Team Leader with the Council

Emmanuel Amponsah	Solicitor, planning and highways with the Council (Section 106 agreement only)
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INTERESTED PARTIES:

Louise Morton MSc MRICS	Quadrant Town Planning Limited on behalf of the owners and occupiers of 2 to 14 Cambria Street
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Mrs Lees	Resident of Cambria Street
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INQUIRY DOCUMENTS (IDs) SUBMITTED AT OR AFTER THE INQUIRY

- ID1 Statement of Common Ground in relation to Financial Viability Matters
- ID2 Appellant's note on matters relating to viability and affordable housing
- ID3 Council's Community Infrastructure Levy Compliance Note
- ID4 Mr Lewis' opening submissions on behalf of the London Borough of Hammersmith and Fulham
- ID5 Mr Banner's opening submissions on behalf of the appellant
- ID6 Map of the Moore Park Conservation Area
- ID7 Appellant's Transient Overshadowing Plans Baseline Scenario for December, January and February (prepared by Point 2 Surveyors)
- ID8 Appellant's Sun on Ground Sunlight Test Drawings No. P1161/172 (April 21st) and P1161/173 (May 21st) (prepared by Point 2 Surveyors)
- ID9 Pre Application 2 Design Document Extract
- ID10 Gas Holders Plan
- ID11 Mr Lewis' closing submissions on behalf of the London Borough of Hammersmith and Fulham
- ID12 Mr Banner's closing submissions on behalf of the appellant
- ID13 Final agreed list of suggested planning conditions
- ID14 Agreed final version of the Inquiry Position Statement
- ID15 Point 2 Surveyors drawings P1161/WM_03 and P1161/WM_04 with blue shading showing the windows of properties in Cambria Street that have been assessed as being subject to infringements of the BRE guidelines
- ID16 Copy of Section 106 agreement executed of 12 September 2019