



Appeal Decision

Site visit made on 1 September 2021

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2021

Appeal Ref: APP/A5840/W/20/3255361
74-84 Long Lane, London SE1 4AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by 74-84 Long Lane Limited against the Council of the London Borough of Southwark.
 - The application Ref 20/AP/0076, is dated 20 December 2019.
 - The development proposed is the demolition of the existing building and the erection of a mixed-use 10-storey building together with basement and mezzanine to provide office space (Class B1); flexible retail space (Classes A1/A2/A3/A4/A5); new landscaping and public realm; reconfigured pedestrian and vehicular access; associated works to public highway; ancillary servicing; plant; cycle storage and associated works with ancillary facilities.
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Decision

1. The appeal is dismissed and planning permission for the demolition of the existing building and the erection of a mixed-use 10-storey building together with basement and mezzanine to provide office space (Class B1); flexible retail space (Classes A1/A2/A3/A4/A5); new landscaping and public realm; reconfigured pedestrian and vehicular access; associated works to public highway; ancillary servicing; plant; cycle storage and associated works with ancillary facilities is refused.

Preliminary Matters

2. The New Southwark Local Plan (eLP) has been through its examination in public. Given the stage of progress it has reached, and on the information before me, I cannot be sure that its policies relevant to this appeal will not change. I can therefore accord its policies no more than limited weight.
3. Since the appeal was made, the National Planning Policy Framework has been revised. Both parties were given the opportunity to comment on any implications for the appeal.

Main Issues

4. The main issues are:
 - A. Whether the site is a suitable location for a tall building;
 - B. The visual effects of the proposed development, with particular regard to the height, scale and mass of the building, and the quality of the public realm;
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- C. The environmental effects of the proposed development on the living conditions of the occupiers of 89 Long Lane, and the occupiers of dwellings in the Empire Square development, with particular regard to privacy, outlook and light;
- D. The functional effects of the proposed development, in regard to the needs of visitors to the development who require disabled car-parking spaces; and,
- E. Whether the provisions in the appellant's undertaking meet the tests for planning obligations, with particular regard to the undertakings in connection with affordable workspace, and business relocation and retention.

Reasons

A. Whether the site is a suitable location for a tall building

- 5. Being not less than 6 storeys high or 18m from ground to its highest floor level; being substantially taller than its surroundings; and causing a significant change to the skyline, the height of the building meets the definition of a tall building in the London Plan, the Spatial Development Strategy for Greater London, March 2021.
- 6. Tall buildings, policy D9 in the London Plan indicates, should only be developed in locations that are identified as suitable in development plans. In the Central Activities Zone, where this site lies, saved policy 3.20 of the Southwark Plan 2007 (LP) allows tall buildings subject to criteria including that they are located at a point of landmark significance, where a number of important routes converge, where there is a concentration of activity and which is or will be the focus of views from several directions. The eLP too anticipates tall buildings in the Central Activities Zone, subject to criteria including the same requirement regarding location.
- 7. The location of the appeal site is anything but one of landmark significance. Long Lane appears to be an important route for traffic, connecting Borough to Bermondsey. However, the two streets which run along either side of the appeal site to Long Lane are no more than side streets leading from the residential hinterland, characterised by their largely quiet, residential character, with on-street parking, parking courts and small parks. These side streets are not important routes.
- 8. On the opposite side of Long Lane, Crosby Row, with the character of a side street in a mixed-use area with relatively little activity, continues towards London Bridge. Notwithstanding that in London, routes may have developed over centuries and are important to those who use them, in the hierarchy of routes connecting places the appeal site cannot be said to be at the confluence of a number of important routes.
- 9. The café and estate agent in the side street, and the laundromat and neighbouring ground floor units across Long Lane, the latter which appeared

inactive at my visit, do not mark this section of Long Lane out as having a concentration of activity.

10. The proposed building would be visible from directly in front on Long Lane, and it would feature in glimpsed views from along the length of the road. It would appear as a foreground building against a built-up, taller background from behind the site. The two side streets beside the site would provide close-up views of the building. However, save for views from Crosby Row, the site and proposal could not be described as the focus of views from several directions. Against the policies of the development plan then, the appeal site does not meet the policy criteria to support a tall building in this location.
11. However, the changing physical context around the site is an important factor on the bearing of the locational control in these policies. Both the Southwark Plan and the emerging Local Plan describe how tall buildings can look out of place as one reason why they seek control over their location. The logic of this is clear to see on the ground, particularly with the London County Council flat blocks. The height of the buildings along Long Lane has long tended to be generally below the threshold height of a tall building. However, more recent developments have shifted this equilibrium in the spatial hierarchy along Long Lane. Much of this section of Long Lane now contains tall buildings, including one of 22-storeys within a few metres of this site.
12. I am alert to the hierarchical anomaly of some buildings in this section of Long Lane now being generally taller than the buildings around the convergence of important routes at Borough Station, a height policy contradiction which a tall building on this site would only compound. Nonetheless, the presence of these tall buildings, particularly the Empire Square development next to this site, have such a strong bearing on the physical context of this site that the effect of the location conflict from the proposal in policy terms cannot now attract more than a little weight. Time and development in Long Lane has moved on. And up.
13. While I acknowledge the conflict from this tall building with the location criteria of London Plan policy D9, saved LP policy 3.20, and eLP policy P16, because of the changing height context, I give this conflict little weight. I find the site is a suitable location for the right tall building. I turn now to the other criteria of these tall building policies, including the appropriateness of the height as it is proposed in this design, i.e. the visual effects of the proposed development.

B. The visual effects of the proposed development

14. The Council raised no objection in terms of the setting of heritage assets, or strategic or borough views. The focus of its objection is on local views and the street scene of Long Lane, as well as the effect of the height, scale, bulk, and mass of the building making it appear dominant and overbearing in the streetscape.
15. Height: On Long Lane, taking into account the shifts in height imposed by the neighbouring development on this side of the street, rising from the present

4-storeys on this site to 8-storeys and then up to 22-storeys in relatively close proximity, a building of 10-storeys need not appear out of place. On Long Lane, the transition of height across Southall Place would be relatively modest, especially given the set back from Southall Place of the top three floors of the proposed building.

16. In the context of Long Lane, the width of Pilgrimage Street provides sufficient breathing space between the proposed building and the shorter flat block on the opposite side. I appreciate that the building would rise continuously in almost a single plane and tight to the street edge. However, this abrupt spatial relationship, when viewed from Long Lane, will be similar whether the proposed building be 6-storeys or 10-storeys high. The stepping of the proposed building towards the adjoining block in Pilgrimage Street would just about avoid the overpowering of this neighbour from the height of the mid-levels of the proposed building. In terms of its height, and its relationship to surrounding buildings and streets, given the changing height context, I find no architectural anomaly or spatial incompatibility from the proposed building on this site.
17. Scale and mass: Distant views of the proposal would tend to be fragmentary, even along Long Lane. In views from the west along Long Lane, and from Crosby Row, the rotation of the mid-section of the building would add a fleeting but intense moment of architectural drama in the street. The skewed projection of this mid-level boutade would respond to the unanswered call from the splayed alignment of the C20 flat blocks across the road. The sense of its movement twisting free from the regulating rectilinearity of the building, elegantly conspicuous in its floor plates, façade design, and detailing, would bring a piece of architectural joy to the city. The shift of mass would reinforce the legibility in views from Long Lane and Crosby Street of the subtle order in the close order of the façade, whose grain and texture divide the elevations of the building, and which here would gracefully humanise its scale.
18. The back of the building would be more exposed in views from further afield. Here though, the mass of the building would be relieved by the modulation of the substantial steps in the floor plates, together with the projection of the mid-section. The fine articulation of the façade language within the distinctly modulated sections would ground the scale of the forms. The distinct separation of these masses in views from the rear, especially from Tabard Gardens, demonstrate how the arrangement of simple forms would settle the building into its close context, as well as harmonising with the more distant context of taller buildings like the Shard and Guy's Hospital.
19. Notwithstanding these positive aspects on three sides of the building, the elevation to Pilgrimage Street is less successful. The height and width of this elevation is great in both dimensions, yet there is relatively little depth in the modelling between the block sections which define it, and which might otherwise lift its monumental torpidity.

20. I appreciate that the shifting textures within the different blocks in this elevation help to reduce its mass as well as defining the scale of the openings within them. However, the lack of articulation across the elevation, at the broad level between the blocks which form it, its lack of depth to the primary or block level layering would have the effect of making this elevation appear a single, monolithic mass. Given the size of this elevation, this single mass effect would overpower the finer scale of the side street, in terms of its buildings and the spaces around and between them in which people live or work and through which people move and meet. This disruptive effect of the overpowering mass of this fourth elevation on the smaller scale of Pilgrimage Street, where the buildings are substantially less massive, would be conspicuous in Pilgrimage Street, and prominent in views from Manciple Street, in glimpsed views along Long Lane, and from further afield to the south-east of the proposed building.
21. I understand that as much as there is a place for architectural 'noise' there is a place for architectural 'quiet' as well. I appreciate that the more intimate scale of this side street may suggest a diminuendo in architectural flamboyance. However, notwithstanding the discipline of the frontage hierarchy of the building, this elevation feels divorced from the more dramatic primary layering, movement, and lightness so elegantly articulated in the other elevations of the building. It lacks their architectural delight.
22. I understand that this may appear a relatively small shortcoming in the overall design of a building which otherwise I would commend. However, because of the height and width of this elevation, its effect on the building's response to this side street context would be great. Moreover, the call in the Framework for high quality, beautiful buildings applies to the whole of a proposal, not just three sides of it. I have considered whether a condition could overcome it, but aside from uncertainties about the effect on the floorplates as well as potential structural implications, resolution of this may be more far-reaching into the design of the building.
23. I have taken into account the public consultation, the pre-application activities, and that the scheme was reviewed by design experts. I note that the architect has responded to the points raised by the design review panel, and adjusted the design, but I see no evidence of a follow-up panel review after these changes, as requested by the design review panel.
24. Public realm: On the Long Lane and Pilgrimage Street frontages, the building would rise from a point close to the back edge of the footways. This is not inconsistent with the frontage positions of the commercial buildings along Long Lane nor those buildings with access on the side streets.
25. The corner of the building by Southall Place would be inverted to define the entrance to the building and would bring the redefined space by Southall Place into Long Lane. The transparent, concertina form of the ground building line along Southall Place, enclosing the activity of the flexible ground floor and its generous set back defining the outdoor sitting areas, visitor bike parking, and

new planting would activate this section of Long Lane and transform the public realm around the site to the public good.

26. I note the Council's point that the Framework indicates the value of trees to the quality of urban environments. In this section of Long Lane they soften the urban character as well as provide shade and cooling. However, the proposed building would give more space to the closest street tree than the present building, representing a nett gain for arboriculture.
27. There would be no conflict from the public realm proposals with the development plan, in particular with London Plan policy D8 which encourages opportunities to create new, well-designed public realm, Core Strategy 2011 (CS) policy 12 which seeks public spaces that create attractive and distinctive places which are safe, easy to get around and a pleasure to be in, and saved LP policy 3.13 which requires a high-quality streetscape and landscape. Nor would there be any conflict with eLP policies P12 and P13 which seek a high-quality public realm.
28. Returning to the proposed building, I conclude on this issue that for the reasons given above, because of the design of the elevation on Pilgrimage Street, and only because of that, the proposed building would cause very significant harm to the spatial character of the area. It would conflict with London Plan policies D3 and D9 as well as eLP policies P12 and P16 where they require development to respond to the character of a place and to ensure massing and arrangement respond to character and context, as well as to pay particular attention to the form and proportions of the building in mid-range views from the surrounding neighbourhood. It would also conflict with CS policy 12 where it requires the design of development to be appropriate to its context, as well as saved LP policies 3.12, 3.13, and 3.20 where they require a development to enhance the quality of its built environment, not to dominate its surroundings inappropriately, and for a tall building to relate well to its surroundings.

C. The living conditions of the occupiers of 89 Long Lane, and the occupiers of dwellings in the Empire Square development

29. 89 Long Lane privacy: No 89, which has 3-storeys, is already overlooked by the 4-storey building on the appeal site. Any additional overlooking from the additional storeys in this proposal over the configuration of the existing building would not cause a material loss of privacy. In fact, the recessed floor plate at mezzanine level would reduce the overlooking at around first floor level, over the present situation. Any risk of light pollution from internal or external lighting from the building not eliminated by the carbon-saving energy strategy could be mitigated by planning conditions.
30. 89 Long Lane outlook: I appreciate that the outlook from the rooms at the front of No 89 would change. However, the outlook would be little different to the outlook from neighbouring buildings in the same street. Given the envelope of the existing building, the characteristic, spatial relationships

between neighbouring buildings along Long Lane, and the location of the windows of No 89 on the line of the back edge of footway, I do not find the outlook of these occupiers would be harmed to any significant degree.

31. 89 Long Lane sunlight and daylight: While the rooms with windows facing the street at first and second floor would retain sunlight levels superior to the BRE guidance¹ after the development, their rounded Vertical Sky Components (VSCs) would reduce from 23% and 27% to 14% and 15%, respectively. These values are less than the 27% VSC and less than 0.8 times their former values, as recommended in the BRE Guide. The proportion of the retained no-skyline contours (NSCs) in the rooms would also be less than 0.8 times their former values. These levels suggest that the areas lit by the windows would be likely to appear gloomier, particularly in the areas beyond the NSCs.
32. Notwithstanding this shortcoming in terms of daylight, and the Council's Residential Design Standards Supplementary Planning Document 2011 which endorses the approach in the BRE Guide, the more recent London Plan Housing Supplementary Planning Guidance² (SPG) indicates that an appropriate degree of flexibility needs to be applied when using the BRE guidelines, especially to higher density development, in town centres and in accessible locations, as well as the scope for the character and form of an area to change over time.
33. The appellant has also referred to the Mayor of London's draft Good Quality Homes for Londoners Supplementary Planning Guidance (draft SPG). This indicates that the 27% VSC in the BRE Guidelines is a nationwide target and has been based on low-rise suburban locations with a typical development angle of 25 degrees, whereas typical development angles in a city are considerably higher. In central London, it says, development angles of 40 or 50 degrees are common and have been accepted in many desirable central areas for well over a century. These angles correlate with VSCs of 18% and 13% respectively.
34. I note that this draft SPG is not yet adopted and that both the draft SPG and the adopted SPG are addressed at housing development. Nonetheless, their observations have broader relevance. The more recent London specific policy guidance suggests that the BRE targets should be applied flexibly. Moreover, the BRE guide itself suggests in paragraph 1.6 that its numerical guidelines should be interpreted flexibly, and that in circumstances such as in an area with modern high-rise buildings a higher degree of obstruction may be unavoidable. The appellant has also referred to permitted schemes in London where VSC target values have been applied flexibly, where the retained VSC values have been less than the mid-teens, and even less than 10%.
35. The increasing height of recent development along Long Lane and close to the appeal site signals a marked shift in building heights and a change in character with the development angles now more akin to its central London location than

¹ Site layout planning for daylight and sunlight, 2nd edition, Paul Littlefair, BRE Press

² Mayor of London Housing Supplementary Planning Guidance 2016, section 1.3.45

the low-rise suburban situation typified by the two and three storey buildings opposite, which in terms of height, are now more anomalous than synonymous with development in Long Lane.

36. In these changing physical circumstances and guidance, in this central urban location in the heart of a capital city, and given the height and arrangement of openings in the present building and the siting of No 89, as well as the degree of shortfall against the guideline values, I do not find, on balance, that the proposal would cause an unacceptable loss of amenity to the occupiers of 89 Long Lane. There would be no conflict with saved LP policy 3.2 which says that planning permission will not be granted where development would cause loss of amenity to surrounding occupiers, nor with eLP policy P55 which protects occupiers from an unacceptable loss of amenity.
37. In reaching this conclusion I have also had regard to the adjoining building, Nos 85 & 87 Long Lane. It has two bedroom windows and a kitchen window at first floor. Its VSC and NSC levels would be affected in a broadly similar way to No 89. My conclusion on the development's effect on these occupiers' living conditions is therefore similar.
38. Empire Square privacy (noise): I understand the Council's concern about the risk of noise from people sitting on the planter benches or the conventional chairs and tables outside the ground floor flexible unit. However, the appellant has shown how, at the nearest noise sensitive residential window, between the hours of 09:00 and 20:00, the noise from people sitting at the tables and chairs in the outdoor seating area would not exceed the existing background sound levels.
39. I note that the assumptions on which the calculations appear to be based do not include anyone sitting on the planter/benches alongside this area, in the site, which is close to the flats in Empire Square. Also, the noise emissions are based on normal human voices whereas noise from groups of people often includes shouts and shrieks, particularly as the evening progresses, more so if it includes alcohol consumption.
40. Notwithstanding this, I give significant weight to the overall positive change in the public realm which would be a significant improvement in Southall Place over the present state, particularly during the daytime when noise and sensitivity both tend to be less than in the evening. The design of the planter/benches could be adjusted, and the hours of use of the outside seating area and planter/benches and the management of the outside space could be controlled by planning conditions. On this basis, while I recognise the risk of some noise that has not been identified in the calculations, I am satisfied that the overall amenity gain in the public realm, in terms of both use and design, would outweigh the risk of limited disturbance from noise which could be mitigated by condition.

41. Empire Square privacy (overlooking): While the windows of the ground floor frontage to Southall Place are only 10m distant from Empire Square windows they would be arranged in a semi-solid, concertina screen which would diminish the opportunity to overlook. It is not sufficient to rely solely on planting to maintain privacy, however, given the distance of the windows, the screening effect of the wall and some limited screening from planting, were a condition applied to require some, sensitive obscuring pattern on the ground floor glass, the privacy of the ground floor neighbours could be maintained without compromising the appearance of the proposal.
42. Where the glazing in the upper floors repeats or occasionally oversails this line, a similar glazing condition could be applied to protect the privacy of these neighbours. Conditions to provide screening planting between the small external terraces and towards Empire Square and to control hours of their use would secure the privacy of these neighbours.
43. Empire Square outlook: The outlook from the lower-level flats is already constrained by the 3-storey and 4-storey elements of the existing building. There would be more building, and more high building, in the outlook from the flats with openings facing the proposal than at present. However, given the central inner urban location here, noting that Empire Square has developed openings directly on the boundary, and given the high degree of block and façade modelling on this side of the proposal, the degree of change in outlook would not be harmful.
44. Empire Square sunlight and daylight: The appellant has assessed the effect on the occupiers of flats in Empire Square close to the joint boundary using the alternative target values for skylight and sunlight access using a hypothetical mirror image of the Empire Square development. The Council has raised no objection to this approach nor to the arithmetic leading to the conclusions in the assessment.
45. With the exception of one pair of windows, the relevant openings in the Empire Square elevation opposite the appeal site would meet or exceed the mirror image target value in the BRE guidance of having at least one window to a main living room receiving 25% of annual probable sunlight hours, including 5% in the winter months. Even in absolute terms, the majority of the relevant openings would meet the BRE target for sunlight.
46. The assessment shows how, against the mirror image as a baseline, the vast majority of the openings opposite the proposal would meet the BRE guidance for VSC. Only 5 of the 114 windows would fall short of the target VSC values by 20% to 40%, and one, an inset opening, by more than 40%.
47. In absolute terms, the majority of the windows would retain VSC values in the mid-teens. Deviations would occur in two instances at inset openings at high level, and on the lower floors towards the Long Lane end, with VSCs of 7%-8% on the ground floor. However, it should be remembered that against the mirror image baseline, these same ground floor openings would achieve a level of 0% to 1%.

48. In terms of daylight, and having regard to the planning guidance and location of the development discussed above concerning 89 Long Lane, but most particularly in the circumstances where the Empire Square development has been built with window openings directly on the boundary along a narrow street opposite an old building now uncharacteristically low in height, and where the targets under a mirror image scheme are broadly met or exceeded, I do not find that the proposal would cause an unacceptable loss of amenity to the occupiers of Empire Square. There would be no conflict with saved LP policy 3.2, nor with eLP policy P55.
49. I conclude on this issue that the proposed development would not cause an unacceptable loss of amenity to the living conditions of the occupiers of 89 Long Lane, and the occupiers of dwellings in the Empire Square development, with particular regard to privacy, outlook and light.

D. The needs of visitors who require disabled car-parking spaces

50. The London Plan in policy T6.5 requires non-residential development to provide access to at least one disabled persons parking bay, either on-street or off-street. This reflects saved LP policy 5.7, which seeks a minimum of one accessible car parking space where associated car parking is not provided, subject to site constraints.
51. Though the proposal would not provide any accessible car-parking on-site, it has particular constraints for access. Of its three potentially accessible frontages, one has a zebra crossing and the zig-zag lines beside it running along its length. This precludes access from this side for the safety of those crossing. The second frontage is enclosed by bollards and pedestrian railings to prevent and control vehicle access. The third is dominated by an on-street loading bay, around 4 transit vans in length.
52. The appellant's survey showed this loading bay was used by 27 vehicles in one day of counting. To provide access into the development site for parking or for servicing, the length of the loading bay would have to be reduced. The appellant indicates that the access would lessen the availability of the loading space substantially. There would therefore be a consequential risk of inconsiderate parking by other users of the bay, including parking on footways or the occupation of other parking spaces, including disabled parking bays. It is estimated that the development will generate 24 servicing trips per day, around 3 per hour between 9:00 and 17:00, which could use the existing loading bay. These factors point against the reduction of the loading bay length to incorporate an on-site disabled persons parking bay.
53. Moreover, there are already 4 long-stay, accessible parking bays on Pilgrimage Street, the closest of which is around 23m from the site. Its occupancy was surveyed, and it was found to be occupied for less than half the period of a 12-hour snapshot. In addition, blue badge holders may park free of charge and without time limit within pay and display parking bays, including in Pilgrimage Street.

54. The appellant has indicated a potential position for an additional blue badge holder parking bay in Pilgrimage Street and the unilateral undertaking provides for a financial contribution towards an on-street parking space.
55. I find that, because of the particular constraints around this site and its lack of available frontage for access without compromising other transport objectives of the development plan, together with the availability of on-street accessible parking and provision for blue badge holders and the potential to accommodate an additional space close-by, the proposal to use the existing loading bay for servicing, and an on-street parking bay for disabled persons parking does not count against the proposal.
56. I conclude on this issue that the development would satisfy the needs of visitors to the development who require disabled car-parking spaces. The eLP is reported to being considered for a change to its policy P54 concerning disabled parking space to reflect the London Plan. There would therefore be no conflict with London Plan policy T6.5, saved LP policy 5.7, eLP policy P54, nor with the Framework, which in paragraph 112 requires development to address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

E. Whether the appellant's undertaking meets the tests

57. A unilateral undertaking has been provided by the appellant, to which the Council has raised no objections, save for its provisions in connection with affordable workspace, and business relocation and retention, in which the Council contends generally that the obligations do not go far enough.
58. Turning first to the contentious matters, London Plan policy E3 anticipates that Councils may use planning obligations to secure affordable workspace based on local evidence of need and viability. Emerging Local Plan policy P30 requires 10% of the gross employment floor area to be affordable.
59. The appellant has calculated that the area of affordable workspace to be provided as 10% of the gross employment floor area, should exclude the basement, whereas the Council's calculation includes the basement in the gross area. The difference in the 10% between them being 768m² versus 727m², or 41m².
60. Around half of the basement is given over to cycle parking and changing facilities to support the employment use, much as toilet cores support the employment on the other floors. If this area were incorporated in the gross employment floor area calculation, then the proposed area of affordable workspace would be marginally light of the 10% sought.
61. The eLP has not yet been adopted, and I am not aware of the status of its affordable workspace policy in terms of objections or modifications, which limits the weight I can accord it. I also note that it is agreed in the statement of common ground that the gross internal area of office space amounts to 7,570m², 10% of which is 757m². Notwithstanding this, and the 41m²

difference between the parties, the appellant's figure would result in the entire mezzanine floor being given over to affordable workspace instead of the area being split over more than one floor. This may make the affordable area more attractive to tenants and the use of the remaining floors more flexible and viable in terms of single occupancy and security. In this light, the difference of around 5% of affordable area is not significant enough to count against the proposal. Against the requirements of policy E3 in the London Plan and the measure in eLP policy P30, the proposed provision of 727m² would be fairly and reasonably related in scale and kind to the development.

62. Similarly, the Council relies on the eLP requirement for a covenant length of 30 years, whereas the London Plan requires only at least 15 years. While the London Plan's requirement is a minimum, the length proposed of 15 years complies with the development plan and is again fairly and reasonably related in scale to the development.
63. I appreciate the Council's approach to secure on-site provision for the affordable workspace. However, the Framework indicates that decisions should recognise and address the specific locational requirements of different sectors, including technology industries. Given the site's proximity to the medical and life-science industry, it is not unreasonable because of security and safety reasons for the appellant to seek flexibility in the event that a single occupier takes the office space. The alternatives for the provision of off-site affordable workspace and a financial contribution in-lieu would achieve the objectives of affordable workspace which are necessary to make the development acceptable and secure the future occupancy of the building should the situation arise.
64. The Council is right to point out the units error in box A of appendix 1 to the undertaking – the affordable workspace calculation formula. As the error concerns units of area rather than amounts of area, I am not convinced that would be fatal to the calculation.
65. The sunset clause 3.8 in Schedule 1 Affordable Workspace of the undertaking provides for a marketing period of not less than 12 months to find a tenant. In the light of the other provisions of the affordable workspace, including the covenant length, 12 months is not an unrealistic period to secure a new occupier with the specific social, cultural or economic purpose, anticipated in the objective of London Plan policy E3.
66. I understand the Council's desire to cap the service charge for the affordable workspace, but I see no requirement in policy to support the suggested cap in place of the proposed provision for charges to adhere to the RICS Code of Practice: Service Charges in Commercial Property.
67. The affordable workspace specification is defined in the undertaking as a detailed design specification which shall include plans, drawings, samples of materials and estimated costs. I note the detailed specification items the Council seeks. However, the specification is not limited to the items above and

must be submitted to the Council for approval in any event. Clause 1.3 of Schedule 1 Affordable Workspace would ensure the specification covers the items to which the Council refers.

68. As above, while I understand the Council's concern to secure a business relocation strategy for the existing occupier as required in the emerging Local Plan, there is no requirement in the adopted development plan. The undertaking obliges the appellant to offer the existing occupier all or part of the affordable workspace. I do not find the 30-working-days period to consider submissions unreasonably short. If information is lacking, the Council will have the right to refuse the submission, or to pursue an alternative remedy in the undertaking.
69. The remainder of the undertaking includes various obligations in respect of financial contributions towards archaeological research, investigation and protection within the vicinity of the site; the on-street accessible parking space; the carbon off-set fund; Legible London signage on Long Lane; and the Council's administration and monitoring. Other obligations would secure employment during construction, and in the completed development; local procurement; street works improvements; district heating connection; and an energy review.
70. I give significant weight to the obligations for affordable workspace, business relocation and retention, and employment, as described above. I consider these, and the other obligations in the undertaking to be necessary to make the development acceptable in planning terms; directly related to it; and fairly and reasonably related in scale and kind to it. In arriving at this view, I am mindful that no evidence has been supplied which queries either the necessity or the viability of the obligations not in dispute, nor the voracity of the undertaking as a whole. Accordingly, I consider that the unilateral undertaking meets the relevant statutory³ and national policy⁴ tests and is therefore a material consideration in my assessment of the appeal.

Other Matters

71. I have noted the objection from the freeholder of the ground floor commercial unit, No 89a, that its use as a therapy centre is sensitive to the loss of daylight. However, I saw that while it has large, shopfront windows and a glazed door facing Long Lane, the glass has been obscured which reduces the daylight entering the unit. I appreciate that the proposal may further diminish the daylight levels within the unit. However, there is no substantive evidence that the resultant levels would adversely affect this commercial use, especially given the present obscuring of its glazing.
72. Moreover, even if there were some loss of daylight within the commercial unit, this would be more than outweighed by the substantial, additional footfall and commercial activity within reach directly across the road and the commercial

³ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

⁴ Paragraph 57 of the Framework

opportunities which the proposed development would bring to this section of Long Lane, including to No 89a. On the evidence before me, there would be no conflict with LP policy 3.2 nor with eLP policy P55.

73. I appreciate the concerns from the freeholder about rights of light and party wall matters. However, there is no substantive evidence that the proposal would be likely to result in damage or loss. These matters are in any event covered under separate legislation.

Conclusion

74. I have found that because of the changing context around the appeal site I can give only little weight to the conflict between development plan policy concerning the suitability of this location for a tall building. I find the site is a suitable location for the right tall building. Moreover, in terms of its height, and its relationship to surrounding buildings and streets, given the changing height context, I find no architectural anomaly or spatial incompatibility from three of the four sides of the proposed building on this site, and only positive effects from the proposed public realm changes.
75. The proposed development would not cause an unacceptable loss of amenity to the living conditions of the surrounding occupiers, it would satisfy the needs of visitors to the development who require disabled car-parking spaces, and the unilateral undertaking accompanying it would meet the relevant statutory and national policy tests.
76. The proposal would bring a BREEAM Excellent-rated building containing high quality, accessible, flexible office space with a flexible, active ground floor space open to the community, surrounded by a much-improved public realm. Alongside high-quality cyclist facilities and refuse storage and recycling provision, the development would reduce flood risk and improve bio-diversity. As well as the economic boost from construction and during occupation, it would provide modern, and affordable workspace, and around 500 jobs both during construction and afterwards, as well as a range of training opportunities.
77. Notwithstanding all the positive factors of the proposal which attract significant weight, these benefits would not outweigh the very significant harm to the spatial character of the area from the design of the fourth elevation. The proposed development would be contrary to the development plan considered as a whole, as well as one of the fundamental objectives of planning described in the Framework; the creation of high-quality, beautiful and sustainable buildings and places.
78. There are no other material considerations which suggest that the decision should be taken other than in accordance with the development plan. For the reasons above the appeal is dismissed.

Patrick Whelan

INSPECTOR