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# Appeal Decision

Site visit made on 5 November 2024

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> November 2024**

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**Appeal Ref: APP/H5390/W/24/3347032**

**112-114 North End Road, London W14 9PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by H22 Group, C/O AU Architects Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
  - The application Ref is 2023/03307/FUL.
  - The development proposed is the erection of 3no. additional floors at first, second and third floor levels to existing ground floor commercial unit, in connection with the creation of 8no. new residential units comprising of 2no. studios and 6no. two bedroom self-contained flats together with balconies at first, second and third floors; alterations to ground floor frontage; formation of cycle storage and provision of access at ground level.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters and Main Issues

2. The rear boundary of the appeal site adjoins a property known as Continental Coachworks (hereafter referred to as the CC site). A company of the same name operates a car repair business from this adjoining building. Representations have been made on behalf of this company objecting to the proposed development. The appellant has had an opportunity through the appeal process to respond to these objections.
3. Planning permission has been granted for the redevelopment of the CC site to provide a hotel (appeal reference APP/H5390/W/22/3306632). The permitted hotel scheme is illustrated on the appeal plans and referred to by the Council and the appellant in their submissions. However, the permitted hotel development has not yet commenced and in light of the submitted comments it would seem the hotel may not be constructed. In my assessment of this appeal, I have regard to the current situation on the CC site as well as the potential for the hotel scheme to be implemented.
4. In light of the Council's refusal reasons, as well as the comments from the representatives of the business on the CC site, I consider the main issues are (i) whether the proposal would accord with development plan policies on car-free development and air quality, (ii) whether it would integrate appropriately with the adjacent car repair and service workshop at the CC site having regard to the effects of noise, and (iii) the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Barons Court Conservation

Area (the CA) and its effect on the setting and significance of 106 to 110 North End Road (Nos 106-110) as locally listed buildings of merit (BOM).

## **Reasons**

### *Car-free development and air quality.*

5. Policy T4 of the Hammersmith and Fulham Local Plan 2018 (HFLP) requires car parking free measures on all new development unless there is a significant lack of available public transport. In the same vein, Policy T6 of the London Plan 2021 (LP) states that car-free development should be the starting point for all proposals in places that are well-connected by public transport.
6. The appeal site lies in an urban area where there are nearby shops and services. Also, the locality is recognised as having excellent access to frequent public transport services such as buses and the underground. Therefore, the development should include car-free measures to accord with HFLP policy T4 and LP policy T6.
7. No off-street parking spaces are proposed to serve the development. However, a parking permit scheme applies on nearby residential roads. To ensure a car-free development, it is the Council's contention that planning obligations need to be in place to prevent future residents from applying for car parking permits. This point is not disputed by the appellant.
8. A unilateral deed of undertaking (the UU) has been submitted with the appeal. This includes planning obligations that set out measures to dissuade or prevent future residents from holding a parking permit. However, the UU is undated and unsigned and so it is incomplete. As such, there is significant uncertainty over whether the planning obligations would take effect. There are no secure measures in place to prevent residents of the development from applying or for holding parking permits for nearby streets.
9. For these reasons, I conclude the proposal would not accord with HFLP policy T4 and LP policy T6 as there are insufficient measures in place to secure a car-free development. As such, it has not been demonstrated how the scheme would reduce the dominance of vehicles on London streets as required under LP policy T2 on healthy streets.
10. In the absence of secured car-free measures, it has not been shown whether motorised vehicular movements associated with the proposed residences would protect local air quality. This is pertinent as the proposal would introduce new residences into a designated air quality management area. Accordingly, I also conclude the scheme would have an adverse effect on air quality, contrary to HFLP policy CC10 and LP policy SI1.

### *Integration with the CC site and noise.*

11. The representatives of the company based on the CC site refer to HFLP policy CC11. This states that noise sensitive development should be located in the most appropriate locations and protected against existing sources of noise. Under this policy, housing will not normally be permitted where occupiers would be adversely affected by noise from existing noise generating uses.

12. The appellant's noise exposure assessment<sup>1</sup> (NEA) describes a noise survey that has been carried out using a single microphone at ground floor level on the front of the existing building. It is suggested that background noise at the site is dominated by road traffic and pedestrians moving along North End Road. The NEA goes on to describe noise attenuation measures to be included within the fabric of the development to ensure appropriate internal noise levels within the residential units.
13. The representatives of the occupants of the CC site are critical over the manner in which the noise survey has been carried out. I agree with these criticisms. No microphone was placed close to the boundary with the CC site in order to record actual noise levels to the rear of the appeal property. As such, there is uncertainty whether the noise survey would have properly recorded noises emanating from the car repair business.
14. Instead, the NEA sets out estimated noise levels for the rear part of the site, derived from noise levels recorded at the front of the site and having regard to the noise mitigation effects of the proposed building. I am unconvinced that such an approach properly considers the level and particular characteristics of noise that the car repair workshop generates compared to the other background noise. This is a shortcoming of particular note given the close proximity of bedroom windows in the rear of the proposed development to the windows at first floor level in the building on the CC site. Accordingly, the evidence fails to show appropriate noise mitigation measures could be included within the development to ensure future residents are not adversely affected by noise from the car workshop.
15. The Council has not objected to the proposal on these grounds. Nonetheless, for the reasons given above, I conclude the development would not integrate appropriately with the adjacent car repair and service workshop when having regard to the effects of noise. In these regards, it would not accord with HFLP policy CC11.

*Effect on character and appearance of the area, the CA and BOM.*

16. The appeal site contains 2 single storey, flat roof retail units with shopfronts facing North End Road as well as an open forecourt area with vehicular access serving the CC site. The adjoining Nos 106 to 110 also include single storey retail units but with 2 storey buildings towards the rear. Next to these and further along North End Road are taller and older properties with ground floor shops adjoining the pavement. On the other side of the site is Marzell House, a larger, 4 storey building of modern appearance. There are older residential buildings of a similar height to Marzell House on the opposite side of the road. As such, the local area has a mixed character and appearance, although buildings tend to be obvious and dominant within the street scene.
17. The Barons Court Conservation Area Character Profile (CACP) identifies the various and distinctive groups of residential developments as a defining characteristic of the CA. These include the dwellings recognised as BOM on Challoner Crescent that lie on the other side of the CC site to the appeal property. Also, the CACP defines Nos 106 to 110 as BOM, although it also notes that their character has been harmed by the shop extensions to the front.

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<sup>1</sup> Clement Acoustics External Building Fabric Report 23 May 2023, 18318-NEA-01.

18. The building on the appeal site detracts from the character and significance of the CA due to its lack of historic, architectural or aesthetic interest. Also, the single storey shop units allow views from North End Road of the building of low architectural interest on the CC site as well as an unattractive mix of side and rear elevations of other nearby properties.
19. The addition of 3 storeys would result in a higher and bulkier building. However, its scale would not be unusual within the context of Marzell House, the residential buildings on the opposite side of the street and the taller buildings further along North End Road. Also, the development would not appear uncharacteristically cramped as many other buildings in the vicinity form tall, continuous terraces that lie close to the pavement. Furthermore, the additional storeys would provide a stronger frontage, more in keeping with the overall street scene than the low-level retail units currently on the site. Moreover, the development would screen the unattractive building on the CC site as well as the side and rear of surrounding properties.
20. The proposed storeys would affect views from North End Road of the permitted hotel development on the CC site should it be constructed. However, the hotel would be set back from North End Road with the appeal site in between. As such, it would appear as development behind the prevalent building line along North End Road. In contrast, the appeal proposal would be consistent with the building line and so it would be more in keeping with the North End Road context. Therefore, the development's effect of obscuring the hotel would not be harmful to the street scene.
21. The scheme would obstruct some views of the 2 storey elements of Nos 106 to 110 and so it would affect their setting. Also, it would be noticeably taller than these BOM. However, the older parts of the buildings would still be seen from directly in front and over the single storey shop extensions. As such, the proposal would largely preserve the significance of Nos 106 to 110.
22. If it were constructed, the hotel would largely obscure the development from Challenor Crescent, although parts of its upper floor would be seen to the side of the hotel. A larger portion of the upper parts of the development would be visible from Challenor Crescent if the building on the CC site is retained as it stands. In any event, the development would be seen in the background with either the hotel or the existing building in between it and Challenor Crescent. Therefore, the development would have only a minor effect on the Challenor Crescent street scene and the setting of the BOM it contains. Consequently, no harm would be caused to the significance of the BOM or to the character and appearance of this part of the CA.
23. The development would include elements that are uncharacteristic of the area such as recessed terraces to the front at first and second floor levels and an undercroft access point to serve the CC site. Also, despite the inclusion of some finer architectural features, the proposed storeys would lack the level of ornate detailing as shown on the residential properties opposite. Therefore, it would look relatively bland. Furthermore, the architectural features and the width of the building would provide a degree of horizontal emphasis at odds with the vertical emphasis of many of the nearby older properties.
24. Even so, the positive features of the proposal as highlighted above would offset the inconsistent elements so that overall, the scheme would be more sympathetic to the street scene than the existing property. As such, I conclude

the development would not harm the character and appearance of the area and that it would preserve or enhance the character, appearance and significance of the CA. Also, it would preserve the significance of the nearby BOM. In these respects, it would accord with HFLP policies DC1, DC4 and DC8 and LP policy HC1. These look for development to respect the townscape and to conserve or to enhance designated and non-designated heritage assets. LP policies D4 and SD6 are referred to in the refusal reasons but these contain no provisions relevant to my assessment of the proposal on this main issue.

*Other factors and planning balance.*

25. For reasons as set out under the first 2 main issues, the proposal would not accord with the development plan when read as a whole. It follows to consider whether other factors justify granting planning permission.
26. The proposal would make a more efficient use of land in a location with good access to services and public transport. Also, it would contribute towards the housing stock. The number of proposed dwellings is fairly small and there is no evidence that the Council is unable to demonstrate a supply of housing land to meet the requirements as set out in the National Planning Policy Framework. Even so, these benefits add weight in favour of the scheme.
27. The development would not harm the character, appearance or significance of the CA. Indeed, it would address negative effects of the existing property in these regards. However, there are elements of the proposal itself that would be out of character and which would therefore detract from the townscape. Overall, the development would lead to only a minor benefit to the visual qualities of the locality and the CA.
28. Notwithstanding the benefits of the proposal, the detriment as identified under the first 2 main issues is the overriding factor. The harm caused would significantly and demonstrably outweigh the benefits of the scheme. As such, there is insufficient justification to grant planning permission contrary to the development plan.

**Conclusion**

29. For the reasons given above, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR