

Appeal Decision

Hearing Held on 9 December 2020

Site visit made on 10 December 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 18th January 2021

Appeal Ref: APP/H5390/W/20/3251291
12 Wellesley Avenue, London W6 0UP

- 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 Latifia Investments Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/03018/FUL, dated 7 October 2019, was refused by notice dated 14 January 2020.
 - The development proposed is demolition of existing car repair workshop (Use Class B2). Construction of new B1 office building including basement, ground, first and second floors. Associated alterations to the existing garage forecourt, including erection of a boundary wall.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Latifia Investments Ltd against Council of the London Borough of Hammersmith & Fulham. This application is the subject of a separate Decision.

Procedural Matters

3. During the hearing it became apparent that the third-party representations in response to the appeal were not received by the Appellant and the Council. The representations were sent to them and both were given two weeks to provide a written response. I note the comments from the main parties in response to the third-party representations made as part of the appeal and have taken them into account in my assessment of the scheme. Given my findings there has been no need to seek the views of any local residents on these comments. A large part of the comments by the Appellant refer to the Heritage Statement and Planning Appeal Statement by Turley submitted as part of the appeal and re-iterate matters discussed at the hearing. The additional comments regarding a Sketch-up model are discussed below.
4. This scheme follows a previous appeal that was dismissed in 2019. I have had regard to the previous Inspector's decision in my assessment of the proposal.

Main Issues

5. During the appeal process the Council confirmed that details submitted by the Appellant as part of the appeal were sufficient to demonstrate that the proposed Sustainable Drainage System (SuDS) Strategy meets the requirements of Local Plan policy and the London Plan Drainage Hierarchy. From the evidence I see no reason to disagree. Therefore, the main issues are:
- whether the proposed development would fail to preserve or enhance the character or appearance of the Ravenscourt and Starch Green Conservation Area (CA);
 - the effect of the proposed development on the safety and convenience of users of the adjacent highway network and living conditions of neighbouring occupiers with particular regard for availability of on-street parking and traffic noise; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to privacy.

Reasons

Character and appearance

6. The site lies within the CA which is largely focussed around Ravenscourt Park and adjacent former hospital complex that are surrounded by a street layout that has evolved over the last few centuries. Given its size, the CA has a number of areas with differing character that are set out in The Ravenscourt and Starch Green Conservation Area Character Profile dated 1999 (CACP). The site lies within the 'Ravenscourt Park and surrounding streets' sub-area as identified in the CACP, which has commercial uses along Goldhawk Road and King Street providing variety and hierarchy within the primarily residential built fabric surrounding the park and former hospital.
7. From my observations during the site visit, I generally concur with the description of the area set out in the CACP. As such, I have found the significance of the area to be derived from the evolution of historical buildings surrounding Ravenscourt Park, which have a mixture of uses, but largely have an intimate residential character.
8. Wellesley Avenue is primarily a residential street and is in keeping with the domestic feel of this part of the CA. The five storey Curtis Building is significantly larger in scale compared with the other buildings along Wellesley Avenue. However, its main entrance is located on Paddenswick Road to which its massing and use are more closely related. The end of the side elevation of the Curtis Building on Wellesley Avenue marks a significant change in scale and character from the larger and more commercial Paddenswick Road to the more intimate and residential character that is prevalent along the rest of Wellesley Avenue.
9. Other than the Curtis Building and the appeal building, the properties along the southern side of the street, where the site is located, are generally two storeys with pitched roofs. While the roof line is more varied along this side of the road, the buildings generally reflect the modest domestic scale of the buildings on the north side of Wellesley Avenue which consist largely of

historic small-scale terraces. As such, notwithstanding the presence of the Curtis Building, a pub and the appeal site, Wellesley Avenue retains a primarily small-scale residential character, which contributes to its significance within the CA.

10. The site is occupied by a single storey garage building which is set back from the pavement with a form that contrasts against the traditional domestic architecture that primarily characterises the street. As such, while the scale and set back of the existing building does not result in a dominant effect on the street scene, the existing building provides a negative contribution to the character and appearance of the CA.
11. Third parties have raised concerns about the extent and design of glazing on the front elevation and its relationship to the eaves level and window heights of No 11 Wellesley Avenue (No 11). However, I consider the regular vertical rhythm of windows on the ground and first floor, with two storey high piers in between, reflect the surrounding properties. I also consider the proposed building line is acceptable as it mediates between the differing building lines of the adjacent buildings.
12. However, the proposed second floor would be higher than the tallest residential building along this side of the road and would be somewhat higher than the proposed dwelling at No 14 Wellesley Avenue, for which the Council has granted planning permission. While the second floor may be seen from certain angles in the same view as the other taller buildings along the road, the roof of the second floor would also be significantly higher than the roofs of the adjacent dwellings on either side, resulting in a step up and step down along the terrace such that the second floor would appear visually isolated on the roof line.
13. While I acknowledge that it has been set further back from the front elevation and that the side walls have been set in compared to previous schemes, given its height and position above street level, the massing of the second floor would nevertheless appear unduly dominant in views from the street. Notwithstanding the use of metal cladding and its position on the roof of the first floor, given its height and massing, the second floor would read as a substantial third storey, rather than a subtle roof-top element. While it may be set back further than the roof extension of the Curtis building, since the second floor would be at a much lower level, it would appear prominent on the street scene.
14. As such, while a three-storey building may be acceptable in principle, the height and position of the proposed second floor would appear incongruous in the street scene and would result in the whole building appearing to have a significantly larger massing than the neighbouring properties when viewed from street level. Therefore, while I acknowledge the Heritage Statement by Turley, for the foregoing reasons, the proposal would harmfully alter the small-scale character of Wellesley Avenue and the CA.
15. A number of wider concerns regarding the design of the building have been raised by local residents. These include the rear and side elevations including the high-level horizontal windows. While the rear elevations would have limited articulation and would be in brick, the simple form and materials would be in keeping with the rear of the surrounding buildings. While horizontal windows are uncommon in the area, given their relative size when compared

with the overall side façade, they would not cause unacceptable harm to the character and appearance of the area. The proposal would result in the partial loss of the wall that borders the site and the rear of the properties along Dorville Crescent, a section of which can be seen from the highway. Since the lower portion of the wall would be retained, there would not be material harm in terms of the character and appearance of the CA. I also acknowledge the evidence regarding the viability of a second floor. However, this does not alter my findings in relations to this main issue.

16. The existing building provides a negative contribution to the significance of the CA. However, the harm to the significance of the CA that would result from the prominence of the proposed second floor would be of a greater degree such that it would override any benefit to the significance of the CA that would arise from the removal of the existing building.
17. Consequently, the proposed development would not preserve or enhance the character or appearance of the CA and would cause harm, albeit less than substantial, to its significance.

Highway network

18. An updated Transport Statement (TS) was submitted as part of the appeal and concludes that the proposed development would reduce the level of traffic associated with the development and, consequently, offer a reduction in congestion, parking demand, air and noise impacts when compared to the existing use of the site. However, the Council's concerns lie primarily in whether the proposal would result in increased delivery and service vehicle movements in particular those that would result from online delivery apps.
19. While I do not doubt the evidence from local residents regarding the vehicle movements associated with the existing garage while it was in use, since the site has an unrestricted B2 use, it is possible that use of the site by a different occupier could result in greater activity levels than that previously experienced. As such, I have based my assessment of the scheme in terms of the vehicle movements associated with the existing B2 use on the data provided within the TS.
20. The proposal does not include parking on site. The data for vehicle movements resulting from the proposed office use indicates a significant decrease in the number of vehicle movements to and from the site compared with the existing B2 use. This data has been derived from the Trip Rate Information Computer System (TRICS) database which includes every instance of vehicle movement including those resulting from online apps. However, while the office sites used in the data are of a similar size to the appeal scheme, some are in a Public Transport Accessibility Level (PTAL) greater than the appeal site.
21. In any event, regardless of the PTAL rating of the sites used in the TS, the appeal site is within walking distance of a number of bus stops and underground railway stations such that it is unlikely that there would be a significant increase in vehicle movements arising from regular users of the proposed office, including taxi services. There are also a range of food stores within walking distance of the appeal site, albeit not many in the immediate vicinity, such as along Goldhawk Road and Kings Road as I observed during my site visit. As such, I am not persuaded that vehicle movements resulting from food delivery and taxi apps would be likely to be greater than the

decrease in vehicles that would result from the removal of the B2 use. While I also note the concerns regarding other deliveries to individuals within the proposed office building, given the extent of decrease in vehicle movements that would result in the removal of the B2 use, it would be unlikely that vehicle movements resulting from deliveries to individuals would be to a degree that the overall number of vehicle movements resulting from the proposal would increase.

22. Therefore, while I acknowledge local concerns in this respect, for the foregoing reasons, the overall number of vehicle movements would be likely to be less than that potentially generated by the existing B2 use. Accordingly, there would not be an unacceptable impact on highway traffic, parking or the levels of noise and pollution along Wellesley Avenue as result of the proposal.
23. While I acknowledge the document produced by Transport for London, it is around five years old and summarises data for a large range of office sizes. As such, it has not altered my overall conclusion on this main issue.
24. Consequently, the proposed development would not harm the safety and convenience of users of the adjacent highway network and living conditions of neighbouring occupiers with particular regard for availability of on-street parking and traffic noise. Therefore, it would not conflict with Policies T1 and T2 of the Hammersmith & Fulham Local Plan February 2018 (LP) which, among other things, encourage modal shift away from private vehicles and requires a Transport Assessment. It would also not conflict with LP Policies CC11 and CC13 which, among other things, resist development that would be liable to materially increase the noise experienced by the occupants of existing noise sensitive uses in the vicinity and require developments to show that there will be no undue detriment to the general amenities enjoyed by existing surrounding occupiers of their properties.

Privacy

25. The proposal includes full height windows along the rear façade of the second floor which would be set back from the parapet of the first floor. The Appellant submitted two sections through these windows, an updated Section FF and Section JJ, as part of the appeal. Section FF is taken through the middle window and demonstrates that given the distance to the parapet and elevated position of the second floor, overlooking from the middle window to the rear part of the garden of No 29 Dorville Crescent (No 29) would be unlikely.
26. Section JJ is taken at an angle through the second floor window closest to the buildings of Dorville Crescent and demonstrates that, given the distance to the parapet of the first floor roof and the elevated position of the second floor, overlooking to the rear of the dwelling and to the rear garden at No 29 would be limited. It therefore follows that any greater distance between the second-floor window and the parapet would further restrict views into the garden of No 29, such as if the section were taken perpendicular to this window rather than at an angle, as per Section FF.
27. I note the comments of the Inspector for the previous appeal and share her view regarding overlooking from an office development and good neighbourliness. I also acknowledge the Sketch-up model provided by local residents. However, while I have no reason to doubt the accuracy of that model, from what I saw and assessed on site and for the foregoing reasons

Sections FF and JJ demonstrate that the proposal would not result in undue overlooking to the rear garden of No 29.

28. The first floor would have high level windows along the south east elevation. Given their height above floor level, and the distance to the centre of the office floor plan from which long distance views of the rear of the properties along Dorville Crescent may be glimpsed, there would not be undue overlooking to the rear of the properties of Nos 29 to 35 Dorville Crescent (Nos 29 to 35) as a result. I note the evidence regarding the perception of overlooking. However, while the high-level windows would be seen from the rear of the properties along Dorville Crescent, given the distance between the proposed first floor of the building and the rear elevations of Nos 29 to 35, there would not be material harm in this respect and so the development would not be unneighbourly.
29. Concerns were raised by residents that overlooking would occur during maintenance of the flat roofs of the building, in particular the first-floor roof. However, it is unlikely that the frequency of such occurrences would be of a degree that undue harm to the privacy of neighbouring occupiers would result. I also note concerns from residents of the properties on the north side of Wellesley Avenue and No 46 Wingate Road regarding privacy both during the construction phase and operation of the office. Given the distance between these properties and the site over public highway, the proposal would not result in undue harm to privacy in this respect.
30. Consequently, the proposed development would not unreasonably harm the living conditions of neighbouring occupiers with particular regard for privacy. Therefore, it would not conflict with LP Policies DC2 and HO11 which together, among other things, seek developments that respect good neighbourliness and the principles of residential amenity and the protection of existing residential amenities, including issues such as loss of privacy.
31. While the Council has not objected with respect to overlooking to habitable rooms, SPD Key Principle HS7 is cited in the decision notice. From the evidence before me, the proposal would also not conflict with SPD Key Principle HS7 which requires among other things, that any new windows which cannot be positioned at least 18 metres from existing habitable rooms should be designed to ensure that no loss of privacy will occur.

Other Matters

32. I acknowledge the concerns of local residents regarding outlook and light and note the Sketch-up model in this regard. While the first and second floors of the scheme have been set back from the boundaries, the proposal would be visible from the rear of Nos 10, 11 and No 13 Wellesley Avenue as well as the properties along Dorville Crescent including Nos 29 to 35. However, from the evidence before me and my observations during the site visit to a number of these properties, given the massing of the existing building and considerable height of the existing boundary wall with the properties along Dorville Crescent and Wellesley Avenue, and since there would be views in other directions from the neighbouring properties, the outlook of the occupiers of these properties and the levels of daylight reaching the dwellings would not be unduly diminished as a result. As such, while I do not doubt the accuracy of the model, I consider the impact in this respect would not be unacceptable.

- 33. I note the level of objection to the scheme by local residents and concerns regarding community engagement and the effect on property value. I also acknowledge concerns regarding the service provided by the Council including the pre-application process. However, I have assessed the scheme based on its planning merits and these matters have not altered my overall decision.
- 34. I also note other local concerns including those regarding land use, flood risk, biodiversity and wildlife as well as building programme and the construction process. From the evidence before me though I have insufficient grounds to resist the scheme for these reasons.
- 35. The Appellant has completed a Section 106 Agreement in conjunction with the Council which includes a number of obligations to come into effect if planning permission is granted. Since the appeal is to be dismissed on other substantive issues, it is not necessary to look at this matter in detail, given that the proposal is unacceptable for other reasons.

Planning Balance

- 36. The proposal would not preserve or enhance the character or appearance of the CA and would harm its significance. The identified harm would be less than substantial and in accordance with paragraph 196 of the National Planning Policy Framework (Framework), that harm should be weighed against any public benefits of the proposal, including securing its optimal viable use. The Framework requires that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 37. The proposal for office space would create more employment floor space than the existing B2 use. There would be temporary economic benefits during the construction phase as well as during the operation of the building. The future users of the building may also contribute to the local community. The scheme would also include a renewable energy supply. The Framework promotes an effective use of land in meeting the need for homes and other uses and gives substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. In addition, the LP supports economic growth. The scheme would also remove the B2 use, which has the potential to cause harm to the living conditions of neighbouring occupiers. Since I have found harm to the character and appearance of the area, there would not be any public benefit in terms of the character and appearance of the area from the replacement of the existing building.
- 38. However, since similar benefits could be gained from a building that was designed such that it would not cause harm to the character and appearance of the area, these benefits do not outweigh the great weight I attribute to the conservation of the designated heritage asset.
- 39. For the reasons given above the proposal would conflict with LP Policies DC1 and DC2 which together require that all development should create a high-quality urban environment that respects and enhances its historical context and townscape setting as well as heritage assets. It would also conflict with Policy DC8 which seeks to conserve the significance of the borough's historic environment by protecting, restoring and enhancing its heritage assets.

40. The proposal would also conflict with Key Principle CAG2 of the Planning Guidance Supplementary Planning Document (2018) (SPD) which requires new development to preserve or enhance the character and appearance of the conservation area.
41. Furthermore, the scheme would conflict with Policy 7.6 of The London Plan The Spatial Development Strategy for London Consolidated with Alterations Since 2011 March 2016 (London Plan) which seeks architecture that makes a positive contribution to the streetscape. It would also conflict with London Plan policy 7.8 which requires, among other things, development affecting heritage assets should conserve their significance, by being sympathetic to their form and scale.
42. Consequently, given the adverse effect on the character and appearance of the CA and the less than substantial harm to its significance, the public benefits in the terms of the Appellant would not outweigh this harm or the conflict with the development plan.

Conclusion

43. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Oliver Jefferson	Turley
Mr Alec Philpott	Transport Expert, Mayer Brown Limited,
Mr Alan Power	Architect
Mr Shahram Sabbaghi	Appellant, Latifia Investments Ltd

FOR THE COUNCIL:

Ms Grace Harrison	Principal Planning Officer
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INTERESTED PARTIES:

Mr Stephen Levrant	Stephen Levrant Heritage Architecture on behalf of the Wellesley Avenue Residents Group
Ms Emily Anderson	Stephen Levrant Heritage Architecture on the behalf of the Wellesley Avenue Residents Group
Ms Sarah Crofton	Local resident
Ms Yael Coifman	Local resident
Mr David Robson	Local resident
Mr Robert Wolstenholme	Local resident
Ms Fiona Wolstenholme	Local resident
Mr Jamie Wolstenholme	Local resident
Mr Leslie Megahey	Local resident
Mr Derek Kumar	Local resident
Ms Leslie Hoover	Local resident

DOCUMENTS

1	E-mail from Stephen Levrant dated 15 December 2020
2	Advice from Craig Howell Williams QC and Conor Fegan
3	E-mail from Neil Egerton dated 16 December 2020
4	E-mail and letter from Richard Winterton (Brackenbury Residents Association) dated 18 December 2020
5	E-mail from Oliver Jefferson dated 18 December 2020
6	Turley - Rebuttal to objection by Stephen Levrant Heritage Architecture dated December 2020
7	Mayer Brown - Transport Technical Note dated 15 December 2020
8	E-mail from Gerta Kodhelaj dated 23 December 2020
9	E-mail from Grace Harrison dated 23 December 2020 attaching Section 106 Agreement
10	Section 106 Agreement dated 23 December 2020
11	E-mail from Grace Harrison dated 23 December 2020 attaching Council's response to third party representations
12	LPA Response to Third Party Representations dated 23 December 2020
13	E-mail from Emily Anderson dated 7 January 2021
14	E-mail from Emily Anderson dated 12 January 2021