



Appeal Decision

Site visit made on 7 June 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2022

Appeal Ref: APP/H5390/W/21/3286870

32 Goldhawk Road, London W12 8DH

- 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 Mr Abdul Wakil against the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2021/02335/FUL, is dated 30 July 2021.
 - The development proposed is demolition of the existing building except for the basement, and erection of a part three storey, part four storey building with a shop (Class E) on the ground floor and 5 studio flats on the upper floors.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing building except for the basement, and erection of a part three storey, part four storey building with a shop (Class E) on the ground floor and 5 studio flats on the upper floors at 32 Goldhawk Road, London, W12 8DH in accordance with the terms of the application, Ref 2021/02335/FUL, dated 30 July 2021, subject to the conditions in the attached Schedule.

Main Issues

2. The Council's Statement of Case identifies their concerns had they been able to determine the application. From these, the main issues are the effect of the development on the living conditions of neighbouring occupiers with respect to light, and whether the proposal would provide satisfactory living conditions for its future residents with regard to the quality of the internal living space.

Reasons

Living conditions – neighbouring occupiers

3. The proposal would be taller and deeper than the existing building on the site. To its east is a large five-storey residential building, Pennard Mansions. There are fifteen windows on the west elevation of this building, three on each floor in a repeated pattern, that face towards the appeal site. From what I could see at my site visit, the windows that are within the recess and the small windows to their north, are obscurely glazed, suggesting they do not serve habitable rooms. Any loss of light to these rooms would not be unacceptably harmful.
4. There are larger windows further back along this elevation, which most likely do serve habitable rooms. Those at lower levels were substantially obscured by a large tree, and are generally overshadowed by the buildings fronting North End Road. As such, though the development may cause some loss of light to

these lower windows, particularly when the tree is not in leaf, it would not be significant, given the restricted light that these rooms must already receive through these windows. The windows at upper floor most likely have a fairly open outlook above the tree and most surrounding buildings, so would continue to receive sufficient amounts of light.

5. There are a series of north facing windows, within the recess, too. But these would not directly face the proposal and their outlook would be largely unaffected by it.
6. I acknowledge the Daylight and Sunlight Assessment is vague in terms of the windows in Pennard Mansions that it assesses. Nonetheless, from my own assessment, I consider there would be no loss of light to the flats at Pennard Mansions such that the living conditions of the residents there would be unacceptably affected.
7. Consequently, the development would accord with policies HO4, HO11 and DC2 of the Hammersmith and Fulham Local Plan (2018) which requires development to protect the amenity of neighbours, and policy D6 of the London Plan (2021) which states that development should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context.

Living conditions – future occupiers

8. The submitted plans show that four of the five studio flats would have a floor to ceiling height of 2.3m, with Flat 4 having a floor to ceiling height of 2.485m. Policy D6 of the London Plan advises that at least 75% of the internal area of each dwelling must be 2.5m. The development would therefore conflict with this policy.
9. However, additional information regarding the construction of the internal ceilings, including an additional sectional drawing, has been provided by the appellant. This shows that the thickness of the ceilings can be reduced from the 350mm shown on the original application plans, to 200mm. This would mean four of the flats would have floor to ceiling heights of 2.45m and Flat 4 would have a floor to ceiling height of 2.635m. Although I recognise four of the five flats would still have a floor to ceiling height that would be below the requirement, the shortfall would be 5cm which is a negligible amount. Moreover, a floor to ceiling height of 2.45m would not feel constrained or restricted such that the internal living space would be poor.
10. I also note that the Nationally Described Space Standards, which are referred to in part a. of policy HO11 with respect to room sizes, only requires a minimum floor to ceiling height of 2.3m.
11. As such, the development would provide its future occupiers with satisfactory living conditions. It would therefore comply with policies HO4 and HO11 which aim to ensure development is designed to provide a high quality residential environment. Although the proposal would technically conflict with one of the requirements of policy DC6 of the London Plan, it would generally accord with the aim of that policy which is for development to be of high quality design.

Other Matters

12. Other concerns have been raised regarding overlooking to neighbouring properties. However no windows would closely and directly face any other

dwelling, and although a view from the rear balconies towards the windows in Pennard Mansions would be possible, such views would largely be obscured by the tree. In any case it is unlikely that residents would use the balconies extensively for sitting out, given their limited size and north facing aspect.

13. In response to other concerns; the proposal would reflect the design of the nearly completed development at No. 34, would be unlikely to threaten the viability of the tree to the rear, and would maintain an access over 2m in width to the rear of No. 30. Noise generated from the development would not be likely to be unacceptably disturbing to neighbouring users given the urban nature of the area, and any disruption during construction would be for a limited period and in any case could be controlled by other legislation. I also note the comment that studio flats are not needed, but I have no evidence before me to support that assertion.

Conditions

14. I have considered the Council's suggested conditions. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance.
15. The standard conditions relating to the commencement of the development and the approved plans are attached in the interests of certainty. Conditions relating to the finishing materials, waste storage and external plant or equipment for the commercial unit are necessary to protect the character and appearance of the area.
16. I have imposed a condition requiring details of noise insulation are provided and approved by the Council to ensure the occupiers of the residential part of the proposal are protected from unacceptable noise generated by other dwellings, the commercial unit at ground floor, and other external noise sources. This simplifies three separate conditions suggested by the Council.
17. A condition requiring the submission of a piling method statement is necessary to ensure underground services are protected.
18. I have combined the Council's suggested conditions relating to ventilation into a single condition, and have included a condition relating to the installation of electric boilers. These conditions are necessary to ensure adequate air quality for future occupiers of the development.
19. To protect the amenity of neighbouring residents and in the interest of highway safety, I have imposed a condition requiring the submission of a construction and demolition logistics plan. The condition preventing the use of the roof as an amenity space is also necessary to protect the amenity of neighbouring residents.
20. Conditions are imposed to ensure future occupiers, neighbouring occupiers and the environment is not exposed to contamination risk. The suggested condition relating to minimising flood risk, in accordance with the submitted flood risk assessment, is also imposed.
21. The Council have suggested two conditions relating to emissions generated by the development, in particular emissions from vehicles, to ensure adequate levels of air quality for the future occupants. However as there is no provision

for parking for the residential units and as the boilers would be electric, it is unlikely the residential part of the development would generate any emissions. Also, the commercial unit would simply replace the existing commercial unit. In addition the emissions from vehicles and plant during the construction phase will have no impact on the future occupants. These conditions are therefore unnecessary.

22. The Council have also suggested three conditions which seek to ensure the development is car free. However given the fact that there is no space for parking in front of the site, the rear of the site is private land, and there is nowhere else reasonably near the site for cars to park, I consider it highly unlikely any occupiers would seek to acquire a parking permit. The fact that the units are very close to public transport services and are more likely to be occupied by persons on lower incomes due to their small size, also leads me to consider that car ownership would be unlikely. Hence these conditions are unnecessary.

Conclusion

23. Though there is some conflict with policy D6, that conflict carries limited weight and is outweighed by the other policies relating to providing a high quality of accommodation. As such, the proposal accords with the development plan taken as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan.
24. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed and planning permission is granted.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 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: A-100 B, A-101 B, A-102 B, A-103 B, A-104 B, A-105 B, A-106 B, A-107 B, A-108 B, PA-100 A, PA-101 A and D-101 A.
- 3) The development hereby permitted shall be carried out in accordance with the materials (including colour and finish) specified on drawing no. A-108 B. The development shall be retained in accordance with the approved details thereafter.
- 4) Above ground construction work shall not take place until a scheme for protecting each proposed studio flat from noise from transport and commercial sources, from the permitted commercial unit at ground floor, and from all adjoining dwellings, has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any of the studio flats are occupied and retained as such thereafter.
- 5) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to sub-surface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 6) Prior to commencement of above ground works, a Ventilation Strategy Report to mitigate the impact of existing poor air quality for residential uses for all receptor locations where the air quality objectives for NO₂ and World Health Organisation (WHO) air quality guideline values for Particulate Matter (PM_{2.5}, PM₁₀) are already exceeded and where current and future predicted pollutant concentrations are within 5 % of these limits, shall be submitted to and approved in writing by the local planning authority. A post installation compliance report, produced by a Chartered Building Services Engineer (CIBSE), of the approved Ventilation Strategy shall be submitted to and approved in writing by the local planning authority, before the first occupation of the studio flats. The approved details shall be fully implemented prior to the occupation of the development and thereafter permanently retained and maintained.
- 7) Prior to the occupation of the development, details of the installation of Zero Emission MCS certified Electric Boilers for heating and hot water for the development shall be submitted to and approved in writing by the local planning authority. Approved details shall be fully implemented prior to the occupation of the development and thereafter permanently retained and maintained.
- 8) No development shall take place, including any works of demolition, until a Construction and Demolition Logistics Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:

- i) numbers, sizes and routes of demolition and construction vehicles;
- ii) loading and unloading of plant and materials; and
- iii) wheel washing facilities;

The approved Construction and Demolition Logistics Plan shall be adhered to throughout the construction period for the development.

- 9) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates from the site.

The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
 - ii) a conceptual model indicating potential pollutant linkages between sources, pathways and receptors;
 - iii) the potential risks to:
 - human health;
 - ground waters and surface waters; and
 - ecological systems.
- 10) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an identification of the remediation method and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and, upon completion, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is commenced.
- 11) No development shall take place until a verified monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed.

- 13) The development shall be carried out and completed in full accordance with the details contained within the approved Flood Risk Assessment Simple Statement prepared by Omega. No part of the development shall be occupied until all flood prevention measures have been installed in accordance with the submitted details and the development shall be permanently retained in this form and maintained as such thereafter.
- 14) The proposed refuse, recycling, food waste and cycle storage hereby approved shall be installed in accordance with the approved drawing No. A-105 B prior to occupation of the residential units, and shall be permanently retained as such thereafter.
- 15) Prior to the occupation of the commercial unit, details of the proposed commercial refuse and recycling storage shall be submitted to and approved in writing by the local planning authority. The commercial refuse storage shall thereafter be permanently retained in accordance with the approved details.
- 16) No shopfronts, external air-conditioning units, ventilation fans, extraction equipment, flues or other plant or equipment or associated external pipework or ducting shall be fitted to the exterior of the building.
- 17) No part of any roof of the development hereby approved shall be used as a roof terrace or other form of open amenity space. No railings or other means of enclosure shall be erected on the roofs, and no alterations shall be carried out to the property to form access onto the roofs.