



Appeal Decision

Site visit made on 4 May 2021

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 May 2021

Appeal Ref: APP/X5990/W/20/3264020

Townsend House, Greycoat Place, London SW1P 1BL

- 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 ITC Properties (Townsend House) Company Ltd against the decision of City of Westminster Council.
 - The application Ref 20/02361/FULL, dated 23 March 2020, was refused by notice dated 20 October 2020.
 - The development proposed is the demolition of the existing building and redevelopment to provide a building of basement, ground and six upper floors with plant enclosure at roof level, comprising retail (A1), offices (B1) and residential (Class C3) units and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and redevelopment to provide a building of basement, ground and six upper floors with plant enclosure at roof level, comprising retail (A1), offices (B1) and residential (Class C3) units and associated works at Townsend House, Greycoat Place, London SW1P 1BL in accordance with the terms of the application, Ref 20/02361/FULL, dated 23 March 2020, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. On 1 September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force amending the Town and Country Planning (Use Classes) Order 1987. The effect of these Regulations, amongst other things, was to amend / replace Use Classes A1 and B1 as referenced in the description of the proposed development. Nonetheless, in accordance with para 4 of the Regulations, I have decided the appeal with reference to those former Use Classes because the planning application for the appeal development was made prior to the Regulations coming into force.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. There is an extant planning permission (the approved scheme) for very similar development to that proposed by the appeal scheme. The key difference between the two schemes is that the appeal scheme additionally includes a

seventh storey, with enclosed plant above. It is these additional proposed elements that are cited in the reason for refusal in terms of their effect on the character and appearance of the area.

5. There is good reason to believe that the approved scheme would be fully implemented were the appeal to be dismissed given that the building that had occupied the site has now been demolished and bearing in mind the likely value of the approved development. Consequently, while I have assessed the appeal scheme in its entirety, my primary focus has been on any potential effects of the seventh storey and rooftop plant structure in addition to and in combination with those of the approved scheme.
6. Although there are a few notable exceptions, including the nearby Greencoat Boy pub and the Grey Coat Hospital School a little further away, the majority of the built form in the vicinity of the appeal site is comprised of reasonably large, tall buildings. Many of these larger buildings, especially those that appear to be relatively modern, have roof features that often appear to provide additional accommodation / floorspace.
7. The proposed building up to and including its sixth storey would have the appearance of the approved scheme. This element of the proposed building appears to be an appropriate design response to the site and its context, which seems likely to account, at least in part, for the Council's decision to grant the approved scheme planning permission. The proposed additional built form would contrast with the six floors below as it would be set back from the main building line and feature differing, darker facing materials.
8. This design approach is very much in keeping with many of the nearby buildings that have similar roof level structures, including the adjoining building at 10 Rochester Row. While it would not have the same appearance as the lower floors of the proposed building, this kind of arrangement is not unusual at the upper floor / roof level of many acceptably designed buildings, as can be seen in the vicinity of the site. Indeed, due in large part to the proposed receding form of the seventh floor structure, this contrasting additional feature would read as a reasonably subtle and integral part of the building and sit comfortably within the nearby townscape.
9. The appeal development, therefore, would not have a harmful effect on the character and appearance of the area. Consequently, in that regard, it would accord with Policy S28 (Design) of the Westminster City Plan and Policy DES 1 (Urban Design and Conservation) of the Westminster Unitary Development Plan.

Other Matters

10. There are a number of heritage assets in the area surrounding the appeal site, including listed buildings and conservation areas. Although some of these are referenced in the evidence, the Council does not allege that the proposed development would cause harm to the significance or special interest of any heritage assets. Given my findings above regarding the scheme's effect on the character and appearance of the area, combined with the site's distance from and relationship with those heritage assets, there would be no such harm resulting from the appeal scheme. Consequently, the proposed development would satisfy the requirements of the Planning (Listed Buildings and

Conservation Areas) Act 1990 and accord with Section 16 of the National Planning Policy Framework.

11. I have also been referred to other proposals for development, including an appeal decision from 2001 relating to the appeal site. I am mindful of the need for consistency in decision-making, particularly in appeal casework. Nonetheless, each application for planning permission must be determined on its individual merits and none of those other proposals or decisions have had a significant bearing on my decision given that they concerned different development and were made at a different point in time, with differing considerations at play.
12. In addition to the foregoing matters, concern has been expressed by several interested parties at the application and appeal stages. These cover a range of topics, including wider design issues such as scale and height, living conditions including potential effects on light and privacy, the loss of the building that formally stood on the site, compliance with conditions of the current planning permission, land use/ownership matters, cumulative effects, consultation and the planning process, parking, matters associated with the demolition and construction process, servicing arrangements for the proposed shop, and the conduct of the appellant and of Council members.
13. These matters are largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at appeal. The Council did not conclude that they would amount to reasons to justify withholding planning permission other than as set out in its reason for refusal. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to the imposition of planning conditions.

Conditions and Conclusion

14. In addition to the standard time limit condition the Council has suggested several conditions which I have considered in the light of government guidance. I have adjusted the wording of some of them in the interests of clarity and also to reflect the fact that the building which formally stood on the site has been demolished. The appellant also requested further adjustments in light of correspondence with the Council over the discharge of conditions attached to the planning permission for the approved scheme. However, as I have not been provided with all of the associated details, including the wording of those conditions and the details submitted to the Council in respect to those conditions, I have given this request limited weight when assessing the potential imposition of conditions.
15. In order to provide certainty, a condition requiring that the development is carried out in accordance with the approved plans would be necessary. To safeguard people's living conditions in the area, conditions would be necessary to control the construction process, including working hours, to limit noise and vibration from on-site plant and other sources, and to control ventilation arrangements within the proposed building. A condition would also be necessary to ensure that features of archaeological interest are properly examined, recorded and, where necessary, preserved.

16. Conditions to secure and control the remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers. To provide certainty, to protect the character and appearance of the area, and in the interests of highway safety, conditions would be necessary to secure the proposed refuse/recycling and bicycle storage facilities. A condition to limit the use of the roof area would be necessary in the interests of safety, living conditions and the character and appearance of the area.
17. A condition to prevent gates and doors from opening over the highway would be necessary to ensure that public movement is not impeded and in the interests of safety. For these reasons and in the interests of protecting living conditions, conditions would be necessary to ensure that the servicing of the developed site is well managed and to control the use of the shop.
18. To help reduce carbon emissions and to promote sustainable development, conditions would be necessary to secure energy efficiency measures as part of the development to assist with carbon offsetting and to achieve the BREEAM rating of 'Excellent'. Conditions to control the building's facing details and materials would be necessary to protect the character and appearance of the area.
19. I conclude, therefore, that the appeal should be allowed subject to the identified conditions.

G D Jones

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/X5990/W/20/3264020:

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - C645_P_AL_001 - Existing Site Plan
 - C645_P_AL_002 - Existing Block Plan
 - 16045-SQP-01-ZZ-DR-A-20099 Rev 2 - GA Proposed Basement 1 Plan
 - 16045-SQP-01-ZZ-DR-A-20100 Rev 3 - GA Proposed Ground Floor Plan
 - 16045-SQP-01-ZZ-DR-A-20101 Rev 1 - GA Typical Floor Plan (Office)
 - 16045-SQP-01-ZZ-DR-A-20111 Rev 1 - GA Proposed Level 5 Plan
 - 16045-SQP-01-ZZ-DR-A-20112 Rev 1 - GA Proposed Level 6 Plan
 - 16045-SQP-01-ZZ-DR-A-20113 Rev 1 - GA Proposed Roof Plan
 - 16045-SQP-01-ZZ-DR-A-20211 Rev 1 - GA Proposed North Elevation
 - 16045-SQP-01-ZZ-DR-A-20212 Rev 1 - GA Proposed South Elevation
 - 16045-SQP-01-ZZ-DR-A-20213 Rev 1 - GA Proposed West Elevation
 - 16045-SQP-01-ZZ-DR-A-20214 Rev 1 - GA Proposed East Elevation
 - 16045-SQP-01-ZZ-DR-A-20311 Rev 1 - GA Proposed Section AA.
3. Except for piling and excavation work, any building work which can be heard at the boundary of the site shall be carried out only:
 - Between 08.00 and 18.00 Monday to Friday;
 - Between 08.00 and 13.00 on Saturday; and
 - Not at all on Sundays, bank holidays and public holidays.Piling and excavation work shall be carried out only:
 - Between 08.00 and 18.00 Monday to Friday; and
 - Not at all on Saturdays, Sundays, bank holidays and public holidays.
4. Details to demonstrate that any implementation of the scheme hereby approved will be bound by Westminster City Council's Code of Construction Practice shall be submitted to and approved in writing by the local planning authority (LPA). Commencement of the relevant stage of construction shall not take place until the details for that stage have been approved in writing by the LPA. The development shall only be carried out in accordance with the approved details.
5. The development shall be carried out in accordance with the written scheme of investigation for a programme of archaeological work dated January 2020 by MW Archaeological Consultancy. No part of the new building shall be brought into use until the local planning authority has confirmed in writing that the archaeological fieldwork and development accord with this approved scheme.
6. A detailed site investigation shall take place to establish whether the site is contaminated with dangerous material, to assess the contamination that is present, and to establish whether human health or the environment might be affected. This site investigation shall meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018. Investigation reports for Phases 1 to 4, as outlined below, shall be submitted to and approved in writing by the local planning authority. Such

approval for Phases 1 to 3 shall be before any further excavation work starts, and for Phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action taken during the development and what action will be taken in the future, if appropriate.

7. (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the local planning authority (LPA). The background level shall be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level shall be expressed as LAeqTm and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the LPA. The background level shall be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level shall be expressed as LAeqTm and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, the written approval of the LPA for a fixed maximum noise level may be requested. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the LPA. Such a report shall include:
 - (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;

- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; and
 - (i) The proposed maximum noise level to be emitted by the plant and equipment.
8. No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
9. Details of a supplementary acoustic report demonstrating that the plant will comply with the noise criteria as set out in Conditions 7 and 8 of this permission shall be submitted to and approved in writing by the local planning authority prior to any work starting on this part of the development. The approved details shall be fully installed prior to the commencement of the uses to which they relate as hereby permitted and shall be retained thereafter.
10. (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB 1 metre outside any premises.
- (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.
- (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.
11. The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.
12. The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

13. Details of a ventilation strategy for the residential properties to mitigate overheating shall be submitted to and approved in writing by the local planning authority prior to any work starting on this part of the development. The details, with windows closed, shall show compliance to at least the Overheating Standard of CIBSE Guide A (2006), specifically; for living rooms, less than 1% of occupied hours are over an operative temperature of 28 degrees celsius; for bedrooms, less than 1% of occupied hours are over 26 degrees celsius. The approved details shall be fully installed prior to the commencement of the uses to which they relate as hereby permitted and shall be retained thereafter.
14. Prior to the commencement of the uses to which they relate, the separate stores for waste and materials for recycling shown on the approved drawings shall be provided in full, clearly marked and made available thereafter for use by all users of the building.
15. The roof of the building shall not be used for sitting out or for any purpose other than to escape in an emergency and for maintenance purposes.
16. Each cycle parking space shown on the approved drawings shall be provided prior to occupation. Thereafter the cycle spaces shall be retained and used for no other purpose without the prior written approval of the local planning authority.
17. All doors or gates shall be hung so that they do not open over the highway.
18. The proposed photovoltaic panels and air source heat pumps shall be fully provided, maintain and retain in accordance with the approved details prior to the first use of the building.
19. Prior to their installation / construction a written and photographic schedule of the proposed facing materials, cross referenced to the approved elevations, and where necessary with other conditions imposed on this permission, and including a record of samples / trial panels prepared on-site for inspection shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
20. Details of the following parts of the development shall be submitted to the local planning authority (LPA) for approval:
 - a) Typical bay studies at 1:20, including windows, non-shop doors, canopy, stonework, exposed rainwater goods, and rooflines.
 - b) Shopfronts at 1:20;
 - c) Metal spandrels and railings at 1:10; and
 - d) Plant enclosure at 1:20.

All submitted drawings shall be cross-referenced against the approved elevations, and where necessary with other conditions imposed on this permission. No work shall commence on each of these parts of the development until it has been approved in writing by the LPA. The development shall be carried out in accordance with the approved details.
21. A detailed servicing management plan, identifying process, storage locations, scheduling of deliveries and staffing, shall be submitted to and approved in writing by the local planning authority (LPA) prior to the first occupation of any part of the building. The approved plan shall be applied and maintained for the

life of the development unless a revised strategy is approved in writing by the LPA.

22. Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) the retail accommodation hereby approved shall not be used for food retail purposes (i.e. a supermarket).
23. Details of facing materials, including glazing, to be used on the approved development shall be submitted to the local planning authority (LPA) for approval. The details shall include samples of the proposed materials and drawings of elevations and roof plans annotated to show where the materials are to be located. No work shall commence on the respective part of the development until these respective details have been approved in writing by the LPA. The development shall be carried out in accordance with the approved details.
24. The development shall achieve a BREEAM rating of 'Excellent' (New Construction 2018 'office' or any such national measure of sustainability that replaces that scheme of the same standard). A post construction certificate confirming this standard under BREEAM has been achieved, issued by the Building Research Establishment, shall be submitted for approval by the local planning authority within 6 months of completion on site.
25. Prior to the first use of the development, details of the provisions that shall be put in place to secure carbon offset for the development shall be submitted to and approved in writing by the local planning authority. The details shall include when the provisions will be made and how that timing will be guaranteed. The development shall be carried out in accordance with the approved details.