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## Appeal Decision

Hearing held on 1 February 2017

Site visit made on 1 February 2017

**by Claire Victory BA (Hons) BPI MRTPI**

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

Decision date: 21<sup>st</sup> April 2017

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**Appeal Ref: APP/K5600/W/16/3156380**

**9 St Mary Abbot's Place, London W8 6LS**

- 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 Kolan Investment (c/o Savills) against the decision of The Council of The Royal Borough of Kensington & Chelsea.
  - The application Ref PP/16/02222, dated 11 April 2016, was refused by notice dated 27 June 2016.
  - The development proposed is the demolition of the majority of the existing building (with rear and southern existing exterior walls retained) and replacement with a residential building comprising 5 flats.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of the majority of the existing building (with rear and southern existing exterior walls retained) and replacement with a residential building comprising 5 flats at 9 St Mary Abbot's Place, London W8 6LS in accordance with the terms of the application, Ref PP/16/02222, dated 11 April 2016, subject to the conditions in the attached schedule.

### Procedural Matter

2. A unilateral undertaking has been submitted offering to provide an off-site affordable housing contribution and restrict the provision of car parking permits. I deal with this in more detail below.

### Main Issue

3. The main issue in the appeal is whether the development would preserve or enhance the character or appearance of the Edwardes Square, Scarsdale and Abingdon Conservation Area.

### Reasons

4. The appeal property is a detached building located within a quiet side street formed of predominantly residential dwellings. The greater part of the ground floor is within community use as a place of worship, and there are three self-contained residential units, one on each floor of the building, located towards the front. The property was occupied between 1941 and 1997 by White Eagle Lodge, a spiritualist church, but they have since relocated out of the borough. To the rear of the site is a Grade II listed terrace fronting Edwardes Square.
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5. The appeal site lies within the Edwardes Square, Scarsdale and Abdingdon Conservation Area (ESSA). The significance of the conservation area lies in the number and variety of buildings of architectural and historic merit, from the grand Georgian terraces of Edwardes Square, early Victorian terraces and villas such as Abingdon Road and Warwick Gardens, to the more modest domestic scale of properties within St Mary Abbot's Place.
6. The ESSA Conservation Area Proposals Statement does not specifically include reference to St Mary Abbot's Place but refers to the contrast of mews, studios and small scale streets with the major terraces. The street includes examples of arts and crafts architecture, and exhibits variety in design and materials, particularly on the west side. The original buildings at Nos 3 and 5 St Mary Abbot's Place have been demolished and redeveloped, and photographs of the original buildings were shown at the Hearing. The redevelopment of Nos 3 and 5 has somewhat reduced the architectural cohesion of properties on the east side of the street. Nevertheless St Mary Abbot's Place retains a modest scale and character reflecting its location as a quiet enclave within a busy urban area.
7. The appeal property has elements of both early arts and crafts and classical architecture. This is apparent in the asymmetric positioning of windows in the front elevation and the leaded casement windows, some of which have been subject to alteration. It has been suggested that the roughcast render to the elevations, which has been painted white on the front of the building, is original. Whilst no definitive evidence has been provided on this matter I saw that No 11, the neighbouring arts and crafts property to the south is rendered in a similar material. The classical influence is visible in the entrance porch adjacent to No 7, which leads to the artist's school and can also be seen in the addition of modillion brackets to the eaves. The combination of these differing architectural styles within the appeal property provides some historical interest.
8. The building is proposed to be demolished apart from the external rear and flank (southern) exterior walls. As it lies within a conservation area there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
9. The building was commissioned by William Frank Calderon, an artist well-known for his animal paintings, in approximately 1911. It was designed by A G Leighton as an artists' school, and was divided into two properties, 9 and 9A in 1917, providing residential accommodation at the front of the building. Some original internal features remain including the double height teaching space to the rear, north facing roof lights and gallery. However, these are not easily visible outside the building and thus the historic use of the building as an artist school or studio is not immediately apparent from the street. Furthermore as the property is not listed these internal features are not protected and could be altered or removed at any time.
10. The Council's Supplementary Planning Document (SPD) on Artists' Studios (2004) notes that there is a high concentration of these in the borough and seeks to prevent loss of such studios. However Core Strategy Policy CL1 only applies to artist's studios in active use, and as the property has not been used for that purpose for many years, its retention could not be supported on that basis.

11. I acknowledge the desire of some local residents and heritage groups for the building to be retained, and I have had regard to the cited historical links with the property, such as sculptress Doris Lindner who trained at the Calderon School, J A Gotch, a leading architect and former RIBA<sup>1</sup> president who may have assisted A G Leighton and John Mc Cormack, a singer and former resident of the property. However, Heritage England concluded in August 2015 that the property had no particular merit as an artist studio. As such, the building was not recommended for listing.
12. A subsequent appeal to the DCMS against the decision not to list the property was upheld in May 2016. This noted that the artists school only survived for about 5-6 years, the associations with eminent artists and others were too tenuous to provide significant interest, and that the purpose of the art school is not readily reflected in its surviving architecture. I give significant weight to these recent judgements in relation to the historic and architectural importance of the appeal dwelling.
13. Heritage England has subsequently advised<sup>2</sup> that it considers the building makes a positive contribution to the conservation area, based on its early 20th century influenced architecture and historical use as an artist's studio. However, whilst the building is of some local interest, it is not in a prominent location within the conservation area; does not have particular value as part of a group of similar buildings and has been subject to various external alterations. I also note that many of the immediate neighbours of the property consider the existing building has a negative impact on the street scene, and support the proposed development.
14. Furthermore, a previous refusal of planning permission for demolition of the building and redevelopment of the site was concerned with the scale, bulk and design of the replacement building and did not refer to the loss of the appeal property in the reasons for refusal. Paragraph 6.26 of the officer report noted that the demolition of the building was supported in principle subject to the acceptability of its replacement.<sup>3</sup>
15. Taking all of the above into account, whilst the building has some interest due to its historical associations and architectural appearance, and has a modest scale and appearance which sits comfortably within the street scene, I consider it makes a neutral contribution to the character and appearance of the conservation area. Consequently I consider that in principle, the demolition of the majority of the building would preserve the character and appearance of the conservation area.
16. I turn now to the replacement building. Whilst the middle section of the building would be greater in mass and height, it would not be any greater in height overall than the ridge height of the appeal property and the rear wall at first floor level would be several metres further away from the properties on Edwardes Square. Thus it would not dominate or undermine the scale and importance of the Grade II listed terrace.
17. The front gables and pattern of fenestration at first and second floor would echo that of nearby properties and the eaves and ridge heights would be

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<sup>1</sup> Royal Institute of British Architects

<sup>2</sup> Heritage England letter dated 7 June 2016

<sup>3</sup> Ref. PP/15/05771

commensurate with Nos 7 and 11 on either side. A set back from the existing building line of the appeal property would provide private space to the front of the proposed building, and maintain the building line of No 7 to the east. As a result, the building would be sympathetic in scale and form with surrounding properties.

18. The building would incorporate the use of traditional materials including natural slate and light grey brick, picking up on the use of white render or painted brick in other properties in the street. Bronze metal window frames and a perforated bronze screen to cover the entrance to the basement car park would continue the arts and craft tradition in a contemporary style. Details of the landscape and boundary treatment could be secured by condition. Consequently, the proposed building would be well integrated into the character and appearance of the street.
19. For the above reasons I conclude that the proposal would preserve the character and appearance of the Edwardes Square, Scarsdale and Abdingdon Conservation Area. It would not conflict with policies CL1, CL2 and CL3 of the Consolidated Local Plan (LP) (2015).

### **Other Matters**

20. There are concerns regarding the loss of the Class D1 use. Photographic evidence has been provided of the building's use for an Art Exhibition, but this took place some years ago. The appellant has supplied marketing evidence to demonstrate that the existing community use has relocated to central London and other places of worship exist within the local area that can be accessed by the community. The Council in determining the application accepted the loss of the Class D1 use on site, taking into account the marketing evidence, the additional two residential units proposed and off-site affordable housing contribution and on the basis of the evidence before me I see no reason to disagree.
21. The submitted signed and executed unilateral undertaking would provide a contribution of £664,000 towards affordable housing within the borough and the Council agrees that the appellant's viability assessment evidence supports the level of affordable housing to be secured through the planning obligation. The undertaking also prevents occupiers of units 1 and 2 from applying for a car parking permit. This is necessary to manage car parking demand and in the interests of highway safety. Thus I am satisfied that the provisions within the undertaking are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind. On that basis it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the National Planning Policy Framework.
22. Residents of the adjacent terrace on Edwardes Square are concerned that the proposed building would have an overbearing effect when viewed from the rear windows of their properties. The middle section of the proposed building below the existing front roof ridge would have an increased height and width when compared with the existing property. However, the building would be further away from properties on Edwardes Square at first and second floor level and the overall height would be comparable with that of adjacent properties within St Mary Abbot's Place. Consequently, although the view from the upper floors of these properties would be altered, the visual impact would not be so harmful

as to cause material harm to the living conditions of neighbouring occupiers in Edwardes Square. In addition there would be little change to the view from the rear gardens due to the existing rear wall of the appeal property which is to be retained. On balance therefore I am satisfied that there would be no material harm to the living conditions of the occupants of neighbouring properties.

23. The Council has not alleged any harm to the Grade II listed terraced on Edwardes Square and for the reasons set out above I am satisfied that the setting of these listed buildings would not be affected.
24. It was confirmed at the Hearing that the site is likely to be designated in the emerging local plan as within an Archaeological Priority Area. The LP requires desk based assessments and where necessary archaeological field evaluation before development proposals are determined. In the absence of evidence that field evaluations would be necessary, a pre-commencement condition requiring a desk top assessment and site based archaeological investigations where necessary would address this matter.

### **Conditions**

25. I have found that the development would be acceptable subject to certain conditions, having regard to advice in the Planning Practice Guidance.
26. I have specified the approved plans for certainty. I shall also require the submission of details of external materials including samples, tree protection, landscape and boundary treatment, and for the roof to be clad in natural slate, to safeguard the character and appearance of the surrounding area.
27. Details of refuse storage, noise mitigation, ventilation and anti-vibration measures, a scheme of sound insulation, contaminated land investigation and treatment where necessary, the submission of an air quality impact assessment, and adherence to a considerate constructor's scheme are all required to safeguard residential amenity for future and neighbouring occupiers.
28. The provision and retention of cycle and car parking, details of the vehicle access and parking layout and car lift, the submission of a construction traffic management plan and a limit on the number of cars that may be parked in the proposed car parking spaces are necessary in the interests of highway safety.
29. I have imposed a condition to ensure the specified residential units will be accessible for all. A condition requiring an energy performance equivalent to Code for Sustainable Homes Level 4 is also necessary to achieve the required energy efficiency requirements for new development in compliance with Core Strategy policy CE1.
30. Management of engineering works is necessary to comply with the Council's Basements SPD and to safeguard residential amenity. The provision of obscure glazing to windows in the rear and side elevation is also necessary in the interests of residential amenity.

### **Conclusion**

31. For the reasons set out above I conclude that the appeal should be allowed.

*Claire Victory* INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Charlotte Scotney	Savills
Nick de Lotbiniere	Savills
Ian David	Rook Davidson Architects
Kevin Murphy	KM Heritage
Chris Miele	Montagu Evans LLP
Sasha White QC	Landmark Chambers
Simon Haynes	Capus Land Ltd
Nick Mansey	Capus Land Ltd

### **FOR THE COUNCIL:**

Jane Wylie	Design and Conservation Officer, Royal Borough of Kensington and Chelsea
Kevin Crilly	Planning Officer, Royal Borough of Kensington and Chelsea

### **INTERESTED PERSONS:**

Cllr Sarah Addenbrooke	Royal Borough of Kensington and Chelsea
Christina Duncan	Local resident
Sandra Dhome	Local resident
Adam Munthe	Local resident
Nelly Munthe	Local resident
Jane Scruton	Local resident
Martin Barrow	Local resident
Anna Thompson	Local resident
Gregory Shankman	Local resident
Anthony Walker	DLG Architects / ESSA
Grant Lock	Nathaniel Lichfield and Partners
Andrew Patterson	
Roger Shorter	

### **Documents submitted at the Hearing**

- 1) Appellant opening submissions
- 2) Appellant closing submissions

## Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall not be carried out except in complete accordance with the details shown on the submitted plans EX.SLPA; EX002B; EX003; EX004; EX005; EX011; EX012; EX013; EX014; EX015; 01.001E; 01.002E; 01.003E; 01.004F; 01.005B; PL031C; PL.032B; PL033C; PL034D and PL035C.
- 3) No development shall commence until full particulars of the following have been submitted to and approved in writing by the local planning authority: materials to be used on the external faces of the building including sample panel of perforated bronze; details of porch returns, soffit and entrance door; position, specification and details of all plant and mechanical ventilation; cycle parking and storage; facilities and arrangements for storage and disposal of refuse; further details of car lift including the facility for electric vehicle charging, access to the bicycle parking and details of a pro-active maintenance regime; detailed design of the new vehicular access including materials, layout, levels, and all associated changes to the highway; method of protection of boundary wall to listed properties in Edwardes Square and full details of rear angled windows including materials. The development shall be carried out in accordance with the details so approved.
- 4) Sample panels of facing brickwork showing the proposed colour, texture, facebond and pointing shall be provided on site, and approved in writing by the local planning authority before the relevant parts of the approved works are commenced. The sample panels shall be retained on site until the work is completed in accordance with the panel(s) so approved.
- 5) No development shall commence until full particulars of the method(s) by which all existing trees on the site and adjacent land are to be protected during site preparation, demolition, construction, landscaping and other operations on site including erection of hoardings, site cabins or other temporary structures shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details so approved.
- 6) No development shall commence until a scheme of landscaping, to include all existing trees and shrubs and proposed trees, shrubs, paths and their surfacing materials has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No dwelling shall be occupied until the car parking spaces shown on the approved drawings are provided. The spaces shall thereafter be permanently retained for the parking of vehicles in connection with the residential use of the dwellings and used for no other purpose.
- 8) Units 1, 2 3 and 5 which are equivalent to 90% of the development as shown on approved drawings 01.001 and 01.004 shall achieve compliance with optional requirement M4(2) of the building regulations and none of the

specified units shall be occupied until Building Regulations approval has been issued certifying that these criteria have been achieved.

- 9) The dwellings shall achieve Level 4 of the Code for Sustainable Homes equivalent in energy performance and none shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 equivalent for this criterion has been achieved.
- 10) No more than 4 cars shall be parked in the space designated for parking purposes on the drawings hereby approved.
- 11) The development shall not be occupied until the cycle storage facilities indicated on the approved plans have been fully implemented and made available for immediate use. The cycle facilities shall thereafter be retained for use at all times.
- 12) The roof slopes of the building hereby permitted shall be clad in natural slates, and shall be maintained as such thereafter.
- 13) Noise emitted by any plant hereby permitted shall not increase the lowest existing measured background LA90(15 minute) level measured or predicted at 1.0 metre from the nearest residential window and/or at a height of 1.2m above any adjacent residential garden, terrace, balcony or patio at any time when the plant is operating. The plant shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is unable to comply with this condition, they shall be switched off and not used again until it is able to comply.
- 14) All plant and equipment including that associated with the vehicle lifts shall be supported on adequate proprietary anti-vibration mounts, as necessary, to prevent the structural transmission of noise and vibration within adjacent or adjoining premises, and these shall be so maintained thereafter.
- 15) The development shall not be occupied until a report has been submitted to and approved in writing by the local planning authority. The report shall show how ventilation will be provided to the basement. Should the report establish that mechanical ventilation is required the report must also show how compliance with condition 13 will be achieved.
- 16) No development shall commence (save for demolition) until a Preliminary Risk Assessment Report comprising: a desktop study which identifies all current and previous uses at the site and surrounding area as well as the potential contaminants associated with those uses; information from site inspection; a conceptual model indicating potential pollutant linkages between sources, pathways and receptors including those in the surrounding area and those planned at the site; and a qualitative risk assessment of any potentially unacceptable risks arising from the identified pollutant linkages to human health, controlled waters and the wider environment including ecological receptors and building materials has been prepared in accordance with CLR11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing, and submitted to, and approved in writing by, the local planning authority.
- 17) No development shall commence (save for demolition) until a Site Investigation Scheme has been prepared in accordance with CLR11: Model



Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing, and submitted to, and approved in writing by, the local planning authority.

- 18) No development shall commence (save for demolition) until a site investigation has been undertaken in compliance with the approved Site Investigation Scheme and a Quantitative Risk Assessment Report has been submitted to, and approved in writing by, the local planning authority.
- 19) No development shall commence (save for demolition) until a Remediation Method Statement to address the results of the Site Investigation Scheme has been submitted to, and approved in writing by, the local planning authority.
- 20) No development shall commence (save for demolition) until the approved Remediation Method Statement has been carried out in full and a Verification Report confirming: completion of these works; details of the remediation works carried out; results of any verification sampling, testing or monitoring including analysis of any imported soil; classification of waste, its treatment, movement and disposal and the validation of gas membrane placement has been submitted to, and approved in writing by, the local planning authority.
- 21) If during development, contamination not previously identified is found to be present at the site, development work shall cease and not be recommenced until a report indicating the nature of the contamination and how it is to be dealt with has been submitted to and approved in writing by the local planning authority.
- 22) No development shall commence until an Air Quality Impact Assessment has been submitted to and approved in writing by the local planning authority.
- 23) No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The statement should include: routeing of demolition, excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway; access arrangements to the site; the estimated number and type of vehicles per day/week; details of any vehicle holding area; details of the vehicle call up procedure; estimates for the number and type of parking suspensions that will be required; details of any diversion or other disruption to the public highway during preparation, demolition, excavation and construction work associated with the development; details of measures to protect pedestrians and other highway users from construction activities on the highway; a strategy for co-ordinating the connection of services on site with any programme work to utilities upon adjacent land; and where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements. The development shall be carried out in accordance with the approved CTMP.
- 24) No development shall commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise

the construction works throughout their duration and their appointment confirmed in writing to the local planning authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works will cease until a replacement chartered engineer of the afore-described qualification has been appointed to supervise their completion and their appointment confirmed in writing to the local planning authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to the local planning authority in accordance with this condition.

- 25) No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership; (ii) contact details; (iii) working hours as stipulated under the Control of Pollution Act 1974 and (iv) Certificate of Compliance are clearly displayed on the site so that they can be easily read by passing members of the public. The published details shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission.
- 26) No development shall take place before a scheme of sound insulation, designed to prevent the transmission of excessive airborne and impact noise between the dwellings has been submitted to and approved in writing by the local planning authority. The sound insulation shall be installed and maintained in accordance with the details so approved. None of the dwellings shall be occupied until the approved insulation scheme has been fully implemented.
- 27) No development or demolition shall take place until a desktop archaeological investigation has been undertaken and submitted to and approved in writing by the local planning authority. The archaeological desktop study will recommend whether further investigative works are required and if this the case, no development or demolition shall take place on site until a programme or archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority, and the development shall take place in accordance with the detailed scheme so approved.
- 28) The windows to the rear and side elevation as specified on the approved drawings hereby permitted shall be obscurely glazed, and shall be so maintained thereafter.

**End of Condition Schedule**