



Appeal Decision

Inquiry Held on 28 August – 3 September 2019

Site visit made on 3 and 4 September 2019

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Appeal Ref: APP/T5150/W/18/3214420

The Queensbury, 110 Walm Lane, London NW2 4RS

- 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 Redbourne (Queensbury) Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 18/0210, dated 16 January 2018, was refused by notice dated 1 May 2018.
 - The development proposed is the replacement of the existing building (containing a public house and former members club) with a mixed use development comprising a public house and function room (A4), 48 residential flats (C3) and associated landscaping and highway works.
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Procedural matters

1. Following the refusal of planning permission the appellant produced revised plans dealing with internal arrangements and balconies. These plans were the subject of consultation with interested parties. The revised plans were explained and discussed at the start of the Inquiry, and nobody raised any objections to these plans being considered at the Inquiry. I am satisfied that accepting the revisions would not prejudice the interests of any party and this decision deals with the revised plans.
2. A draft S106 Obligation was discussed by all parties at the Inquiry. The final version was submitted, as agreed, after the Inquiry closed. Other documents, as listed at the end of this decision, were also requested and submitted after the Inquiry.
3. Save the Queensbury (STQ) were a 'Rule 6' party and played a full part at the Inquiry. They are an informally constituted group of local residents and organisations opposed to the loss of the public house and the community facility, and opposed to the design of the replacement building.
4. At the Inquiry, all parties were aware of the likely publication of the Inspectors' Panel report into the emerging London Plan. The Inspectors' report and recommendations were published on 21 October 2019 and, as

agreed at the Inquiry, the views of the parties were sought. Both parties responded and the views thereon have been taken into account.¹

Decision

5. The appeal is allowed and planning permission is granted for the replacement of the existing building (containing a public house and former members club) with a mixed use development comprising a public house and function room (A4), 48 residential flats (C3) and associated landscaping and highway works at The Queensbury, 110 Walm Lane, London NW2 4RS in accordance with the terms of the application, Ref 18/0210, dated 16 January 2018, subject to the conditions set out in the Annex to this decision.

Main issues

6. The Council refused permission for the following reasons:
 - The effect on the Mapesbury Conservation Area.
 - The standard of accommodation for future occupiers in relation to amenity space and the size of units.
 - Whether the maximum reasonable amount of affordable housing has been provided.
 - The consequences of the lack of a legal agreement dealing with air quality and with the BREEAM rating.
 - The effect of servicing and parking demand and on transport infrastructure.
7. As a result of the submission of revised plans and further discussions between the appellants and the Council, various matters were resolved, in particular:
 - The issue of the standard of accommodation in the proposed flats was resolved by the submission of revised plans.
 - In the light of further viability evidence submitted in relation to subsequent applications, the Council was satisfied that the appeal scheme included the maximum reasonable amount of affordable housing.
 - Following discussions regarding the s106 Obligation, the Council considered that carbon reduction measures and the car free issue were resolved.
8. With that background, there is one main issue in this case. That is the effect of the loss of the existing building and the proposed redevelopment on the Mapesbury Conservation Area and of the wider area.

¹ Documents 21 and 22

Reasons

Policy context

9. At the time of the Inquiry, the development plan comprised the London Plan as amended (LP) (2016), the Brent Core Strategy (CS) (2010) and the Brent Development Management Policies (DMP) (2016).
10. A full list of the relevant policies is contained in the Statement of Common ground². The policies relevant to the main issue are:
 - LP policy 3.5 states that the design of all new housing developments should enhance the quality of local places, taking into account physical context and local character.
 - LP policy 7.4 states that buildings, streets and open spaces should provide a high quality design response that (amongst other matters) has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass.
 - CS policy CP17 seeks to protect and enhance the suburban character of Brent.
 - DMP policy DMP1 is a general development management policy which, amongst other matters, provides that acceptable development will be of a scale, detailing and design which complements the area.
 - DM policy DMP7 deals with Brent's heritage assets and provides that buildings should be retained where their loss would cause harm. New development should contribute to local distinctiveness and be good quality design.
11. The Council has also published an SPG on Design in New Development³, and the Mapesbury Area Design Guide⁴.

The site, its surroundings and the proposal

12. The appeal site is on the eastern side of Walm Lane and is occupied by a part two/part three storey building. There is a car park to the side of the building.
13. The building is a wide-fronted property which dates from 1893, when it was built as a doctor's surgery and a private house. The building was subsequently converted to use as a Constitutional Club, and continued in use as a members' club, with several extensions added over time to the side and rear. The building is occupied by the Queensbury public house on the ground floor, with a forecourt slightly above street level. The rear part of the public house is used by community groups, under an informal arrangement, on Monday – Saturday mornings. I was not able to inspect the upper floors but I understand that they comprise residential floorspace. The car park to the side and rear of the building, bounded by the railway embankment and the back gardens of adjoining houses and flats, is currently used for contract

²² SOCG Section 5

³ CD 13

⁴ CD 15

parking. The appeal site also includes a triangle of pavement to the front of a row of three small shops built next to the railway bridge.

14. The site is adjacent to residential development to the rear and to the north. To the north are two apartment buildings. No.112 Walm Lane is a modern narrow-fronted five-storey building, and Westly Court is a larger post-war four-storey block that turns the corner onto Dartmouth Road.
15. Walm Lane is a main local route that runs north from the commercial centre of Willesden Green. The appeal site lies immediately to the north at which Walm Lane crosses the railway and is, diagonally opposite Willesden Green Underground Station. Immediately to the south are three small commercial units, and the opposite side of Walm Lane is a shopping frontage.
16. The site is within the Mapesbury Conservation Area, and is the first building as one enters the designated area from the south. The area predominantly comprises substantial houses of the late nineteenth and early twentieth centuries. The southern boundary of the Mapesbury Conservation Area is defined by the railway. The Willesden Conservation Area lies on the far side of the railway bridge. The station is a Grade II Listed building.
17. The public house is registered as an Asset of Community Value under the Localism Act 2011. The nomination form⁵, submitted by STQ, refers to the social wellbeing and interests of the community.
18. The proposal, in summary, is for the demolition of the existing building and the redevelopment of the site by the erection of a building containing 48 self-contained flats on the upper floors, with a public house and function room on the ground floor.

Planning history

19. The Statement of Common Ground⁶ gives the full planning history of the site.
20. Of direct relevance to the current appeal is a 2013 proposal for redevelopment for A4/D1 and residential uses (up to 10 storeys in height). This was refused in 2014 and an appeal was subsequently dismissed⁷. Although that decision related to a very different proposal, many aspects remain highly material to the current appeal.
21. The application which has resulted in this appeal was lodged in January 2018 and refused in May 2018.
22. Two further applications, for developments broadly similar to the appeal scheme, were subsequently refused in June 2019 and appeals have been lodged. One of these proposals was recommended for approval by officers.

⁵ CD 42

⁶ SOCG Section 3

⁷ APP/T5150/A/14/2219081

The effect on the character and appearance of the Mapesbury Conservation Area and the surrounding area

The Conservation Area

23. The Council and the appellants agree that the principle of the redevelopment of the site is acceptable, subject to the consequences of the proposal for the Conservation Area. In considering this matter Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance.
24. The Council and the appellants agree that the key consideration is the effect of the proposal on the Conservation Area not solely the existing building or the immediate locale. These parties further agree that there would be no harm to any heritage assets other than the Mapesbury Conservation Area. (I will deal below with the effect on the Listed tube station and the Willesden Green Conservation Area across the railway line to the south.)
25. The Mapesbury Conservation Area is apparently the biggest in the Borough and is mainly characterised by suburban villas dating from the turn of the 19th/20th centuries. The area experienced rapid development and this led to a general coherence of layout and built form, especially along the east-west roads which are lined by generously scaled detached and semi-detached houses. These are largely two storeys in height with some upper gable and attic-level windows, and employ a limited range of materials - brick, terracotta, tile and timber, and feature a substantial amount of original detailing. The north-south roads, including Walm Lane, cut across this pattern and exhibit a more varied character.

The existing building

26. The existing building on the appeal site is apparently one of the earliest to be built beyond the Metropolitan Railway. The building - still largely in its original form as most of the subsequent poor quality changes have been at the rear - makes a contribution to the understanding of the development of the area. However the extent to which that historic interest would be generally appreciated may be debatable.
27. As it is located at the corner of the Conservation Area and to the north of the railway bridge, the building performs a role as it marks the entrance to the Conservation Area along the main road and past the Underground station. The building's scale and use of materials therefore provide some indication of the character of the Mapesbury area.
28. That said, there is no evidence of the identity of its architect, and it is not statutorily or locally Listed. Of considerable significance is the fact that it is not mentioned in the local documents dealing with the Conservation Area⁸.
29. Overall, it is common ground between the Council and the appellant that the site's position and history means that it performs a role as a local landmark. I do not disagree.

⁸ CD 14 and 15

30. However its scale and design, including an unusual catslide roof, limit its contribution to the character and appearance of the Conservation Area. Furthermore, it could be argued that the significance of the building has been reduced as a result of the limited townscape value of the building to the north. I have some sympathy with that view. Overall, I consider that the existing building on the site makes a limited contribution to the character and appearance of the Conservation Area, and that the preservation of that contribution would be desirable.
31. I now turn to consider the proposed development principally from the Walm Lane frontage and from the south, in order to assess its merits in terms of the Conservation Area. (The rear block attracted no objection, and was not criticised in terms of design or massing. I have no reason to disagree.)

The proposed Walm Lane frontage

32. The massing and design of the building when viewed from Walm Lane was the subject of criticism by the Council and STQ. However, as demonstrated by the appellant's evidence and as was apparent on my site visit, the setback of the top floors from the road frontage would very significantly limit the impact of the scale of the building. I appreciate that the static views presented by the appellant do not represent the dynamic manner in which the building would be appreciated but I am not persuaded that the scale of the building would be seen as out of character from the road frontage. In terms of scale it would sit comfortably alongside 112 Walm Lane and Westley Court to the north.
33. In detail, I agree that there would be only a limited relationship between the front elevation fenestration and the dormers above. However given the depth of the setback, this relationship will not be easily appreciated. The authority made a number of criticisms of the detail of the window openings on the front elevation, which were claimed to lack refinement. However the appellant's architect explained the design process convincingly and in some detail, whereas the Council failed to explain what harm the proposed design would cause in this respect.
34. There was also criticism of the legibility of the public house frontage, and it was suggested that its use would not be clearly understood. I do not agree. The materials employed in the public house façade would be different to those employed on the upper floors – contrary to the written design evidence for the Council⁹. The detailing could be the subject of a condition, and I see no reason why the use would not be read as a public house in a modern style.

The proposed building viewed from the south

35. The scale of the proposed building would be appreciated to a much greater extent when seen from the south, as one approached across the railway bridge or emerged from the railway station. From this angle the setback of the top floors would not significantly reduce the scale of the building. As accepted by the appellants, there would be a more radical change when

⁹ Accepted to be an error at the Inquiry

viewed from this direction especially as the southern part of the site currently only includes a yard and a number of ancillary buildings.

36. The design of the flank elevation of the development has been carefully designed to avoid what could otherwise have been a large and featureless elevation. The architect explained in detail how the approach echoes a typology which occurs elsewhere in the Conservation Area, as I saw during my site visit. Whilst I appreciate that these other properties face secondary streets, I find that the concept is appropriate in its context and adds interest and variety to the flank wall.
37. It is from the southern viewpoint that the extent of the dormers can be appreciated. The appellant explained that they have been used elsewhere in the Conservation Area, admittedly with varying success. The suggestion was therefore that they are far from an alien feature in the Conservation Area. A significant amount of Inquiry time was taken up with debating how successfully they have been used elsewhere, but this is not especially helpful as what matters is the effect of this scheme. In this particular instance the dormers when viewed from the south are a positive and deliberate element of the design concept, and are far from out of place, let alone harmful.
38. In addition, the extent of the roof and the use of metal cladding can be best appreciated from the south. This material, although its appearance could be argued to be not dissimilar to slate in overall appearance, is overtly modern. Whilst it was not suggested that it has been used elsewhere in the area, the proposed building would be perceived as a modern development, and there was no coherent explanation as to why this material would be out of place in this context.

The effect on the tube station and the Willesden Green Conservation Area

39. The tube station dates from 1924 and is listed Grade II, and the effect on this building was an issue at the previous appeal. However that proposal was for a significantly different development, including a tower up to ten storeys in height. In the case of the current appeal the Council accept that the proposal would not affect the significance of the asset. I agree.
40. Similarly, in the context of the previous appeal, the consequences for the largely commercial Willesden Green Conservation Area were an issue, but again this was not a concern for the Council in this appeal. I will return below to the argument that the current proposal erodes the current transition from the residential area of Willesden Green to the residential area of Mapesbury, but I do not consider there to be any effect on the significance on the Willesden Green Conservation Area.

The 'gateway' argument

41. All parties at the Inquiry discussed the role of the site, the existing building and the proposed development, as a 'gateway' into the Conservation Area when approaching from the south (including from the more commercial area of the Willesden Green Conservation Area).
42. I agree that the area on either side of the railway exhibit different characteristics, and that the Mapesbury Conservation Area has, in the main,

a more suburban residential character. However, as acknowledged in the Character Appraisal, Walm Lane has a slightly more varied character than roads at the core of the Conservation Area. The area around the appeal site, both within and without the Conservation Area, exhibits generally taller development of a busier commercial character than the heart of the designated area with its pattern of regular residential development.

43. In this context, I consider that the focus on the site and the existing building as a gateway to the Conservation Area can be overplayed. I accept that the proposal would give the location a more urban scale than it currently possesses. However the site has the potential to provide a largely residential development with its own character and making its own 'gateway statement'.

Conclusion on the effect on the Conservation Area

44. There is no particular design requirement for a larger building on the site. But what is important is whether the site and the area can accommodate the proposal without harming the Conservation Area.
45. As described above, and as accepted by the appellant, there would be some limited harm to the character and appearance of the Conservation Area arising from the loss of the existing building – both in historical and visual terms. The previous Inspector found the importance of the building not to be absolutely integral to the quality of the area as a whole, although acknowledging the positive contribution which it makes.
46. The evolution of the design of the proposed building was clearly set out in the appellant's evidence, and was carefully analysed by the appellant's architectural and conservation witnesses. In comparison the Council's evidence was far less detailed and was given by an architect with apparently very limited experience of comparable developments, and who was doubtless hindered by being instructed only a week before evidence was submitted.
47. Overall I consider that the proposed building would be a well-mannered scheme which would sit well in its context and be a positive asset to the Conservation Area. I therefore conclude that there would be no net harm to the character and appearance of the Conservation Area and it would therefore be preserved.
48. In any event, even if I had concluded that there was 'less than substantial' harm (in the language of the Framework) to the area, the extent of this harm would be very limited. The guidance in the Framework is that harm should be weighed against public benefits. These largely comprise the provision of good quality new housing, including affordable units, the replacement of the existing public house with one of substantially greater size, and the formalising of the community use in a larger and purpose-built area (and its temporary relocation during construction). These factors would significantly outweigh any less than substantial harm.
49. In conclusion, the proposal would not harm the character and appearance of the Conservation Area, and would not conflict with the policies summarised above.

Other matter – housing land supply

50. The agreed position¹⁰ on housing land supply at the time of the Inquiry was that, based on the adopted London Plan, the Council has a supply between 7.4 years (the appellant's position) and 9 years (the Council's position). If the draft London Plan requirement were adopted the agreed figures dropped to 3.89 years (the appellant's position) and 4.72 years (the Council's position).
51. The difference between the parties under both assumptions relates to a range of matters. These include issues around housing estate renewal and the reliability of some of the evidence of delivery. The Council and the appellant both compared the evidence of deliverability with national policy in the National Planning Policy Framework and the advice in Planning Practice Guidance.
52. The key difference between the parties is whether it is reasonable to assess delivery in the light of the adopted or emerging London Plan. There is no doubt that, both at the Borough and London-wide level, the direction of travel is that the housing requirement is likely to increase. The Inspectors' Panel report into the London Plan confirms that approach, in general alignment with the Council's own Preferred Options Local Plan (POLP) – although there remains uncertainty about the final London Plan target. Although the emerging London Plan is not part of the development plan, substantial weight must be given to it partly because of the advanced stage which it has reached and particularly because it broadly aligns with the Council's own approach in the POLP.
53. However the question of whether the authority will be able to meet that requirement remains untested. In response to the publication of the Panel Report, the Council now asserts that using a stepped approach the Council's position will in all probability be in general conformity with the emerging Plan.
54. Overall, although the draft London Plan is not yet part of the development plan I give it substantial weight. But given the Council's (untested) position regarding its ability to meet a potential new requirement, I do not consider that the 'tilted balance' under paragraph 11 of the Framework is triggered at this time.

Other matter – the potential for alternative development.

55. STQ suggested in evidence that there were alternative approaches which would retain parts of the existing building, and that this would be a preferable approach. I indicated that this was a matter I wished to understand.
56. STQ then submitted a sketch scheme¹¹ which, it subsequently transpired, was the same as was considered by the previous Inspector. This scheme was discussed briefly at the Inquiry, and a number of layout issues were highlighted.

¹⁰ Document 1

¹¹ Document3

57. The previous Inspector stated that he noted “..the attractions of the proposed layout, (but had) no reason to doubt the adverse practical and viability issues identified by the appellants”. Based on the evidence before me, I have no reason to disagree with that conclusion. In any event, I must consider the proposal before me and not alternatives. I also note that even were I to regard any alternative as being acceptable or even preferable, no party suggested that the current proposal should be rejected on the basis that an alternative exists.

Other matter – the future of the public house

58. I can well understand the views of those who submitted and gave evidence regarding the importance of The Queensbury to the local community. The building has been in various forms of community use for about a century, and only fairly recently have the upstairs rooms been closed to the public. This leaves The Queensbury (and the informal community group use) as the last remaining activity which falls within the status of the property as an ACV. This status recognises that the use of the building furthers the social wellbeing and social interests of the local community.

59. The proposed redevelopment incorporates a larger public house area with a longer frontage to the street. However STQ are concerned that the public house may not materialise for three main reasons:

- The outdoor seating area would be the subject of a condition restricting the hours of use of the garden, particularly closing time at 2200 hours Sunday to Thursday and 2300 hours on Friday and Saturday. The concern is that this could act as a disincentive to any occupier of the public house. However these hours do not seem unreasonable given that there would be residential accommodation above the public house garden.
- There is no public house kitchen shown on the submitted plans. However the absence of a designated kitchen is unsurprising at this stage, as any incoming operator would doubtless wish to lay the premises out to their particular specification. There is more than sufficient space within the unit for this to be provided.
- There is no specification of soundproofing. However there is no evidence that sound insulation would be needed or that it could not be provided.

60. Also set against these concerns is the fact that one of the current co-tenants of the public house has confirmed that terms and an agreement to lease has been signed. He supports the proposal and the continuation of the community use¹². He has stated that the limitation on hours for the outdoor area, although more restrictive than currently, are acceptable and the tenants remain committed to take the lease of the new premises. He also pointed out that STQ do not speak for them.

61. STQ provided evidence¹³ related to a public house in Tower Hamlets (The Top O’The Morning) where there was an attempt to modify the use of a

¹² Document 7

¹³ Document 10

proposed public house. This highlights the concern of the group that the promised public house may not materialise.

62. Based on the evidence from STQ and the appellant, this related to a permission for, amongst other matters a replacement public house. A subsequent application was submitted to increase the flexibility of the floorspace. This was refused and dismissed on appeal¹⁴. However it appears that the original public house in that case had closed before the redevelopment proposal was produced, and there was no existing tenant who wished to continue the use on the site. It is significantly different to the current proposal.
63. Overall, the proposal would not result in the loss of a community facility and would provide for the social wellbeing of the community to a greater extent than the existing building. The proposal would therefore comply with policy (especially CS Policy CP23, dealing with the protection of existing community facilities).

Other matter – Busy Rascals

64. The Inquiry heard clear and persuasive evidence of the value of the 'Busy Rascals' group, which has provided important parent and child activities in the premises for many years. No party sought to downplay the importance of the group and I do not need to describe its activities and benefits further.
65. The group uses the rear part of the public house on an entirely unsecured and informal arrangement. I appreciate that it has the full support of the current tenants, but the fact remains that the arrangement could be terminated at any time.
66. The current proposal includes a separate community/function room, around three times the size of the current informal area, along with external space for the sole use of this facility. There is no external area at present. The proposed space is therefore significantly superior to the existing arrangement in physical terms.
67. The Planning Obligation provides that the group can operate in the new development under the same terms as existing (i.e. three hours per day at no charge) and offers protection regardless of the tenancy of the public house. During the demolition and construction phase the owner would use best endeavours to provide and pay for alternative accommodation. These arrangements go as far as is reasonably possible to secure the future operation of the group, and this is a significant benefit arising from the proposal.
68. The proposal would therefore comply with national and local policy (especially CS Policy CP23, dealing with the protection of existing community facilities).

¹⁴ APP/E5900/W/15/3136877

Other matter – the role of STQ

69. The appellant criticised the role of STQ on the basis that much of their publicity and campaigning was based on their website which, it was alleged, gave a misleading picture of the proposal.
70. During the course of the Inquiry the appellant drew attention to the fact that the STQ website prominently displayed an image of the scheme, including the tower block, which was dismissed at the previous appeal. The suggestion was that this could lead to the impression that the Inquiry was dealing with that scheme. I note that although the proceedings of the Inquiry were updated on a daily basis (which I do not criticise) the incorrect image was prominently displayed throughout the Inquiry – and apparently beforehand. At the very least this could have caused confusion to residents who might have considered that the photograph was an image of the current appeal scheme. That said, the STQ evidence was clear and relevant, and there could be no suggestion that their clear evidence was in any way misdirected.

Conditions

71. For the avoidance of doubt, it is necessary to specify the appeal plans (Condition 2).
72. Prior to demolition, a condition is necessary related to building recording and salvage (4). After the demolition of the building a display board should be erected within a reasonable period as a reminder of the heritage of the building (5). So as to avoid leaving a vacant site in the Conservation Area for a protracted period, a condition is necessary to ensure that a redevelopment contract has been entered into prior to demolition (3).
73. Before work begins, contamination needs to be surveyed and, if necessary, remediated (23). Details of the sub-surface structures need to be approved in relation to the proximity of the tube line (24). During the demolition/construction process it is necessary to control non-road machinery (10) and to enable the Council to control a range of construction management matters (26).
74. In the interests of the appearance of the development, a restriction is necessary to control external pipework associated with cooking processes (9). A number of details need to be submitted for the Council's approval, in order to control the appearance of the development, bearing in mind its location in a Conservation Area (19 and 20). Landscaping details need to be submitted for approval, implemented and maintained in the interests of the appearance of the development and for ecological reasons (33). A bat roost assessment should be undertaken for ecological reasons (35). The means of enclosure need to be controlled in the interests of the appearance of the scheme and security (34). A communal satellite/television system needs to be provided so as to discourage individual dishes in the interest of the appearance of the development (36). Revised details of the access to the residential entrances need to be submitted so as to improve their legibility (38).

75. The housing should meet the needs of wheelchair users (6) and revised details of step free access and facilities need to be provided (37).
76. In the interests of the standard of accommodation, the units should be conditioned to remain as Use Class C3 residential, and not C4 small HMOs (7).
77. So as to safeguard the living conditions of residents of the development and those nearby, the hours of use of the public house need to be limited (11). The use of the function/community room should be similarly restricted (12). The use of the outdoor spaces should be restricted for the same reason (13 and 14).
78. Glazing and trickle ventilation needs to be provided in the interests of the amenity of future residential occupiers (21), along with controls over plant (22). For the same reason, and in the interests of visual amenity and ecology, external lighting needs to be controlled (25).
79. To ensure the re-provision and continuation of the public house and function/community room, a condition is necessary to prevent uses outside Use Class A4 (8).
80. To encourage sustainable modes of transport, the submitted Travel Plan needs to be implemented (15). Cycle parking needs to be approved and provided (29).
81. For ecological and arboricultural reasons, the development needs to be undertaken in line with the relevant reports (16 and 17).
82. In the interests of air quality, details of how the scheme will be managed needs to be submitted for approval (27). To maximise the amount of waste diverted away from landfill, details of a waste management plan need to be submitted (28). Water consumption details, so as promote water conservation (30) and details of a SuDS system need to be submitted, approved and implemented (31 and 32).

Planning Obligation

83. The submitted planning obligation deals with a range of matters, some of which have been referenced above:
 - The amount of affordable housing, at 35%, is accepted by the authority as the maximum reasonable amount, based on viability testing which has been undertaken for similar schemes on the site. To this would be added a late stage viability review. This is in the light of CS policy CP2 and DMP policy DMP15. This provision is directly related to the development and is in scale and kind to the scheme.
 - Based on CS policies CP23 and DMP21c the community access arrangements are essential in order to prevent the loss of services of value to the community. The informal arrangements which currently exist would be formalised.
 - Given the highly sustainable location of the site, which has led to it being a car free development, the Council and the appellant agree that

car free housing and the provision of a car club are necessary in the light of LP policy 6.13 and DMP policy 12.

84. These matters, and others supported by the Council's CIL Compliance Statement¹⁵ are based on development plan policy and are clearly demonstrated to be necessary to make the development acceptable in planning terms. The Obligation meets the policy in paragraph 56 of the National Planning Policy Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore taken it into account and, in particular regard to the affordable housing and community access provisions, I give it substantial weight.

Planning balance and conclusion

85. I have already identified the policies which are most important for determining the appeal above. There is no persuasive evidence that any of the policies are out of date. Considering the policies as a whole, the policies are not out of date and I conclude that the 'tilted balance' under paragraph 11 of the Framework is not triggered.
86. I am conscious of the considerable importance and weight to be given to the desirability of preserving the character and appearance of conservation areas. However, in this case I have found that the proposal would overall have a neutral effect on the designated area, which is to say that its character and appearance would be preserved.
87. The proposal would generate the following main benefits, to which I attach significant weight:
- It would deliver 48 new homes, including 35% affordable housing at the Council's tenure split. This is accepted as the maximum reasonable amount and is subject to a late review mechanism. The percentage of family sized units is unusually high for a development of this sort.
 - The re-provision of a larger public house in purpose built accommodation.
 - The provision of a larger and dedicated community space, along with secure arrangements for the existing and future occupiers.
 - The development is in a highly sustainable location opposite a tube station and on bus routes, and with a PTAL score of 6.
88. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

¹⁵ CD 6

Annex - conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 4472/PA/001; 4472/PA/002; 4472/PA/010; 4472/PA/011; 4472/PA/015; 4472/PA/016; 4472/APL/600A; 4472/APL/601; 4472/APL/602A; 4472/APL/603A; 4472/APL/604A; 4472/APL/605; 4472/APL/606A; 4472/APL/607; 4472/APL/620; 4472/APL/621; 4472/APL/622; 4472/APL/623; 4472/APL/625; 4472/APL/630.
3. The demolition hereby approved shall not commence before a contract has been entered into for the carrying out of the works of redevelopment of the site in accordance with the approved plans.
4. No demolition shall take place before a programme of building recording and salvage has been secured. Details are to be submitted to and approved in writing by the Local Planning Authority prior to demolition/development commencing. The recording is to be carried out by a professional archaeological/building recording consultant or organisation in accordance with the approved details. This shall be to Historic England Level 3 specification. Following completion of the onsite recording the report will need to be supplied to the Greater London Historic Environment Record, Brent Archives and Wembley History Society.
5. Within 6 months of completion, a suitable display board giving details of the history of the public house (to include images) shall be installed on the new building in a public place and displayed for the lifetime of the development.
6. No fewer than five of the units hereby approved shall be constructed as wheelchair user dwellings (Requirement M4(3) of the Building Regulations) and the remainder (x43 units) shall be built in accordance with Requirement M4(2) of Building Regulations and shall be maintained as such thereafter. Prior to occupation evidence of compliance with Requirement M4(2) across the development shall be submitted to and approved in writing by the Local Planning Authority.
7. Notwithstanding the provisions of Schedule 2 Part 3 Class L of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), the residential units hereby approved shall at no time be converted from C3 (residential) to a C4 (small HMO).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the ground floor with ancillary basement space, shall only be used for purposes within Use Class A4 as defined by the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, together with the function/community room.
9. No means of extraction of effluvia associated with cooking processes, external plant, fittings, plumbing or pipes other than those shown on the approved drawings shall be fixed to any external part of the buildings.
10. All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>
11. The A4 use hereby approved shall only be open for business between the following hours:

11:30am to 11pm	Monday to Wednesday
11:30am to 11:30pm	Thursday
11:30am to midnight	Fridays and Saturdays
11:30am to 10:30pm	Sundays

All activity associated with the use shall cease within 1 hour of closing time.

12. The function / community room, as identified within approved plan 4472/APL/600A, shall only operate between the following hours, or such hours as set out in a function/community room management scheme which shall first have been submitted and approved in writing by the local planning authority:

9:00am to 11pm	Monday to Wednesday
9:00am to 11:30pm	Thursday
9:00am to midnight	Fridays and Saturdays
9:00am to 10:30pm	Sundays

All activity associated with the use shall cease within 1 hour of closing time.

13. The outdoor space intended for use by patrons of the public house hereby approved, which is shown between the proposed building and the western boundary of the site on approved drawing 4472/APL/600A, shall only be used by patrons of the public house between the following hours:

11:30am to 10pm	Sunday to Thursday
11:30am to 11pm	Friday and Saturday

14. The outdoor space which is annotated as 'Garden' on approved drawing 4472/APL/600A, shall only be used between the hours of 11:30am to 7pm.
15. The aims, objectives, measures, monitoring and review mechanism contained within the submitted Framework Residential Travel Plan shall be implemented in full throughout the lifetime of the development.
16. Save as required by any other condition attached to this permission, the development shall be undertaken in accordance with all of the recommendations contained within Section 7 of the Preliminary Ecological Survey (Middlemarch Environmental) dated 15/01/2018 and those within Section 6 of the Preliminary Bat Roost Assessment (Middlemarch Environmental) dated 15/01/2018.
17. Save as required by any other condition attached to this permission, the development shall be undertaken in accordance with all of the recommendations contained within Section 5 (Recommended Outline Arboricultural Method Statement (AMS)) and Section 6 (Proposed Tree Management Plan) of the Arboricultural Survey (BS5837:2012) & Impact Assessment (Marcus Foster Arboricultural Design & Consultancy) dated 12/01/2018.
18. Prior to any above ground works commencing but excluding demolition, details of materials for all external work, excluding for the public house façade, inclusive of sample panels, shall be made available for viewing on site or within another location as agreed, shall be submitted to and approved in writing by the Local Planning Authority. The development and shall be carried out in accordance with the approved details.
19. Prior to any above ground works commencing but excluding demolition, details of materials for the external façade of the public house component of the proposed building, inclusive of illustrative drawings and sample panels shall be made available for viewing on site or within another location as agreed. All of the above details shall be submitted

to and approved in writing by the Local Planning Authority prior to any above ground works commencing. The development shall be carried out in accordance with the approved details.

20. Notwithstanding any submitted plan or supporting document, no above ground works shall be undertaken until full details of the following (at scale 1:10, together with sections) has been submitted to and approved in writing by the Local Planning Authority.

- 1) Junction of the new roof and the parapets
- 2) Junction of the new roof and side walls
- 3) Downpipes and guttering
- 4) Window joinery

The development shall thereafter be implemented in accordance with the approved details.

Rooflights shall be flush fitting

21. Prior to first occupation of the development hereby approved, the developer shall submit to and have approved in writing by the Local Planning Authority details of a scheme of glazing and trickle ventilation that meets or exceeds the recommendation provided in paragraph 4.13 of the Environmental Noise Assessment prepared by Sharps Gaylor, dated 11 January 2018. Prior to its first occupation, the development shall be implemented in accordance with the approved details.
22. Any plant shall be installed, together with any associated ducting, so as to prevent the transmission of noise and vibration into any neighbouring premises. The noise level from any plant shall be at least 10 dB(A) below the measured background noise level at the nearest noise sensitive premises. The assessment should be carried out in accordance with BS4142:2014 'Methods for rating and assessing industrial and commercial sound.' An assessment of the expected noise levels and any mitigation measures necessary to achieve the required noise levels shall be submitted to and approved in writing by the Local Planning Authority prior to installation of such plant. All plant shall thereafter be installed and maintained in accordance with the approved details.
23. Prior to the commencement of building works, a site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011 + A2:2017 and 'Model Procedures of for the Management of Land Contamination – Contaminated Land Report 11' (CLR 11). A report shall be submitted to the Local Planning Authority, that includes the results of any research and analysis undertaken as well as an

assessment of the risks posed by any identified contamination. It shall include an appraisal of remediation options should any contamination be found that presents an unacceptable risk to any identified receptors and shall be implemented in full.

Any soil contamination remediation measures required by the Local Planning Authority shall be carried out in full. A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is suitable for end use (unless the Planning Authority has previously confirmed that no remediation measures are required).

24. Prior to any ground works commencing but excluding demolition, detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be undertaken in accordance with the approved details.

25. Prior to the commencement of above ground superstructure works, details of any external lighting to be provided, inclusive of the design, height, siting, and lux levels shall be submitted to the Local Planning Authority for approval in writing. The submitted details shall also include how the external lighting scheme has been designed to minimise light spillage and its impact on wildlife particularly along the southern boundary of the site. The external lighting shall be provided prior to first occupation and maintained at all times thereafter.
26. Prior to development commencing, details of construction management shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
- 1) a photographic condition survey of the roads, footways and verges leading to the site;
 - 2) wheel cleaning methodology and facilities (inclusive of how waste water will be collected/managed on site);
 - 3) the estimated number and type of vehicles per day/week;
 - 4) details of any vehicle holding area;
 - 5) details of any vehicle call up procedure;
 - 6) hours of deliveries / collections;
 - 7) hours of work;
 - 8) a Construction Management Plan written in accordance with the 'London Best Practice Guidance: The control of dust and emission from construction and demolition'.

The development shall be carried out in accordance with the approved details.

27. Prior to development commencing, details of how the air quality of the scheme will be managed shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
- 1) An assessment of the sources of NO₂ from the development;
 - 2) The impact on air quality from the additional heating systems for the flats;
 - 3) An air quality neutral assessment;
 - 4) Details demonstrating that, where domestic boilers are installed, the rated emissions of Oxides of Nitrogen (NO_x) from those domestic boilers do not exceed 30 mg/kWh.

The development shall be carried out in accordance with the approved details.

28. Prior to any development commencing, inclusive of site clearance, details of a Construction Waste Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Waste Management Plan shall include as a minimum:

- 1) Target benchmarks for resource efficiency set in accordance with best practice;
- 2) Procedures and commitments to minimize non-hazardous construction waste at design stage, specifying waste minimisation actions relating to at least 3 waste groups and the appropriate monitoring of waste;
- 3) Procedures for minimising hazardous waste;
- 4) Monitoring, measuring and reporting of hazardous and non-hazardous site waste production according to the defined waste groups (according to the waste streams generated by the scope of the works);
- 5) Procedures and commitments to sort and divert waste from landfill in accordance with the waste hierarchy (reduce; reuse; recycle; recover) according to the defined waste groups;
- 6) No less than 95% by weight or by volume of non-hazardous construction, excavation and demolition waste generated by the development has been diverted from landfill.

29. Prior to commencement of the development, the following details shall be provided to the Local Planning Authority for approval in writing:

- 1) Details (including elevation details) for the covered long stay cycle parking for the storage of bicycles as shown on Drawing No. 4472/APL/600A;
- 2) The location of a minimum of 8no. short stay cycle parking stands at the front of the site.

The approved bicycle parking shall be provided prior to first occupation and permanently maintained. The approved bicycle storage shall be kept free from obstruction, and available for the parking of bicycles only.

30. Prior to the commencement of above ground works, details of the measures to limit the internal consumption of water to 100 litres or less per head per day has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details so approved and maintained as such thereafter.
31. Prior to any above ground works commencing but excluding demolition, details of the proposed SuDS measures shall be submitted to the Local Planning Authority for approval in writing. The submitted detail shall include:
 - 1) Location, design, substrate (extensive substrate base with a minimum depth 80-150mm), vegetation mix and density, and a cross-section of the proposed green roof;
 - 2) Location, size, storage volumes, cross-sections, long-sections (where appropriate) and specifications of all the source control SuDS measures including rain gardens, raised planters, green roofs, water butts, geocellular storage, and permeable paving;
 - 3) Final sizes, storage volumes, invert levels, cross-sections and specifications of all site control SuDS measures including ponds and underground tanks;
 - 4) Where appropriate, provide calculations to demonstrate that the SuDS provided will function for 1 in 1 year and 1 in 100 year (with the allowance of climate change) events;
 - 5) A management plan for future maintenance for all of the drainage features;
 - 6) Details of how the chosen strategy conforms with the Landscaping Strategy.

All SuDS measures shall be implemented and retained in accordance with the approved detail.

32. Prior to first occupation/first use of the development approved, a Verification Report demonstrating that the approved drainage / SuDS

measures have been fully implemented shall be submitted to the Local Planning Authority for approval in writing. The Verification Report must include:

- 1) As built drawings of the sustainable drainage systems;
- 2) Level surveys of completed works;
- 3) Photographs of the completed sustainable drainage systems;
- 4) Any relevant certificates from manufacturers/ suppliers of any drainage features E. A confirmation statement of the above signed by a chartered engineer.

33. No above ground works, other than site clearance, shall take place until full details, in plan form, of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. Details shall include:

- 1) Planting plans;
- 2) Written specifications (including cultivation and other operations associated with plant and grass establishment);
- 3) Schedules of plants and trees, to include native, wildlife friendly species and large canopy trees in appropriate locations (noting species, planting sizes and proposed numbers / densities);
- 4) Implementation timetables;
- 5) Wildlife friendly plants and trees of local or national provenance;
- 6) Details of hard surfacing materials;
- 7) Details of any external furniture;
- 8) Details of any street fronting boundary treatments;
- 9) Details of how the Landscaping Strategy conforms with the SuDS Strategy.

All hard landscaping shall be provided prior to first occupation and soft landscaping shall be completed / planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting detail shall set out a plan for the continued management and maintenance of the site and any planting which dies, becomes severely damaged or diseased within five years of completion of the development shall be replaced with new planting in accordance with the approved details.

34. The site shall be enclosed in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The submitted details must include:

- 1) specifications for a trespass-proof fence of a minimum height of 1.8m and set back from the boundary with the railway land by at least 0.5m;

- 2) design and type of fencing between the gardens for the ground floor residential units and the function/community room.

The means of enclosure shall be erected in accordance with the approved detail before the development is occupied.

35. The development, including demolition and site clearance, shall not commence until an updated bat survey has been carried out and a report detailing the results of the survey is to be submitted to and approved in writing by the Local Planning Authority. Should a bat roost be found, no development is to commence until the relevant licence for development works affecting a European Protected Species has been obtained and a copy submitted to and approved in writing by the Local Planning Authority.
36. Prior to the commencement of above ground works but excluding demolition, details for the provision of a communal television system/satellite dish have been submitted to and approved in writing by the Local Planning Authority. The development shall only be undertaken in accordance with the approved detail.
37. Notwithstanding the details hereby approved in drawings 4472/APL/600A and 4472/APL/601, revised details demonstrating a means of step free access to adaptable WC facilities from within the replacement public house shall be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

38. Notwithstanding the details hereby approved in drawings 4472/APL/600A, 4472/APL/620, 4472/APL/622, 4472/APL/623 and 4472/APL/625, revised details demonstrating an improved pedestrian access between Walm Lane and the residential entrances, shall be submitted to and approved in writing by the Local Planning Authority. Such details should indicate improvements to the legibility and security of access.

The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

-----End of conditions-----

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Bird QC	Instructed by the Head of Legal Services
He called	
Mr P Lewin MRTPI	Team Leader, Planning Policy
Mr D Rees BA(Hons) PGDip RIBA	Managing Director, Rees Architects
Mr T Huntingford MPlan (hons)	Principal Planning Officer, Development Management

FOR THE APPELLANT:

Mr T Hill QC	instructed by Asserson Law Offices
He called	
Mr P Osborne RIBA	GML Architects
Mr L Raistrick MPlanMRTPI	Managing Director, Centro Planning Consultancy
Mr P Stewart MA(Cantab) DipArch RIBA - PSC	Peter Stewart Consultancy

FOR SAVE THE QUEENSBURY:

Mr I Elliott (who also gave evidence)	Save the Queensbury Group
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INTERESTED PERSONS:

Councillor T Miller	Willesden Green Ward
Councillor L Colaccico	Mapesbury Ward, Deputy Mayor
Ms J Hanley	Local resident
Mr S Nathan QC	Mapesbury Residents Association
Mr G Weston	Mapesbury Residents Association
Ms R Berger	Local resident
Mrs M. Chowdhury-Tse	Busy Rascals

INQUIRY DOCUMENTS

1	Housing Land Supply tables prepared between the parties
2	Appeal decision (19 July 2019) Gunnersbury Avenue and Great West Road (APP/F5540/W/3180962 and APP/F5540/Z/17/3173208)
3	Alternative scheme (Save the Queensbury)
4	Additional photographs (Mr Rees)
5	Additional images (Mr Osbourne)
6	CIL Compliance Statement (Council)
7	Letter (17 June 2019) from Mr J Pryer (The Queensbury PH)
8	Minutes of Planning Committee (19 June 2019)
9	Letter (2 September 2019) from Councillor Ahmad Shahzad
10	Documents (3 September 2019) regarding Top O'The Morning PH (Save the Queensbury)
11	Email (27 August 2019) from Ms J Scott
12	Final Statement of Common Ground between the Council and the appellants
13	Council's closing submissions
14	Appellant's closing submissions
15	Save the Queensbury closing submissions
	<i>Documents received subsequent to the Inquiry</i>
16	Statement regarding the Top O'The Morning PH (Mr Osbourne)
17	Letter (5 September 2019) from Mr C Williams (The Queensbury PH)
18	Planning Obligation (13 September) between the appellant and the Council
19	Note (13 September 2019) regarding the community space provisions in the s106 Obligation
20	Email (13 September 2019) from Mr Elliott regarding Top O'The Morning and other matters
21	Council's observations on the publication of the Panel's report into the draft London Plan
22	Appellant's observations on the publication of the Panel's report into the draft London Plan

CORE DOCUMENTS (prepared by the appellant)

	<i>Legislation</i>
1	TCPA 1990 – s70, 78, 106
2	Listed Buildings and Conservation Areas Act – s66, 72
3	PCPA 2004 – s38
	<i>National Policy</i>
4	NPPF
5	Extracts from PPG
6	Housing Delivery Test Measurement Rule Book
	<i>London Policy and Housing</i>
7	London Plan
8	Emerging London Plan (July 2019)
9	London Plan AMR 14

10	London Development Database extract
	<i>Council Policy and Guidance</i>
11	Brent Core Strategy (2010)
12	Brent DMP
13	Brent SPD 1 (2018)
14	Mapesbury Conservation Area Appraisal (2008)
15	Mapesbury Conservation Area Design Guide (2018)
16	Brent Historic Environment and Placemaking Strategy (2019)
17	Local Plan Options Document
	<i>Case Law</i>
18	Forge Field
19	Barnwell Manor
20	Forest of Dean
21	Bohm
22	Mordue
	<i>Council housing documents</i>
23	Annual Monitoring Report and Housing Trajectory 2017/18
24	Brent Housing Delivery Trajectory 2018 – 2041
25	Brent SHMA (2018)
	<i>Pre-application documents</i>
26	Pre-application report to Committee dated October 2017
27	Pre-application advice dated November 2017
28	Pre-application emails dated November and December 2017
	<i>Application</i>
29	Drawings
30	Planning Statement
31	DAS
32	Heritage Statement
	<i>Appeal</i>
33	Appeal Statement
34	Updated Drawings
35	Agreed Drawing list
36	LBB pre-inquiry note
37	STQ Statement of Case
38	Agreed SOCG
39	Agreed Conditions
40	Draft s106 Agreement
	<i>Property</i>
41	Fairview Appeal decision
42	ACV Nomination
43	June 2019 – Scheme A drawings, report and decision
44	June 2019 – Scheme B drawings, report and decision