
Appeal Decision

Site visit made on 6 July 2015

by W G Fabian BA Hons Dip Arch RIBA IHBC

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

Decision date: 21 August 2015

Appeal Ref: APP/F5540/W/14/3001874

Chiswick Village, London W4 3BY

- 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 South Quay Commercial Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00254/A/P6, dated 30 August 2013, was refused by notice dated 14 August 2014.
 - The development proposed is 15 x 2 bed roof top apartments to be constructed at roof level of each of the 15 residential blocks. The development includes the demolition and re-build of the garages to the south of the site to provide 19 secure parking garages.
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Decision

1. The appeal is allowed and planning permission is granted for '*15 x 2 bed roof top apartments to be constructed at roof level of each of the 15 residential blocks. The development includes the demolition and re-build of the garages to the south of the site to provide 19 secure parking garages.*' at Chiswick Village, London W4 3BY in accordance with the terms of the application, Ref 00254/A/P6, dated 30 August 2013, subject to the conditions listed in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by South Quay Commercial Ltd against the Council of the London Borough of Hounslow. This application is the subject of a separate Decision.

Procedural Matter

3. The appellant has submitted a signed and executed Deed of Undertaking made under Section 106 of the above Act. I must consider it against the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL) and those in the National Planning Policy Framework (the Framework). I have taken this into consideration as set out below in my decision.

Main Issues

4. The main issues in this case are the effect of the proposal on:
 - i) the character and appearance of Chiswick Village and its surroundings, including the setting of nearby conservation areas;

- ii) the living conditions of existing residential occupants in terms of privacy, daylight and sunlight; and
- iii) parking provision and highway safety.

Reasons

Character and appearance

5. Chiswick Village is a 1930s development of fifteen flat roofed blocks comprising some two hundred and eighty apartments. It is built as three lines of linked blocks that face inwards around a triangular green, with a single block at the apex. The blocks range from four stories at the north edge, adjacent to modest terraced housing on Oxford Gardens and Oxford Road South, and mass up progressively to six stories towards the southern apex. The site is bounded on these other two east and south sides by railway lines. There are further two storey dwellings closely adjacent across these lines, to the east at Whitehall Gardens and to the south at Oliver Close. A busy elevated section of the A4 Great West Road is close-by at the north corner. The development is outside but very close to the boundary of the Wellesley Road Conservation Area to the north. The Strand on the Green Conservation Area lies to the southwest, immediately across the railway line.
6. The development was designed by Charles Evelyn and has an austere restrained but attractive art deco appearance influenced by the international style of the time. It is agreed by both parties that it is a non-designated heritage asset. As such, although it is not of the same degree of significance as a nationally listed building, the Framework¹ states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
7. The apartment blocks are of brown-red brick with modest decoration; ridged brick frieze bands at high level and a soldier course at mid level, as well as vertical brick framed panels between or around windows on the forward projecting wings. At the higher wings these panels are footed by a decorative balcony and topped by a brick pediment detail. There are angled bay windows and balconies (with light render to the recessed walls), which face into open courtyards enclosed by the wings. Concrete-capped brick parapets enclose the flat roofs. Projecting brick/render enclosures to lift/stairs and water tanks are set back at the rear above the parapets and both these and the brick chimney stacks punctuate the skyline.
8. The proposal is for an additional storey on the centre part and the projecting wing of each block to provide fifteen new two bedroom roof top apartments at new fourth, fifth and sixth floors. These would utilise the existing access stairway, with roof terraces on the linking buildings between the blocks. The extensions have been designed to respond to the differing heights and detailing of the existing blocks.
9. The Framework clarifies that sustainable development includes three dimensions: economic, social and environmental. It also emphasises that the Government attaches great importance to the design of the built environment

¹ The Government's National Planning Policy Framework

and that good design is a key aspect of sustainable development. It also clarifies, in respect of the historic environment that the significance of a heritage asset can be harmed or lost through development within its setting. This applies in this case to the setting of the two conservation areas.

10. Policy ENV-B.1.1 of the London Borough of Hounslow Unitary Development Plan, 2003, (UDP) seeks to ensure that proposals make a positive contribution to overall environmental quality, amongst other things it should relate well to its site and the scale, nature, height massing, character and use of the adjacent townscape, respect the proportions of existing neighbouring buildings and enhance the townscape value of an area through good urban design. Although this policy relates to new development, rather than extensions to existing buildings, it embodies the general design principles of the Framework. UDP policy ENV-B.2.2 seeks to preserve and enhance the character or appearance of conservation areas.
11. The floor plans and elevations of the proposed apartments on the four and five storey blocks would be broadly similar. The bedrooms would occupy the forward projecting wings, with brick work continued up here above the parapet coping, and with brick banding and parapet details to emulate existing ones. On the link blocks the kitchen/dining and living rooms would be clad with verdigris copper panelling, as would the set back side walls above the bays. New metal balustrading would be introduced to roof terraces behind the existing parapet line and the chimneys would be extended above the new roof levels.
12. Above the projecting wings, the feature brick panelling would be topped by paired large windows of the same size, proportions and glazing patterns as existing ones on the linking buildings, in the same way that existing paired windows already top the existing six storey projecting wings. Thus, they would appear as a natural and harmonious conclusion to the top of the extended wings here. Elsewhere, windows and doors would generally match those on the floors directly below. At the rear the existing brick/render stairs/lift and water tank enclosures would be extended upwards and flanked by new verdigris copper panelled walls set behind the existing parapets.
13. At the six storey blocks, a different layout is proposed for the rooftop apartments, with living/dining/kitchens above the forward projecting wings, but set a little back from the front wall with a small roof terrace, and with bedrooms above the link buildings, set back above the bays here. The set back elements would be clad with verdigris copper panels behind metal balustrades and the brick work would be continued up above narrow corresponding walls below.
14. Overall it seems to me that the form, layout and elevational design proposed for the proposed extensions have been carefully thought through to respond to and interpret the original architectural treatment of each block. The introduction of copper cladding is a new material to this scheme, but a subtle addition, not unusual for this period of building; it would blend well with the appearance of the development as a whole.
15. In my assessment the proposal would be a coherent series of extensions to the existing buildings, which would sit naturally above them and would enhance rather than detract from their appearance. In particular, the proposal would improve the appearance of the single apex block by replacing the current

agglomeration of mobile phone masts and antennae which bristle in an unruly cluster at this part of the skyline. The additional height proposed would not be continuous; it would be focussed at the centre of each block and would introduce a new but pleasing rhythm to the skyline. The new forms would be noticeable but not disproportionate given the overall size and spacious layout of the buildings, set around a generous central green.

16. I have also viewed Chiswick Village from the various viewpoints drawn to my attention in the surrounding area, including from within the two conservation areas. From these vantage points the proposed extensions would not dominate the surroundings; they would blend well with the existing scheme. The additional storey would not be strongly noticeable in terms of the additional height, nor stand out amongst the overall form and mass of the urban environment here, which despite being predominantly one of terraced housing between two and three stories high, also includes buildings within other views of extremely varied form, height and styles including multi-storey blocks.
17. Overall, I have seen and read little to alter my conclusion on the first main issue; the proposal would not harm the character and appearance of Chiswick Village and its surroundings and would preserve the setting of the nearby conservation areas. In this respect it would comply with the development plan and national policy.

Living Conditions

18. Given the layout of the existing blocks I saw that there is already a degree of overlooking between adjacent apartments. This occurs, for instance, at the open courtyards, where the use of the balconies provides views in relatively close proximity towards adjacent bay windows (and vice versa). Similarly at the rear of the northern blocks I saw that upper flats here already command direct views down into the rear gardens and rooms at Oxford Gardens. The proposal would result in habitable rooms with views in similar positions and with access onto roof terraces. Moreover, measures would be put in place to prevent access onto the roofs of existing projecting bays and to locate balustrades so as to restrict intrusive views. Although I understand the concerns of top floor residents that their privacy would be impinged on, I am not convinced that the proposed apartments would add so significantly to the existing degree of overlooking as to justify dismissing the appeal.
19. For similar reasons, including the existing levels of overshadowing, the form and single storey height of the proposed roof extensions, the set back of some parts of them from the edge of the roof and the open roof terraces above the link blocks, as well as the sunlight predictions provided, I am also not persuaded that the additional degree of shading that would result would be an overriding objection. I have also seen little to demonstrate that I should disagree with the daylight predictions submitted, which conclude that this aspect of existing residents' living conditions too would be sufficiently safeguarded.
20. Further concerns have been raised with regard to the provision of wheelchair access to the proposed apartments. The existing lifts in the buildings would not be extended to service the fifteen two bedroom apartments proposed, which would be accessed via the existing residential entrances to the buildings and, from the top storey only, by the existing stairs which already extend to the roof level. However, the existing ground floor accesses to the buildings do

not meet current Part M of the Building Regulations in respect of wheelchair access and as such the provision of wheelchair access to the proposed rooftop accommodation could not achieve modern standards in this regard, without upgrading them, which is not within the appellant's control. While the proposed new apartments would not comply with UDP policy ENV-B1.1, criterion A.9, and London Plan policy 7.2 in this regard, these policies are not fully applicable, as they would not be standalone but an extension to existing buildings

21. In addition, while the existing lifts are useable for those with ambulant mobility problems, they are too small to provide satisfactory access for wheelchair users. Nevertheless, the proposed apartments would provide space standards well in excess of the minimum space standards set out in the Council's now dated UDP Supplementary Planning Guidance, 1997² and I note the Council's assessment that the layouts would comply with the Lifetime Homes Design Guide (this remains in place as a transitional document until October 2015). The government's aim in the Framework is to boost the supply of housing nationally and to secure high quality design and a good standard of amenity as well as to ensure delivery of a wide choice of high quality homes. The proposal would assist with meeting these objectives and as such I find the lack of wheelchair access not an overriding concern in this case.
22. Overall, the proposal would not harm the living conditions of existing residential occupants in terms of privacy, daylight and sunlight and would comply with UDP policies ENV-B1.1 and H4.1, which seek to safeguard such interests.
23. I note also that, according to the appellant and as recorded in the Council officer's report to committee, in three a previous appeal decisions³ in 2001, 2003, and 2007, also in respect of roof extensions to the blocks, the inspectors reached a similar conclusions with regard to living conditions.

Parking provision and highway safety

24. Following changes in 1999, some of the various blocks of garages built with the original development were removed for the construction of a block of 12 apartments with dedicated parking, also with replacement parking. All in all, there is now a total 105⁴ spaces comprising total of 68 spaces in car parking areas and 37 further spaces in original garages. These are privately owned and publically rented out, with no particular priority for residents. According to the Council, at the time of the application 62 were rented to residents, 16 to others and 24 vacant. During the appeal process this had changed such that 19 spaces were vacant. The situation fluctuates.
25. The proposal includes demolition of the 37 existing garages behind the apex block, to allow the construction of 19 new enlarged garages, with facilities for vehicle charging, in accordance with an aim of the Framework. Of these, 15 would be allocated to occupants of the proposed new apartments, tied by means of the S106 Agreement. Additional off street parking spaces are also proposed, including two wheelchair accessible spaces and 2 would be allocated to car club use. The net loss of parking spaces would be 16.

² As detailed in the Council officer's recommendation report

³ Copies of these appeal decisions were not provided with the appeal documents

⁴ Figures quoted here are taken from the Appellant's Appeal Statement, which differs slightly from those recorded in the Planning Officer's report

26. Existing parking at Chiswick Village also now includes some on-street parking which is within a Controlled Parking Zone (CPZ) operated by means of pay and display and permit parking, with parking restricted to permit holders only during the working day. The appellant has undertaken, through the S106 Agreement, to prevent new residents of the proposal from applying for CPZ permits.
27. The promotion of a car club on site as well as increased cycle parking provision would help to facilitate and encourage a reduction in car ownership, in line with Government objectives.
28. I understand and sympathise with existing residents' concerns that the pressure for parking spaces within the village that already arises at evenings and weekends when the CPZ does not operate could increase as a result of the proposed changes to garage provision and lead to traffic congestion. However, it is unlikely that the increased number of vehicles on site arising from 15 new apartments would be so substantial as to cause a material increase in the pressure on parking or on local traffic congestion, in the context of those already accessing the development in respect of the existing 280 apartments, and in addition to those residents from nearby residential roads who may freely choose to use the on-street parking in Chiswick Village.
29. Moreover, I saw that few of the existing garages appear to be in regular use and I am satisfied that with the new more spacious garages and additional parking spaces proposed, sufficient on site provision would remain and that there would be sufficient controls over on-street parking during working hours, when commuters are most likely to cause pressure, by means of the existing CPZ. While the additional measures outlined above to assist with reducing car use generally and to prevent new residents applying for CPZ permits are desirable, they are not strictly necessary to make the proposal acceptable in planning terms and have not carried weight in my consideration of this issue.
30. I conclude that parking provision would be adequate and little harm to highway safety would arise from the proposal. I note that the Council's Highways Officers share this assessment. The proposal would thus comply with UDP policies ENV-B1.1 and T1.4 in terms of the provision of parking and the effect on highway safety.
31. I note in respect of this issue also that previous inspectors have differed from my conclusion on it, but the full details of those proposals for parking provision are not available for me to compare with those proposed now and the introduction of the CPZ is a material difference.
32. In reaching this assessment I have considered whether the benefits of the proposed development sufficiently justifies interfering with the rights to the peaceful enjoyment of property, respect for private and family life and the home of the residents of Chiswick village under the provisions of Articles 1 and 8 of the first Protocol of the Human Rights Act 1998. I believe that a fair balance has been struck, in my consideration of this planning appeal, between the need to protect the rights of the individual and the public interest with regard to the increased supply of housing and that allowing the appeal is a fair and proportionate response in this case.

Conclusion

33. Drawing my findings together, there would be no harm arising from the proposal to the character and appearance of the surrounding area, the setting of nearby conservation areas would be preserved, there would be little harm to the living conditions of existing residential occupants of the scheme or to those of residents in the surrounding streets in terms of loss of privacy, daylight and sunlight and no material harm would arise in relation to the provision of parking or to highway safety. The proposal would, thus, comply with the development plan as whole and national policy as set out above.
34. For the reasons set out above and having regard to all other matters raised, the appeal should be allowed.

Conditions

35. Of the suggested conditions, ones are necessary and in accordance with the Framework for the following reasons.
36. Compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. Further details of measures to ensure the privacy of nearby residential occupants. A requirement for energy saving measures accords with the Government's objectives to reduce carbon emissions. Restrictions on construction working hours are reasonable in such close proximity to existing residential properties, as is the submission of a construction environmental management plan, which should include tree protection measures. Further details of materials, to ensure continuity with the built surroundings. Details of external lighting and CCTV installations for safety and to restrict light pollution. Further details of the provision of refuse and recycling measures are reasonable.
37. As no upper limits for noise transmissions have been put forward, the suggested condition in this regard is imprecise. Noise transmission between adjacent residential properties is also covered by the Building Regulations.

Obligation

38. As referred to above, the appellant have provided a signed and executed Deed of Undertaking made under Section 106 of the above Act.
39. Since the Undertaking was entered into, the Council's CIL Charging Schedule has come into effect, on 24 July 2015. The Council's Regulation 123 list in this regard identifies those types of infrastructure projects that may be funded by this means. These include open space (public realm) and education facilities. The Council has also confirmed that it would not require construction training obligations for the appeal scheme. Accordingly, as these provisions would not be necessary to make the appeal proposal acceptable in planning terms the relevant obligations (at Parts 4, 5 and 6 of Schedule 1 of the Deed) contained in the Deed of Undertaking should no longer apply.
40. The Deed recognises that the provisions at Part 3 of Schedule 1 in respect of the car club parking spaces do not comply with the CIL regulations, referred to above. While I have acknowledged this offered benefit, it is not needed to make the proposal acceptable in planning terms. Nevertheless this benefit would be secured by the Undertaking.

41. Other provisions of the Undertaking would not take effect unless it is set out in this decision that they comply with the CIL Regulations, I consider each provision below.
42. London Plan policy 3.13 requires that development of 10 or more dwellings, such as the appeal decision, should include affordable housing, and policy 3.12 states that boroughs in seeking to achieve the maximum reasonable amount, should have regard to their individual targets and the need to encourage rather than restrain residential development and the individual circumstances of the site.
43. Part 1 of Schedule 1 relates to the provision of affordable housing. In this case, having subjected the appellant's viability assessment to independent professional scrutiny, the Council has accepted a zero contribution under the current market circumstances. In view of the potential for changing market conditions, the appellant has agreed to review this at the point when 50% of the proposed dwellings have been sold, and a mechanism for such a review is set out under the provisions at this part of the Deed. As this would accord with development plan objectives to maximise the provision of affordable housing I consider the provisions are necessary in planning terms to make the proposal acceptable.
44. As set out above I do not consider that the provision at Part 2 of Schedule 1, the restriction on applying for parking permits is necessary in planning terms to make the proposal acceptable.
45. While the Council has acknowledged that Part 6, the provisions in respect of construction training are not necessary, no submission has been made with regard to Part 7 of Schedule 1, the Considerate Contractor Scheme. I have little evidence before me to show that this is necessary in planning terms to make the proposal acceptable.
46. Accordingly I have not taken any of the provisions of the Undertaking, other than those at Part 1 in respect of Affordable Housing, into consideration in reaching this decision.

Wenda Fabian

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 approved plans listed at the end of this schedule.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local

- planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a detailed scheme of feasible on-site sustainability measures has been submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be maintained and retained thereafter. The scheme shall include measures for:
 - i) the sourcing of materials to be used in the construction of and fitting out of the building (involving reuse, recycling and other sustainable sourcing);
 - ii) reducing carbon emissions from the total energy needs (heating, cooling and power) by 40% from the 2010 Part L Building Regulations Standards for the overall outline phases (including from the on-site generation of renewable energy);
 - iii) details of ecological enhancements including biodiversity and habitat planting, provision of bird boxes, bat roosts; and
 - iv) rainwater harvesting or reuse.
 - 5) No demolition or construction work shall take place on the site outside the hours of 08:00 to 18:00 on Mondays to Fridays and 09:00 to 13:00 on Saturdays and not at all on Sundays, Bank Holidays and Public Holidays.
 - 6) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period. The plan shall identify all aspects of construction that could have an environmental impact and provide management controls to eliminate and/or minimise those identified impacts, with impacts to be addressed including but not being limited to traffic, construction dust and noise and any disturbance to vegetation. The plan shall also include details of the arrangements for the temporary use and/or management (as appropriate) of those parts of the site awaiting redevelopment.
 - 7) No development shall take place until a scheme to protect existing trees on the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be adhered to throughout the construction period. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the plan referred to in paragraph i) below:
 - i) A plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm, showing which trees are to be retained and the crown spread of each retained tree.
 - ii) Details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - iii) Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;

- iv) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, (within the crown spread of any retained tree or of any tree on land adjacent to the site) (within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree); and
 - v) Details of the specification and position of fencing (and of any other measures to be taken) for the protection of any retained tree from damage before or during the course of development.
- 8) Notwithstanding the approved drawings, no dwelling shall be occupied until detailed drawings of physical measures to maintain privacy to neighbouring properties adjoining blocks 221-280 Chiswick Village, to prevent access within 1.2m from the edge of the proposed roof terraces for units on those blocks, has been submitted to and approved in writing by the local planning authority and the development shall be carried out as approved and shall be maintained and retained thereafter.
- 9) No dwelling shall be occupied until an external lighting strategy and details of CCTV has been submitted to and approved in writing by the local planning authority. Lighting and CCTV shall be completed in accordance with the approved strategy and maintained and retained thereafter.
- 10) No dwelling shall be occupied until details of the arrangements for storage and collection of refuse and recycling, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details prior to occupation, and shall be maintained permanently thereafter.

Drawing Numbers (referred to at condition 2 above)

2552/PL SP203 Site Plan – As Proposed
2552/PL SP204 Site Roof Plan – As Proposed
2552/PL P201 Blocks A, B & C – Proposed Floor Plans
2552/PL P202 Blocks D, E & F – Proposed Floor Plans
2552/PL P203 Blocks G – Proposed Floor Plans
2552/PL P204 Blocks H, J, K & L – Proposed Floor Plans
2552/PL P205 Blocks M, N, Q & P – Proposed Floor Plans
2552/PL E201 Blocks A, B, C & D – Proposed Elevations
2552/PL E202 Blocks D, E & F – Proposed Elevations
2552/PL E203 Blocks G – Proposed Elevations
2552/PL E204 Blocks H, J, K & L – Proposed Elevations
2552/PL E205 Blocks M, N, Q & P – Proposed Elevations
2552/PL E206 Blocks H, J, K & L – Proposed Elevations With Materials
2552/PL G201 Rev A Garages – Plan & Elevations as Proposed
2552/PL SP205 Proposed Site Plan With Proposed Security Measures
2552/PL SP209 Rev A Site Plan With Proposed Parking